

Representative Melissa G. Ballard proposes the following substitute bill:

ALTERNATIVE FUEL INCENTIVES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies incentives for the production and use of alternative fuels.

Highlighted Provisions:

This bill:

- ▶ modifies the corporate and individual tax credits for commercial energy systems that use solar equipment to produce electricity;
- ▶ creates refundable and nonrefundable corporate and individual tax credits for certain hydrogen fuel cells and hydrogen production systems;
- ▶ provides a process for a lessee of a renewable energy system, a hydrogen fuel cell, or a hydrogen production system income tax credit to obtain a written certification;
- ▶ modifies sales and use tax definitions to:
 - add hydrogen to the list of fuels that are subject to a lower sales and use tax rate if for industrial use or residential use;
 - extend the sales and use tax exemption for sales of electricity made under a Public Service Commission tariff to include electricity produced with a hydrogen fuel cell; and
 - exempt sales of electricity made under a Public Service Commission tariff to include electricity produced with a hydrogen fuel cell from municipal energy



- 26 tax;
- 27 ▶ eliminates the special fuel excise tax on hydrogen;
- 28 ▶ defines "infrastructure" to include hydrogen fuel production or distribution projects
- 29 for purposes of qualifying for a high cost infrastructure development tax credit;
- 30 ▶ repeals the Alternative Energy Development Tax Credit Act and related tax credits;
- 31 and
- 32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides a special effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **59-7-159**, as last amended by Laws of Utah 2019, Chapters 247 and 465
- 40 **59-7-614**, as last amended by Laws of Utah 2019, Chapter 247
- 41 **59-7-619**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 42 **59-10-137**, as last amended by Laws of Utah 2019, Chapters 247 and 465
- 43 **59-10-1014**, as last amended by Laws of Utah 2019, Chapter 247
- 44 **59-10-1034**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 45 **59-10-1106**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 46 **59-12-102**, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
- 47 **59-12-103**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 48 **59-13-102**, as last amended by Laws of Utah 2015, Chapter 275
- 49 **59-13-301**, as last amended by Laws of Utah 2019, Chapter 479
- 50 **63M-4-401**, as last amended by Laws of Utah 2019, Chapter 247
- 51 **63M-4-602**, as last amended by Laws of Utah 2019, Chapter 501

52 ENACTS:

- 53 **59-7-626**, Utah Code Annotated 1953
- 54 **59-10-1113**, Utah Code Annotated 1953

55 REPEALS:

- 56 **59-7-614.7**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

57 **59-10-1029**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
 58 **63M-4-501**, as enacted by Laws of Utah 2012, Chapter 410
 59 **63M-4-502**, as enacted by Laws of Utah 2012, Chapter 410
 60 **63M-4-503**, as last amended by Laws of Utah 2018, Chapter 149
 61 **63M-4-504**, as enacted by Laws of Utah 2012, Chapter 410
 62 **63M-4-505**, as last amended by Laws of Utah 2016, Chapters 13 and 135

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

65 Section 1. Section **59-7-159** is amended to read:

66 **59-7-159. Review of credits allowed under this chapter.**

67 (1) As used in this section, "committee" means the Revenue and Taxation Interim
 68 Committee.

69 (2) (a) The committee shall review the tax credits described in this chapter as provided
 70 in Subsection (3) and make recommendations concerning whether the tax credits should be
 71 continued, modified, or repealed.

72 (b) In conducting the review required under Subsection (2)(a), the committee shall:

73 (i) schedule time on at least one committee agenda to conduct the review;

74 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
 75 under review to provide testimony;

76 (iii) (A) invite the Governor's Office of Economic Development to present a summary
 77 and analysis of the information for each tax credit regarding which the Governor's Office of
 78 Economic Development is required to make a report under this chapter; and

79 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
 80 analysis of the information for each tax credit regarding which the Office of the Legislative
 81 Fiscal Analyst is required to make a report under this chapter;

82 (iv) ensure that the committee's recommendations described in this section include an
 83 evaluation of:

84 (A) the cost of the tax credit to the state;

85 (B) the purpose and effectiveness of the tax credit; and

86 (C) the extent to which the state benefits from the tax credit; and

87 (v) undertake other review efforts as determined by the committee chairs or as

88 otherwise required by law.

89 (3) (a) On or before November 30, 2017, and every three years after 2017, the
90 committee shall conduct the review required under Subsection (2) of the tax credits allowed
91 under the following sections:

- 92 (i) Section 59-7-601;
- 93 (ii) Section 59-7-607;
- 94 (iii) Section 59-7-612;
- 95 (iv) Section 59-7-614.1; and
- 96 (v) Section 59-7-614.5.

97 (b) On or before November 30, 2018, and every three years after 2018, the committee
98 shall conduct the review required under Subsection (2) of the tax credits allowed under the
99 following sections:

- 100 (i) Section 59-7-609;
- 101 (ii) Section 59-7-614.2;
- 102 (iii) Section 59-7-614.10;
- 103 (iv) Section 59-7-619;
- 104 (v) Section 59-7-620; and
- 105 (vi) Section 59-7-624.

106 (c) On or before November 30, 2019, and every three years after 2019, the committee
107 shall conduct the review required under Subsection (2) of the tax credits allowed under the
108 following sections:

- 109 (i) Section 59-7-610;
- 110 (ii) Section 59-7-614; and
- 111 [~~(iii) Section 59-7-614.7; and~~]
- 112 [~~(iv)~~] (iii) Section 59-7-618.

113 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
114 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
115 2017.

116 (ii) The committee shall complete a review described in this Subsection (3)(d) three
117 years after the effective date of the tax credit and every three years after the initial review date.

118 Section 2. Section 59-7-614 is amended to read:

119 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**

120 **Rulemaking authority.**

121 (1) As used in this section:

122 (a) (i) "Active solar system" means a system of equipment that is capable of:

123 (A) collecting and converting incident solar radiation into thermal, mechanical, or
124 electrical energy; and

125 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
126 apparatus to storage or to the point of use.

127 (ii) "Active solar system" includes water heating, space heating or cooling, and
128 electrical or mechanical energy generation.

129 (b) "Biomass system" means a system of apparatus and equipment for use in:

130 (i) converting material into biomass energy, as defined in Section 59-12-102; and

131 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

132 (c) "Commercial energy system" means a system that is:

133 (i) (A) an active solar system;

134 (B) a biomass system;

135 (C) a direct use geothermal system;

136 (D) a geothermal electricity system;

137 (E) a geothermal heat pump system;

138 (F) a hydroenergy system;

139 (G) a passive solar system; or

140 (H) a wind system;

141 (ii) located in the state; and

142 (iii) used:

143 (A) to supply energy to a commercial unit; or

144 (B) as a commercial enterprise.

145 (d) "Commercial enterprise" means an entity, the purpose of which is to produce:

146 (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;

147 or

148 (ii) hydrogen for sale from a hydrogen production system.

149 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact

150 business.

151 (ii) Notwithstanding Subsection (1)(e)(i):

152 (A) with respect to an active solar system used for agricultural water pumping or a
153 wind system, each individual energy generating device is considered to be a commercial unit;

154 or

155 (B) if an energy system is the building or structure that an entity uses to transact
156 business, a commercial unit is the complete energy system itself.

157 (f) "Direct use geothermal system" means a system of apparatus and equipment that
158 enables the direct use of geothermal energy to meet energy needs, including heating a building,
159 an industrial process, and aquaculture.

160 (g) "Fuel cell" means any electrochemical device and any accompanying system
161 components that:

162 (i) react hydrogen with oxygen to produce electricity; and

163 (ii) produce zero emissions of carbon dioxide, nitrides of oxygen, or sulfides of
164 oxygen.

165 [~~g~~] (h) "Geothermal electricity" means energy that is:

166 (i) contained in heat that continuously flows outward from the earth; and

167 (ii) used as a sole source of energy to produce electricity.

168 [~~h~~] (i) "Geothermal energy" means energy generated by heat that is contained in the
169 earth.

170 [~~i~~] (j) "Geothermal heat pump system" means a system of apparatus and equipment
171 that:

172 (i) enables the use of thermal properties contained in the earth at temperatures well
173 below 100 degrees Fahrenheit; and

174 (ii) helps meet heating and cooling needs of a structure.

175 [~~j~~] (k) "Hydroenergy system" means a system of apparatus and equipment that is
176 capable of:

177 (i) intercepting and converting kinetic water energy into electrical or mechanical
178 energy; and

179 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

180 (l) "Hydrogen production system" means a system of apparatus and equipment, located

181 in this state, that uses:

182 (i) electricity from a renewable energy source to create hydrogen gas from water,
183 regardless of whether the renewable energy source is at a separate facility or the same facility
184 as the system of apparatus and equipment; or

185 (ii) uses renewable natural gas to produce hydrogen gas.

186 ~~(k)~~ (m) "Office" means the Office of Energy Development created in Section
187 [63M-4-401](#).

188 ~~(H)~~ (n) (i) "Passive solar system" means a direct thermal system that utilizes the
189 structure of a building and ~~[its]~~ the structure's operable components to provide for collection,
190 storage, and distribution of heating or cooling during the appropriate times of the year by
191 utilizing the climate resources available at the site.

192 (ii) "Passive solar system" includes those portions and components of a building that
193 are expressly designed and required for the collection, storage, and distribution of solar energy.

194 ~~(m)~~ (o) "Photovoltaic system" means an active solar system that generates electricity
195 from sunlight.

196 ~~(n)~~ (p) (i) "Principal recovery portion" means the portion of a lease payment that
197 constitutes the cost a person incurs in acquiring a commercial energy system.

198 (ii) "Principal recovery portion" does not include:

199 (A) an interest charge; or

200 (B) a maintenance expense.

201 (q) "Renewable energy source" means the same as that term is defined in Section
202 [54-17-601](#).

203 ~~(o)~~ (r) "Residential energy system" means the following used to supply energy to or
204 for a residential unit:

205 (i) an active solar system;

206 (ii) a biomass system;

207 (iii) a direct use geothermal system;

208 (iv) a geothermal heat pump system;

209 (v) a hydroenergy system;

210 (vi) a passive solar system; or

211 (vii) a wind system.

212 ~~[(p)]~~ (s) (i) "Residential unit" means a house, condominium, apartment, or similar
213 dwelling unit that:

214 (A) is located in the state; and

215 (B) serves as a dwelling for a person, group of persons, or a family.

216 (ii) "Residential unit" does not include property subject to a fee under:

217 (A) Section 59-2-405;

218 (B) Section 59-2-405.1;

219 (C) Section 59-2-405.2;

220 (D) Section 59-2-405.3; or

221 (E) Section 72-10-110.5.

222 ~~[(q)]~~ (t) "Wind system" means a system of apparatus and equipment that is capable of:

223 (i) intercepting and converting wind energy into mechanical or electrical energy; and

224 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,
225 or storage.

226 (2) A taxpayer may claim an energy system tax credit as provided in this section
227 against a tax due under this chapter for a taxable year.

228 (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a
229 nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer
230 owns or uses if:

231 (i) the taxpayer:

232 (A) purchases and completes a residential energy system to supply all or part of the
233 energy required for the residential unit; or

234 (B) participates in the financing of a residential energy system to supply all or part of
235 the energy required for the residential unit; and

236 ~~[(ii) the residential energy system is completed and placed in service on or after
237 January 1, 2007; and]~~

238 ~~[(iii)]~~ (ii) the taxpayer obtains a written certification from the office in accordance with
239 Subsection ~~[(7)]~~ (8).

240 (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection
241 (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy
242 system installed with respect to each residential unit the taxpayer owns or uses.

243 (ii) A tax credit under this Subsection (3) may include installation costs.

244 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in
245 which the residential energy system is completed and placed in service.

246 (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax
247 liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the
248 tax credit exceeding the liability [~~may be carried forward~~] for a period that does not exceed the
249 next four taxable years.

250 (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
251 residential energy system, other than a photovoltaic system, may not exceed \$2,000 per
252 residential unit.

253 (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a
254 photovoltaic system may not exceed:

255 (i) for a system installed on or after January 1, 2018, but on or before December 31,
256 2020, \$1,600;

257 (ii) for a system installed on or after January 1, 2021, but on or before December 31,
258 2021, \$1,200;

259 (iii) for a system installed on or after January 1, 2022, but on or before December 31,
260 2022, \$800;

261 (iv) for a system installed on or after January 1, 2023, but on or before December 31,
262 2023, \$400; and

263 (v) for a system installed on or after January 1, 2024, \$0.

264 (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the
265 tax credit under this Subsection (3):

266 (i) the taxpayer may assign the tax credit to the other person; and

267 (ii) (A) if the other person files a return under this chapter, the other person may claim
268 the tax credit under this section as if the other person had met the requirements of this section
269 to claim the tax credit; or

270 (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the
271 other person may claim the tax credit under Section 59-10-1014 as if the other person had met
272 the requirements of Section 59-10-1014 to claim the tax credit.

273 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a

274 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

275 (i) the commercial energy system does not use:

276 (A) wind, geothermal electricity, ~~[solar,]~~ or biomass equipment capable of producing a
277 total of 660 or more kilowatts of electricity; or

278 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

279 (ii) the taxpayer purchases or participates in the financing of the commercial energy
280 system;

281 (iii) (A) the commercial energy system supplies all or part of the energy required by
282 commercial units owned or used by the taxpayer; or

283 (B) the taxpayer sells all or part of the energy produced by the commercial energy
284 system as a commercial enterprise;

285 ~~[(iv) the commercial energy system is completed and placed in service on or after
286 January 1, 2007; and]~~

287 [(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (6) or
288 (7) for fuel cell use or hydrogen production using electricity for which the taxpayer claims a tax
289 credit under this Subsection (4); and

290 (v) the taxpayer obtains a written certification from the office in accordance with
291 Subsection ~~[(7)]~~ (8).

292 (b) (i) Subject to Subsections (4)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10%
293 of the reasonable costs of the commercial energy system.

294 (ii) A tax credit under this Subsection (4) may include installation costs.

295 (iii) A taxpayer ~~[may claim]~~ is eligible to claim a tax credit under this Subsection (4)
296 for the taxable year in which the commercial energy system is completed and placed in service.

297 ~~[(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.]~~

298 ~~[(v)]~~ (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4)
299 may not exceed \$50,000 per commercial unit.

300 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a
301 commercial energy system installed on a commercial unit may claim a tax credit under this
302 Subsection (4) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax
303 credit]~~ obtains a written certification from the office in accordance with Subsection (8).

304 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this

305 Subsection (4) only the principal recovery portion of the lease payments.

306 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this
307 Subsection (4) for a period that does not exceed seven taxable years after the ~~[date]~~ day on
308 which the lease begins, as stated in the lease agreement.

309 (5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a
310 refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

311 (i) (A) the commercial energy system uses wind, geothermal electricity, or biomass
312 equipment capable of producing a total of 660 or more kilowatts of electricity; or

313 (B) the commercial energy system uses solar equipment capable of producing a total of
314 2,000 or more kilowatts of electricity;

315 (ii) (A) the commercial energy system supplies all or part of the energy required by
316 commercial units owned or used by the taxpayer; or

317 (B) the taxpayer sells all or part of the energy produced by the commercial energy
318 system as a commercial enterprise;

319 ~~[(iii) the commercial energy system is completed and placed in service on or after~~
320 ~~January 1, 2007; and]~~

321 (iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (6)
322 or (7) for fuel cell use or hydrogen production using electricity for which the taxpayer claims a
323 tax credit under this Subsection (5); and

324 (iv) the taxpayer obtains a written certification from the office in accordance with
325 Subsection ~~[(7)]~~ (8).

326 (b) (i) Subject to ~~[Subsections]~~ Subsection (5)(b)(ii) ~~[and (iii)]~~, a tax credit under this
327 Subsection (5) is equal to the product of:

328 (A) 0.35 cents; and

329 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

330 (ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) ~~[may be~~
331 ~~claimed]~~ for production occurring during a period of 48 months beginning with the month in
332 which the commercial energy system is placed in commercial service.

333 ~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~

334 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial
335 unit may claim a tax credit under this Subsection (5) if the taxpayer ~~[confirms that the lessor~~

336 ~~irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in
337 accordance with Subsection (8).

338 ~~[(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a~~
339 ~~refundable tax credit as provided in this Subsection (6) if:]~~

340 ~~[(i) the taxpayer owns a commercial energy system that uses solar equipment capable~~
341 ~~of producing a total of 660 or more kilowatts of electricity;]~~

342 ~~[(ii) (A) the commercial energy system supplies all or part of the energy required by~~
343 ~~commercial units owned or used by the taxpayer; or]~~

344 ~~[(B) the taxpayer sells all or part of the energy produced by the commercial energy~~
345 ~~system as a commercial enterprise;]~~

346 ~~[(iii) the taxpayer does not claim a tax credit under Subsection (4);]~~

347 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
348 ~~January 1, 2015; and]~~

349 ~~[(v) the taxpayer obtains a written certification from the office in accordance with~~
350 ~~Subsection (7).]~~

351 ~~[(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6)~~
352 ~~is equal to the product of:]~~

353 ~~[(A) 0.35 cents; and]~~

354 ~~[(B) the kilowatt hours of electricity produced and used or sold during the taxable~~
355 ~~year.]~~

356 ~~[(ii) A tax credit under this Subsection (6) may be claimed for production occurring~~
357 ~~during a period of 48 months beginning with the month in which the commercial energy~~
358 ~~system is placed in commercial service.]~~

359 ~~[(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.]~~

360 ~~[(c) A taxpayer that is a lessee of a commercial energy system installed on a~~
361 ~~commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that~~
362 ~~the lessor irrevocably elects not to claim the tax credit.]~~

363 (6) (a) A taxpayer may claim a nonrefundable tax credit as provided in this Subsection
364 (6) if:

365 (i) the taxpayer owns a fuel cell that has a rated capacity for generating electricity of
366 five megawatts or smaller;

367 (ii) the fuel cell is completed and placed in service in this state on or after January 1,
368 2022;

369 (iii) the fuel cell supplies all or part of the electricity required by commercial units
370 owned or used by the taxpayer;

371 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4),
372 (5), or (7) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this
373 Subsection (6); and

374 (v) the taxpayer obtains a written certification from the office in accordance with
375 Subsection (8).

376 (b) (i) Subject to Subsections (6)(b)(ii) through (iv), a tax credit under this Subsection
377 (6) is equal to 10% of the reasonable costs of the fuel cell.

378 (ii) A tax credit under this Subsection (6) may include installation costs.

379 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for the taxable
380 year in which the fuel cell is placed in service.

381 (iv) If the amount of a tax credit under this Subsection (6) exceeds a taxpayer's tax
382 liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the
383 tax credit exceeding the liability for a period that does not exceed the next four taxable years.

384 (c) (i) Subject to Subsections (6)(c)(ii) and (iii), a taxpayer that is a lessee of a fuel cell
385 installed on a commercial unit may claim a tax credit under this Subsection (6) if the lessee
386 obtains a written certification from the office in accordance with Subsection (8).

387 (ii) A taxpayer described in Subsection (6)(c)(i) may claim as a tax credit under this
388 Subsection (6) only the principal recovery portion of the lease payments.

389 (iii) A taxpayer described in Subsection (6)(c)(i) may claim a tax credit under this
390 Subsection (6) for a period that does not exceed seven taxable years after the day on which the
391 lease begins, as stated in the lease agreement.

392 (7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7)
393 if:

394 (i) the taxpayer owns a hydrogen production system;

395 (ii) the hydrogen production system is completed and placed in service on or after
396 January 1, 2022;

397 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own

398 use in commercial units, the hydrogen produced from the hydrogen production system for use
399 in:

400 (A) a vehicle; or

401 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or
402 less;

403 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4),
404 (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this
405 Subsection (7); and

406 (v) the taxpayer obtains a written certification from the office in accordance with
407 Subsection (8).

408 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7)
409 is equal to the product of:

410 (A) \$2.34; and

411 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
412 taxable year.

413 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 365
414 metric tons of hydrogen per taxable year.

415 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production
416 occurring during a period of 48 months beginning with the month in which the hydrogen
417 production system is placed in commercial service.

418 (c) (i) Subject to Subsections (7)(c)(ii) and (iii), a taxpayer that is a lessee of a
419 hydrogen production system installed on a commercial unit may claim a tax credit under this
420 Subsection (7) if the lessee obtains a written certification from the office in accordance with
421 Subsection (8).

422 (ii) A taxpayer described in Subsection (7)(c)(i) may claim as a tax credit under this
423 Subsection (7) only the principal recovery portion of the lease payments.

424 (iii) A taxpayer described in Subsection (7)(c)(i) may claim a tax credit under this
425 Subsection (7) for a period that does not exceed seven taxable years after the day on which the
426 lease begins, as stated in the lease agreement.

427 [(7)] (8) (a) Before a taxpayer, including a lessee under Subsection (4), (5), (6), or (7),
428 may claim a tax credit under this section, the taxpayer shall obtain a written certification from

429 the office.

430 (b) The office shall issue a taxpayer that is not a lessee a written certification if the
431 office determines that:

432 (i) the taxpayer meets the requirements of this section to receive a tax credit; and

433 (ii) the residential energy system [~~or~~], the commercial energy system, the fuel cell, or
434 the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

435 (A) has been completely installed;

436 (B) is a viable system for saving or producing energy from renewable resources; and

437 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
438 energy system [~~or~~], the commercial energy system, the fuel cell, or the hydrogen production
439 system uses the state's renewable and nonrenewable energy resources in an appropriate and
440 economic manner.

441 (c) The office shall issue a taxpayer that is a lessee a written certification if the office
442 receives:

443 (i) a copy of the lessor's written certification or other proof, in a form established by the
444 office, that the lessor qualified for a tax credit under Subsection (4), (5), (6), or (7); and

445 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
446 lessor qualified.

447 [~~(c)~~] (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
448 Act, the office may make rules:

449 (i) for determining whether a residential energy system [~~or~~], a commercial energy
450 system, a fuel cell, or a hydrogen production system meets the requirements of Subsection [(7)]
451 (8)(b)(ii); and

452 (ii) for purposes of a tax credit under Subsection (3) [~~or~~], (4), or (6), establishing the
453 reasonable costs of a residential energy system [~~or~~], a commercial energy system, or a fuel cell,
454 as an amount per unit of energy production.

455 [~~(d)~~] (e) A taxpayer, including a lessee, that obtains a written certification from the
456 office shall retain the certification for the same time period a person is required to keep books
457 and records under Section [59-1-1406](#).

458 [~~(e)~~] (f) The office shall submit to the commission an electronic list that includes:

459 (i) the name and identifying information of each taxpayer or lessee to which the office

460 issues a written certification; and

461 (ii) for each taxpayer or lessee:

462 (A) the amount of the tax credit listed on the written certification; and

463 (B) the date the renewable energy system was installed.

464 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
465 Act, the commission may make rules to address the certification of a tax credit under this
466 section.

467 [~~(9)~~] (10) A tax credit under this section is in addition to any tax credits provided under
468 the laws or rules and regulations of the United States.

469 Section 3. Section **59-7-619** is amended to read:

470 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

471 (1) As used in this section:

472 (a) "High cost infrastructure project" means the same as that term is defined in Section
473 [63M-4-602](#).

474 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
475 Section [63M-4-602](#).

476 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
477 [63M-4-602](#).

478 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

479 (2) Subject to the other provisions of this section, a corporation that is an infrastructure
480 cost-burdened entity may claim a nonrefundable tax credit for development of a high cost
481 infrastructure project as provided in this section.

482 (3) The tax credit under this section is the amount listed as the tax credit amount on a
483 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost
484 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
485 taxable year.

486 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
487 section for a period that does not exceed the next seven taxable years if:

488 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
489 section for a taxable year; and

490 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax

491 liability under this chapter for that taxable year.

492 (5) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
493 Committee shall study the tax credit allowed by this section and make recommendations
494 concerning whether the tax credit should be continued, modified, or repealed.

495 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by
496 this Subsection (5), the office shall provide the following information, if available to the office,
497 to the Office of the Legislative Fiscal Analyst:

498 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened
499 entity for each taxable year;

500 (B) the infrastructure-related revenue generated by each high cost infrastructure
501 project;

502 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]
503 [63M-4-605](#); and

504 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

505 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
506 redact information that identifies a recipient of a tax credit under this section.

507 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
508 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
509 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
510 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure
511 cost-burdened entities that receive the tax credit under this section.

512 (c) As part of the study required by this Subsection (5), the Office of the Legislative
513 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
514 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
515 office under Subsection (5)(b).

516 (d) The Revenue and Taxation Interim Committee shall ensure that the
517 recommendations described in Subsection (5)(a) include an evaluation of:

518 (i) the cost of the tax credit to the state;

519 (ii) the purpose and effectiveness of the tax credit; and

520 (iii) the extent to which the state benefits from the tax credit.

521 Section 4. Section **59-7-626** is enacted to read:

522 59-7-626. Refundable tax credit for nonrenewable hydrogen production system.

523 (1) As used in this section:

524 (a) "Commercial enterprise" means an entity, the purpose of which is to produce
525 hydrogen for sale from a hydrogen production system.

526 (b) "Commercial unit" means a building or structure that an entity uses to transact
527 business.

528 (c) "Hydrogen production system" means a system of apparatus and equipment, located
529 in this state, that produces hydrogen from nonrenewable sources.

530 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

531 (2) (a) A taxpayer may claim a refundable credit under this section if:

532 (i) the taxpayer owns a hydrogen production system;

533 (ii) the hydrogen production system is completed and placed in service on or after
534 January 1, 2022;

535 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own
536 use in commercial units, the hydrogen produced from the hydrogen production system for use
537 in:

538 (A) a vehicle; or

539 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or
540 less;

541 (iv) the taxpayer has not claimed and will not claim a tax credit under Section [59-7-614](#)
542 for electricity or hydrogen used to meet the requirements of this section; and

543 (v) the taxpayer obtains a written certification from the office in accordance with
544 Subsection (3).

545 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
546 to the product of:

547 (A) \$2.34; and

548 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
549 taxable year.

550 (ii) A taxpayer may not receive a tax credit under this section for more than 365 metric
551 tons of hydrogen per taxable year.

552 (iii) A taxpayer is eligible to claim a tax credit under this section for production

553 occurring during a period of 48 months beginning with the month in which the hydrogen
554 production system is placed in commercial service.

555 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a taxpayer that is a lessee of a
556 hydrogen production system installed on a commercial unit may claim a tax credit under this
557 section if the lessee obtains a written certification from the office in accordance with
558 Subsection (3).

559 (ii) A taxpayer described in Subsection (2)(c)(i) may claim as a tax credit under this
560 section only the principal recovery portion of the lease payments.

561 (iii) A taxpayer described in Subsection (2)(c)(i) may claim a tax credit under this
562 section for a period that does not exceed seven taxable years after the day on which the lease
563 begins, as stated in the lease agreement.

564 (3) (a) Before a taxpayer, including a lessee, may claim a tax credit under this section,
565 the taxpayer shall obtain a written certification from the office.

566 (b) The office shall issue a taxpayer that is not a lessee a written certification if the
567 office determines that:

568 (i) the taxpayer meets the requirements of this section to receive a tax credit; and

569 (ii) the hydrogen production system with respect to which the taxpayer seeks to claim a
570 tax credit:

571 (A) has been completely installed; and

572 (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen
573 production system uses the state's nonrenewable energy resources in an appropriate and
574 economic manner.

575 (c) The office shall issue a taxpayer that is a lessee a written certification if the office
576 receives:

577 (i) a copy of the lessor's written certification or other proof, in a form established by the
578 office, that the lessor qualified for a tax credit under this section; and

579 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
580 lessor qualified.

581 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
582 office may make rules for determining whether a hydrogen production system meets the
583 requirements of Subsection (3)(b)(ii).

584 (e) A taxpayer, including a lessee, that obtains a written certification from the office
585 shall retain the certification for the same time period a person is required to keep books and
586 records under Section 59-1-1406.

587 (f) The office shall submit to the commission an electronic list that includes:

588 (i) the name and identifying information of each taxpayer or lessee to which the office
589 issues a written certification; and

590 (ii) for each taxpayer or lessee:

591 (A) the amount of the tax credit listed on the written certification; and

592 (B) the date the hydrogen production system was installed.

593 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
594 commission may make rules to address the certification of a tax credit under this section.

595 (5) A tax credit under this section is in addition to any tax credits provided under the
596 laws or rules and regulations of the United States.

597 Section 5. Section **59-10-137** is amended to read:

598 **59-10-137. Review of credits allowed under this chapter.**

599 (1) As used in this section, "committee" means the Revenue and Taxation Interim
600 Committee.

601 (2) (a) The committee shall review the tax credits described in this chapter as provided
602 in Subsection (3) and make recommendations concerning whether the tax credits should be
603 continued, modified, or repealed.

604 (b) In conducting the review required under Subsection (2)(a), the committee shall:

605 (i) schedule time on at least one committee agenda to conduct the review;

606 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
607 under review to provide testimony;

608 (iii) (A) invite the Governor's Office of Economic Development to present a summary
609 and analysis of the information for each tax credit regarding which the Governor's Office of
610 Economic Development is required to make a report under this chapter; and

611 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
612 analysis of the information for each tax credit regarding which the Office of the Legislative
613 Fiscal Analyst is required to make a report under this chapter;

614 (iv) ensure that the committee's recommendations described in this section include an

615 evaluation of:

- 616 (A) the cost of the tax credit to the state;
- 617 (B) the purpose and effectiveness of the tax credit; and
- 618 (C) the extent to which the state benefits from the tax credit; and
- 619 (v) undertake other review efforts as determined by the committee chairs or as
- 620 otherwise required by law.

621 (3) (a) On or before November 30, 2017, and every three years after 2017, the
622 committee shall conduct the review required under Subsection (2) of the tax credits allowed
623 under the following sections:

- 624 (i) Section 59-10-1004;
- 625 (ii) Section 59-10-1010;
- 626 (iii) Section 59-10-1015;
- 627 (iv) Section 59-10-1025;
- 628 (v) Section 59-10-1027;
- 629 (vi) Section 59-10-1031;
- 630 (vii) Section 59-10-1032;
- 631 (viii) Section 59-10-1035;
- 632 (ix) Section 59-10-1104;
- 633 (x) Section 59-10-1105; and
- 634 (xi) Section 59-10-1108.

635 (b) On or before November 30, 2018, and every three years after 2018, the committee
636 shall conduct the review required under Subsection (2) of the tax credits allowed under the
637 following sections:

- 638 (i) Section 59-10-1005;
- 639 (ii) Section 59-10-1006;
- 640 (iii) Section 59-10-1012;
- 641 (iv) Section 59-10-1022;
- 642 (v) Section 59-10-1023;
- 643 (vi) Section 59-10-1028;
- 644 (vii) Section 59-10-1034;
- 645 (viii) Section 59-10-1037;

646 (ix) Section 59-10-1107; and

647 (x) Section 59-10-1112.

648 (c) On or before November 30, 2019, and every three years after 2019, the committee
649 shall conduct the review required under Subsection (2) of the tax credits allowed under the
650 following sections:

651 (i) Section 59-10-1007;

652 (ii) Section 59-10-1014;

653 (iii) Section 59-10-1017;

654 (iv) Section 59-10-1018;

655 (v) Section 59-10-1019;

656 (vi) Section 59-10-1024;

657 [~~(vii)~~ Section ~~59-10-1029~~];

658 [~~(viii)~~ (vii) Section 59-10-1033;

659 [~~(ix)~~ (viii) Section 59-10-1036;

660 [~~(x)~~ (ix) Section 59-10-1106; and

661 [~~(xi)~~ (x) Section 59-10-1111.

662 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
663 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
664 2017.

665 (ii) The committee shall complete a review described in this Subsection (3)(d) three
666 years after the effective date of the tax credit and every three years after the initial review date.

667 Section 6. Section 59-10-1014 is amended to read:

668 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
669 **Certification -- Rulemaking authority.**

670 (1) As used in this section:

671 (a) (i) "Active solar system" means a system of equipment that is capable of:

672 (A) collecting and converting incident solar radiation into thermal, mechanical, or
673 electrical energy; and

674 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
675 apparatus to storage or to the point of use.

676 (ii) "Active solar system" includes water heating, space heating or cooling, and

677 electrical or mechanical energy generation.

678 (b) "Biomass system" means a system of apparatus and equipment for use in:

679 (i) converting material into biomass energy, as defined in Section [59-12-102](#); and

680 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

681 (c) "Direct use geothermal system" means a system of apparatus and equipment that

682 enables the direct use of geothermal energy to meet energy needs, including heating a building,

683 an industrial process, and aquaculture.

684 (d) "Fuel cell" means the same as that term is defined in Section [59-7-614](#).

685 ~~(f)~~ (e) "Geothermal electricity" means energy that is:

686 (i) contained in heat that continuously flows outward from the earth; and

687 (ii) used as a sole source of energy to produce electricity.

688 ~~(e)~~ (f) "Geothermal energy" means energy generated by heat that is contained in the

689 earth.

690 ~~(f)~~ (g) "Geothermal heat pump system" means a system of apparatus and equipment

691 that:

692 (i) enables the use of thermal properties contained in the earth at temperatures well

693 below 100 degrees Fahrenheit; and

694 (ii) helps meet heating and cooling needs of a structure.

695 ~~(g)~~ (h) "Hydroenergy system" means a system of apparatus and equipment that is

696 capable of:

697 (i) intercepting and converting kinetic water energy into electrical or mechanical
698 energy; and

699 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

700 ~~(h)~~ (i) "Office" means the Office of Energy Development created in Section

701 [63M-4-401](#).

702 ~~(i)~~ (j) (i) "Passive solar system" means a direct thermal system that utilizes the

703 structure of a building and its operable components to provide for collection, storage, and

704 distribution of heating or cooling during the appropriate times of the year by utilizing the

705 climate resources available at the site.

706 (ii) "Passive solar system" includes those portions and components of a building that

707 are expressly designed and required for the collection, storage, and distribution of solar energy.

708 [~~(j)~~] (k) "Photovoltaic system" means an active solar system that generates electricity
709 from sunlight.

710 [~~(k)~~] (l) (i) "Principal recovery portion" means the portion of a lease payment that
711 constitutes the cost a person incurs in acquiring a residential energy system.

712 (ii) "Principal recovery portion" does not include:

713 (A) an interest charge; or

714 (B) a maintenance expense.

715 [~~(l)~~] (m) "Residential energy system" means the following used to supply energy to or
716 for a residential unit:

717 (i) an active solar system;

718 (ii) a biomass system;

719 (iii) a direct use geothermal system;

720 (iv) a geothermal heat pump system;

721 (v) a hydroenergy system;

722 (vi) a passive solar system; or

723 (vii) a wind system.

724 [~~(m)~~] (n) (i) "Residential unit" means a house, condominium, apartment, or similar
725 dwelling unit that:

726 (A) is located in the state; and

727 (B) serves as a dwelling for a person, group of persons, or a family.

728 (ii) "Residential unit" does not include property subject to a fee under:

729 (A) Section 59-2-405;

730 (B) Section 59-2-405.1;

731 (C) Section 59-2-405.2;

732 (D) Section 59-2-405.3; or

733 (E) Section 72-10-110.5.

734 [~~(n)~~] (o) "Wind system" means a system of apparatus and equipment that is capable of:

735 (i) intercepting and converting wind energy into mechanical or electrical energy; and

736 (ii) transferring these forms of energy by a separate apparatus to the point of use or
737 storage.

738 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in

739 this section against a tax due under this chapter for a taxable year.

740 ~~[(3) For a taxable year beginning on or after January 1, 2007, a]~~

741 (3) (a) A claimant, estate, or trust may claim a nonrefundable tax credit under this

742 ~~[section]~~ Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or
743 uses if:

744 ~~[(a)]~~ (i) the claimant, estate, or trust:

745 ~~[(i)]~~ (A) purchases and completes a residential energy system to supply all or part of
746 the energy required for the residential unit; or

747 ~~[(ii)]~~ (B) participates in the financing of a residential energy system to supply all or
748 part of the energy required for the residential unit; and

749 ~~[(b) the residential energy system is installed on or after January 1, 2007; and]~~

750 ~~[(c)]~~ (ii) the claimant, estate, or trust obtains a written certification from the office in
751 accordance with Subsection (5).

752 ~~[(4) (a)]~~ (b) For a residential energy system, other than a photovoltaic system, the tax
753 credit described in this section is equal to the lesser of:

754 (i) 25% of the reasonable costs, including installation costs, of each residential energy
755 system installed with respect to each residential unit the claimant, estate, or trust owns or uses;
756 and

757 (ii) \$2,000.

758 ~~[(b) Subject to Subsection (5)(d), for]~~

759 (c) For a residential energy system that is a photovoltaic system, the tax credit
760 described in this section is equal to the lesser of:

761 (i) 25% of the reasonable costs, including installation costs, of each system installed
762 with respect to each residential unit the claimant, estate, or trust owns or uses; or

763 (ii) (A) for a system installed on or after January 1, 2007, but on or before December
764 31, 2017, \$2,000;

765 (B) for a system installed on or after January 1, 2018, but on or before December 31,
766 2020, \$1,600;

767 (C) for a system installed on or after January 1, 2021, but on or before December 31,
768 2021, \$1,200;

769 (D) for a system installed on or after January 1, 2022, but on or before December 31,

770 2022, \$800;

771 (E) for a system installed on or after January 1, 2023, but on or before December 31,
772 2023, \$400; and

773 (F) for a system installed on or after January 1, 2024, \$0.

774 ~~[(e)]~~ (d) (i) The office shall determine the amount of the tax credit that a claimant,
775 estate, or trust may claim and list that amount on the written certification that the office issues
776 under Subsection (5).

777 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the
778 written certification that the office issues under Subsection (5).

779 ~~[(d)]~~ (e) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for
780 the taxable year in which the residential energy system is installed.

781 ~~[(e)]~~ (f) If the amount of a tax credit listed on the written certification exceeds a
782 claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant,
783 estate, or trust may carry forward the amount of the tax credit exceeding the liability for a
784 period that does not exceed the next four taxable years.

785 ~~[(f)]~~ (g) A claimant, estate, or trust may claim a tax credit with respect to additional
786 residential energy systems or parts of residential energy systems for a subsequent taxable year
787 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per
788 residential unit.

789 ~~[(g)]~~ (h) (i) Subject to Subsections ~~[(4)(g)(ii)]~~ (3)(h)(ii) and (iii), a claimant, estate, or
790 trust that leases a residential energy system installed on a residential unit may claim a tax credit
791 under this Subsection (3) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably~~
792 ~~elects not to claim the tax credit]~~ obtains a written certification in accordance with Subsection
793 (5).

794 (ii) A claimant, estate, or trust described in Subsection ~~[(4)(g)(i)]~~ (3)(h)(i) that leases a
795 residential energy system may claim as a tax credit under this Subsection (3) only the principal
796 recovery portion of the lease payments.

797 (iii) A claimant, estate, or trust described in Subsection ~~[(4)(g)(i)]~~ (3)(h)(i) that leases a
798 residential energy system may claim a tax credit under this Subsection (3) for a period that does
799 not exceed seven taxable years ~~[after the date]~~ from the day on which the lease begins, as stated
800 in the lease agreement.

801 ~~[(h)]~~ (i) If a claimant, estate, or trust sells a residential unit to another person before the
802 claimant, estate, or trust claims the tax credit under this Subsection (3):

803 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

804 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
805 Income Taxes, the other person may claim the tax credit as if the other person had met the
806 requirements of Section 59-7-614 to claim the tax credit; or

807 (B) if the other person files a return under this chapter, the other person may claim the
808 tax credit under this section as if the other person had met the requirements of this section to
809 claim the tax credit.

810 (4) (a) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in
811 this Subsection (4) if:

812 (i) the claimant, estate, or trust owns a fuel cell that has a rated capacity for generating
813 electricity of five megawatts or smaller;

814 (ii) the fuel cell is completed and placed in service in this state on or after January 1,
815 2022;

816 (iii) the fuel cell supplies all or part of the electricity required by commercial units
817 owned or used by the claimant, estate, or trust;

818 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
819 Subsection 59-10-1106(3), (4), or (5) or Section 59-10-1113 for electricity or hydrogen used to
820 meet the requirements of this Subsection (4); and

821 (v) the claimant, estate, or trust obtains a written certification from the office in
822 accordance with Subsection (5).

823 (b) (i) Subject to Subsections (4)(b)(ii) through (iv), a tax credit under this Subsection
824 (4) is equal to 10% of the reasonable costs of the fuel cell.

825 (ii) A tax credit under this Subsection (4) may include installation costs.

826 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)
827 for the taxable year in which the fuel cell is placed in service.

828 (iv) If the amount of a tax credit listed on the written certification exceeds a claimant's,
829 estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust
830 may carry forward the amount of the tax credit exceeding the liability for a period that does not
831 exceed the next four taxable years.

832 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a claimant, estate, or trust that is a
833 lessee of a fuel cell installed on a commercial unit may claim a tax credit under this Subsection
834 (4) if the lessee obtains a written certification from the office in accordance with Subsection
835 (5).

836 (ii) A claimant, estate, or trust described in Subsection (4)(c)(i) may claim as a tax
837 credit under this Subsection (4) only the principal recovery portion of the lease payments.

838 (iii) A claimant, estate, or trust described in Subsection (4)(c)(i) may claim a tax credit
839 under this Subsection (4) for a period that does not exceed seven taxable years after the day on
840 which the lease begins, as stated in the lease agreement.

841 (5) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
842 under this section, the claimant, estate, or trust shall obtain a written certification from the
843 office.

844 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
845 certification if the office determines that:

846 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
847 credit; and

848 (ii) the office determines that the residential energy system or the fuel cell with respect
849 to which the claimant, estate, or trust seeks to claim a tax credit:

850 (A) has been completely installed;

851 (B) is a viable system for saving or producing energy from renewable resources; and

852 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
853 energy system or the fuel cell uses the state's renewable and nonrenewable energy resources in
854 an appropriate and economic manner.

855 (c) The office shall issue a claimant, estate, or trustee that is a lessee a written
856 certification if the office receives:

857 (i) a copy of the lessor's written certification or other proof, in a form established by the
858 office, that the lessor qualified for a tax credit under this section; and

859 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
860 lessor qualified.

861 ~~(c)~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
862 Act, the office may make rules:

863 (i) for determining whether a residential energy system or a fuel cell meets the
864 requirements of Subsection (5)(b)(ii); and

865 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or
866 trust may receive under Subsection (3) or (4), establishing the reasonable costs of a residential
867 energy system or a fuel cell, as an amount per unit of energy production.

868 ~~[(d)]~~(e) A claimant, estate, or trust, including a lessee, that obtains a written
869 certification from the office shall retain the certification for the same time period a person is
870 required to keep books and records under Section [59-1-1406](#).

871 ~~[(e)]~~(f) The office shall submit to the commission an electronic list that includes:

872 (i) the name and identifying information of each claimant, estate, ~~[or]~~ trust, or lessee to
873 which the office issues a written certification; and

874 (ii) for each claimant, estate, ~~[or]~~ trust, or lessee:

875 (A) the amount of the tax credit listed on the written certification; and

876 (B) the date the renewable energy system or the fuel cell was installed.

877 (6) A tax credit under this section is in addition to any tax credits provided under the
878 laws or rules and regulations of the United States.

879 (7) A purchaser of one or more solar units that claims a tax credit under Section
880 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
881 section for that purchase.

882 Section 7. Section [59-10-1034](#) is amended to read:

883 **[59-10-1034. Nonrefundable high cost infrastructure development tax credit.](#)**

884 (1) As used in this section:

885 (a) "High cost infrastructure project" means the same as that term is defined in Section
886 [63M-4-602](#).

887 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
888 Section [63M-4-602](#).

889 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
890 [63M-4-602](#).

891 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

892 (2) Subject to the other provisions of this section, a claimant, estate, or trust that is an
893 infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a

894 high cost infrastructure project as provided in this section.

895 (3) The tax credit under this section is the amount listed as the tax credit amount on a
896 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost
897 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
898 taxable year.

899 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
900 section for a period that does not exceed the next seven taxable years if:

901 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
902 section for a taxable year; and

903 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
904 liability under this chapter for that taxable year.

905 (5) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim
906 Committee shall study the tax credit allowed by this section and make recommendations
907 concerning whether the tax credit should be continued, modified, or repealed.

908 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by
909 this Subsection (5), the office shall provide the following information, if available to the office,
910 to the Office of the Legislative Fiscal Analyst:

911 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened
912 entity for each taxable year;

913 (B) the infrastructure-related revenue generated by each high cost infrastructure
914 project;

915 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]
916 [63M-4-605](#); and

917 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

918 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
919 redact information that identifies a recipient of a tax credit under this section.

920 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
921 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
922 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
923 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure
924 cost-burdened entities that receive the tax credit under this section.

925 (c) As part of the study required by this Subsection (5), the Office of the Legislative
 926 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
 927 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
 928 office under Subsection (5)(b).

929 (d) The Revenue and Taxation Interim Committee shall ensure that the
 930 recommendations described in Subsection (5)(a) include an evaluation of:

- 931 (i) the cost of the tax credit to the state;
- 932 (ii) the purpose and effectiveness of the tax credit; and
- 933 (iii) the extent to which the state benefits from the tax credit.

934 Section 8. Section **59-10-1106** is amended to read:

935 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**
 936 **Certification -- Rulemaking authority.**

937 (1) As used in this section:

938 (a) "Active solar system" means the same as that term is defined in Section
 939 [59-10-1014](#).

940 (b) "Biomass system" means the same as that term is defined in Section [59-10-1014](#).

941 (c) "Commercial energy system" means the same as that term is defined in Section
 942 [59-7-614](#).

943 (d) "Commercial enterprise" means the same as that term is defined in Section
 944 [59-7-614](#).

945 (e) [(f)] "Commercial unit" means the same as that term is defined in Section [59-7-614](#).

946 [~~(ii) Notwithstanding Subsection (1)(c)(i):~~]

947 [~~(A) with respect to an active solar system used for agricultural water pumping or a~~
 948 ~~wind system, each individual energy generating device is considered to be a commercial unit;~~
 949 ~~or]~~

950 [~~(B) if an energy system is the building or structure that a claimant, estate, or trust uses~~
 951 ~~to transact business, a commercial unit is the complete energy system itself.]~~

952 (f) "Direct use geothermal system" means the same as that term is defined in Section
 953 [59-10-1014](#).

954 (g) "Fuel cell" means the same as that term is defined in Section [59-7-614](#).

955 [(g)] (h) "Geothermal electricity" means the same as that term is defined in Section

956 59-10-1014.

957 [~~(h)~~] (i) "Geothermal energy" means the same as that term is defined in Section

958 59-10-1014.

959 [~~(i)~~] (j) "Geothermal heat pump system" means the same as that term is defined in

960 Section 59-10-1014.

961 [~~(j)~~] (k) "Hydroenergy system" means the same as that term is defined in Section

962 59-10-1014.

963 (l) "Hydrogen production system" means the same as that term is defined in Section

964 59-7-614.

965 [~~(k)~~] (m) "Office" means the Office of Energy Development created in Section

966 63M-4-401.

967 [~~(h)~~] (n) "Passive solar system" means the same as that term is defined in Section

968 59-10-1014.

969 [~~(m)~~] (o) "Principal recovery portion" means the same as that term is defined in Section

970 59-10-1014.

971 [~~(n)~~] (p) "Wind system" means the same as that term is defined in Section 59-10-1014.

972 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
973 this section against a tax due under this chapter for a taxable year.

974 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
975 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
976 energy system if:

977 (i) the commercial energy system does not use:

978 (A) wind, geothermal electricity, [~~solar~~], or biomass equipment capable of producing a
979 total of 660 or more kilowatts of electricity; or

980 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

981 (ii) the claimant, estate, or trust purchases or participates in the financing of the
982 commercial energy system;

983 (iii) (A) the commercial energy system supplies all or part of the energy required by
984 commercial units owned or used by the claimant, estate, or trust; or

985 (B) the claimant, estate, or trust sells all or part of the energy produced by the
986 commercial energy system as a commercial enterprise;

987 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
988 ~~January 1, 2007; and]~~

989 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
990 Subsection (5) or Subsection 59-10-1014(4) for fuel cell use or hydrogen production using
991 electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3);
992 and

993 (v) the claimant, estate, or trust obtains a written certification from the office in
994 accordance with Subsection (6).

995 (b) (i) Subject to Subsections (3)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10%
996 of the reasonable costs of the commercial energy system.

997 (ii) A tax credit under this Subsection (3) may include installation costs.

998 (iii) A claimant, estate, or trust ~~[may claim]~~ is eligible to claim a tax credit under this
999 Subsection (3) for the taxable year in which the commercial energy system is completed and
1000 placed in service.

1001 ~~[(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.]~~

1002 ~~[(v)]~~ (iv) The total amount of tax credit a claimant, estate, or trust may claim under this
1003 Subsection (3) may not exceed \$50,000 per commercial unit.

1004 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a
1005 lessee of a commercial energy system installed on a commercial unit may claim a tax credit
1006 under this Subsection (3) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably~~
1007 ~~elects not to claim the tax credit]~~ obtains a written certification from the office in accordance
1008 with Subsection (6).

1009 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax
1010 credit under this Subsection (3) only the principal recovery portion of the lease payments.

1011 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit
1012 under this Subsection (3) for a period that does not exceed seven taxable years after the ~~[date]~~
1013 day on which the lease begins, as stated in the lease agreement.

1014 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust
1015 may claim a refundable tax credit under this Subsection (4) with respect to a commercial
1016 energy system if:

1017 (i) (A) the commercial energy system uses wind, geothermal electricity, or biomass

1018 equipment capable of producing a total of 660 or more kilowatts of electricity; or
1019 (B) the commercial energy system uses solar equipment capable of producing a total of
1020 2,000 or more kilowatts of electricity;
1021 (ii) (A) the commercial energy system supplies all or part of the energy required by
1022 commercial units owned or used by the claimant, estate, or trust; or
1023 (B) the claimant, estate, or trust sells all or part of the energy produced by the
1024 commercial energy system as a commercial enterprise; and
1025 ~~[(iii) the commercial energy system is completed and placed in service on or after~~
1026 ~~January 1, 2007; and]~~
1027 (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1028 Subsection (5) or Subsection 59-10-1014(4) for fuel cell use or hydrogen production using
1029 electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4);
1030 and
1031 (iv) the claimant, estate, or trust obtains a written certification from the office in
1032 accordance with Subsection (6).
1033 (b) (i) Subject to ~~[Subsections]~~ Subsection (4)(b)(ii) ~~[and (iii)]~~, a tax credit under this
1034 Subsection (4) is equal to the product of:
1035 (A) 0.35 cents; and
1036 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
1037 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)
1038 ~~[may be claimed]~~ for production occurring during a period of 48 months beginning with the
1039 month in which the commercial energy system is placed in commercial service.
1040 ~~[(iii) A tax credit under this Subsection (4) may not be carried forward or back.]~~
1041 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed
1042 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or
1043 trust ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written
1044 certification from the office in accordance with Subsection (6).
1045 ~~[(5)(a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust~~
1046 ~~may claim a refundable tax credit as provided in this Subsection (5) if:]~~
1047 ~~[(i) the claimant, estate, or trust owns a commercial energy system that uses solar~~
1048 ~~equipment capable of producing a total of 660 or more kilowatts of electricity;]~~

1049 ~~[(ii) (A) the commercial energy system supplies all or part of the energy required by~~
1050 ~~commercial units owned or used by the claimant, estate, or trust; or]~~
1051 ~~[(B) the claimant, estate, or trust sells all or part of the energy produced by the~~
1052 ~~commercial energy system as a commercial enterprise;]~~
1053 ~~[(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);]~~
1054 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
1055 ~~January 1, 2015; and]~~
1056 ~~[(v) the claimant, estate, or trust obtains a written certification from the office in~~
1057 ~~accordance with Subsection (6).]~~
1058 ~~[(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)~~
1059 ~~is equal to the product of:]~~
1060 ~~[(A) 0.35 cents; and]~~
1061 ~~[(B) the kilowatt hours of electricity produced and used or sold during the taxable~~
1062 ~~year.]~~
1063 ~~[(ii) A tax credit under this Subsection (5) may be claimed for production occurring~~
1064 ~~during a period of 48 months beginning with the month in which the commercial energy~~
1065 ~~system is placed in commercial service.]~~
1066 ~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~
1067 ~~[(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed~~
1068 ~~on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or~~
1069 ~~trust confirms that the lessor irrevocably elects not to claim the tax credit.]~~
1070 (5) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this
1071 Subsection (5) if:
1072 (i) the claimant, estate, or trust owns a hydrogen production system;
1073 (ii) the hydrogen production system is completed and placed in service on or after
1074 January 1, 2022;
1075 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1076 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1077 hydrogen production system for use in:
1078 (A) a vehicle; or
1079 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or

1080 less;

1081 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1082 Subsection (3), (4), or 59-10-1014(4) or Section 59-10-1113 for electricity or hydrogen used to
1083 meet the requirements of this Subsection (5); and

1084 (v) the claimant, estate, or trust obtains a written certification from the office in
1085 accordance with Subsection (6).

1086 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
1087 is equal to the product of:

1088 (A) \$2.34; and

1089 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
1090 taxable year.

1091 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (5) for
1092 more than 365 metric tons of hydrogen per taxable year.

1093 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)
1094 for production occurring during a period of 48 months beginning with the month in which the
1095 hydrogen production system is placed in commercial service.

1096 (c) (i) Subject to Subsections (5)(c)(ii) and (iii), a claimant, estate, or trust that is a
1097 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit
1098 under this Subsection (5) if the lessee obtains a written certification from the office in
1099 accordance with Subsection (6).

1100 (ii) A claimant, estate, or trust described in Subsection (5)(c)(i) may claim as a tax
1101 credit under this Subsection (5) only the principal recovery portion of the lease payments.

1102 (iii) A claimant, estate, or trust described in Subsection (5)(c)(i) may claim a tax credit
1103 under this Subsection (5) for a period that does not exceed seven taxable years after the day on
1104 which the lease begins, as stated in the lease agreement.

1105 (6) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
1106 under this section, the claimant, estate, or trust shall obtain a written certification from the
1107 office.

1108 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
1109 certification if the office determines that:

1110 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax

1111 credit; and

1112 (ii) ~~[the office determines that]~~ the commercial energy system or the hydrogen
1113 production system with respect to which the claimant, estate, or trust seeks to claim a tax
1114 credit:

1115 (A) has been completely installed;

1116 (B) is a viable system for saving or producing energy from renewable resources; and

1117 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
1118 energy system or the hydrogen production system uses the state's renewable and nonrenewable
1119 resources in an appropriate and economic manner.

1120 (c) The office shall issue a claimant, estate, or trust that is a lessee a written
1121 certification if the office receives:

1122 (i) a copy of the lessor's written certification or other proof, in a form established by the
1123 office, that the lessor qualified for a tax credit under this section; and

1124 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
1125 lessor qualified.

1126 ~~[(c)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1127 Act, the office may make rules:

1128 (i) for determining whether a commercial energy system or a hydrogen production
1129 system meets the requirements of Subsection (6)(b)(ii); and

1130 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1131 of a commercial energy system, as an amount per unit of energy production.

1132 ~~[(d)]~~ (e) A claimant, estate, or trust, including a lessee, that obtains a written
1133 certification from the office shall retain the certification for the same time period a person is
1134 required to keep books and records under Section [59-1-1406](#).

1135 (f) The office shall submit to the commission an electronic list that includes:

1136 (i) the name and identifying information of each claimant, estate, trust, or lessee to
1137 which the office issues a written certification; and

1138 (ii) for each claimant, estate, trust, or lessee:

1139 (A) the amount of the tax credit listed on the written certification; and

1140 (B) the date the commercial energy system or the hydrogen production system was
1141 installed.

1142 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1143 commission may make rules to address the certification of a tax credit under this section.

1144 (8) A tax credit under this section is in addition to any tax credits provided under the
1145 laws or rules and regulations of the United States.

1146 (9) A purchaser of one or more solar units that claims a tax credit under Section
1147 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
1148 section for that purchase.

1149 Section 9. Section **59-10-1113** is enacted to read:

1150 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.**

1151 (1) As used in this section:

1152 (a) "Commercial enterprise" means the same as that term is defined in Section
1153 [59-7-626](#).

1154 (b) "Commercial unit" means the same as that term is defined in Section [59-7-626](#).

1155 (c) "Hydrogen production system" means the same as that term is defined in Section
1156 [59-7-626](#).

1157 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1158 (2) (a) A claimant, estate, or trust may claim a refundable credit under this section if:

1159 (i) the claimant, estate, or trust owns a hydrogen production system;

1160 (ii) the hydrogen production system is completed and placed in service on or after
1161 January 1, 2022;

1162 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1163 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1164 hydrogen production system for use in:

1165 (A) a vehicle; or

1166 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or
1167 less;

1168 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1169 Section [59-10-1014](#) or [59-10-1106](#) for electricity or hydrogen used to meet the requirements of
1170 this section; and

1171 (v) the taxpayer obtains a written certification from the office in accordance with
1172 Subsection (3).

1173 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
1174 to the product of:

1175 (A) \$2.34; and

1176 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
1177 taxable year.

1178 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more
1179 than 365 metric tons of hydrogen per taxable year.

1180 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for
1181 production occurring during a period of 48 months beginning with the month in which the
1182 hydrogen production system is placed in commercial service.

1183 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a claimant, estate, or trust that is a
1184 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit
1185 under this section if the lessee obtains a written certification from the office in accordance with
1186 Subsection (3).

1187 (ii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim as a tax
1188 credit under this section only the principal recovery portion of the lease payments.

1189 (iii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim a tax credit
1190 under this section for a period that does not exceed seven taxable years after the day on which
1191 the lease begins, as stated in the lease agreement.

1192 (3) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
1193 under this section, the claimant, estate, or trust shall obtain a written certification from the
1194 office.

1195 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
1196 certification if the office determines that:

1197 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1198 credit; and

1199 (ii) the hydrogen production system with respect to which the claimant, estate, or trust
1200 seeks to claim a tax credit:

1201 (A) has been completely installed;

1202 (B) is safe, reliable, efficient, and technically feasible to ensure that the
1203 hydrogen production system uses the state's nonrenewable energy resources in an

1204 appropriate and economic manner.

1205 (c) The office shall issue a claimant, estate, or trust that is a lessee a written
1206 certification if the office receives:

1207 (i) a copy of the lessor's written certification or other proof, in a form established by the
1208 office, that the lessor qualified for a tax credit under this section; and

1209 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
1210 lessor qualified.

1211 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1212 Act, the office may make rules for determining whether a hydrogen production system
1213 meets the requirements of this Subsection (3)(b)(ii).

1214 (e) A claimant, estate, or trust, including a lessee, that obtains a written certification
1215 from the office shall retain the certification for the same time period a person is required to
1216 keep books and records under Section 59-1-1406.

1217 (f) The office shall submit to the commission an electronic list that includes:

1218 (i) the name and identifying information of each claimant, estate, trust, or lessee to
1219 which the office issues a written certification; and

1220 (ii) for each claimant, estate, trust, or lessee:

1221 (A) the amount of the tax credit listed on the written certification; and

1222 (B) the date the hydrogen production system was installed.

1223 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1224 Act, the commission may make rules to address the certification of a tax credit under
1225 this section.

1226 (5) A tax credit under this section is in addition to any tax credits provided under the
1227 laws or rules and regulations of the United States.

1228 Section 10. Section **59-12-102** is amended to read:

1229 **59-12-102. Definitions.**

1230 As used in this chapter:

1231 (1) "800 service" means a telecommunications service that:

1232 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1233 (b) is typically marketed:

1234 (i) under the name 800 toll-free calling;

- 1235 (ii) under the name 855 toll-free calling;
- 1236 (iii) under the name 866 toll-free calling;
- 1237 (iv) under the name 877 toll-free calling;
- 1238 (v) under the name 888 toll-free calling; or
- 1239 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1240 Federal Communications Commission.
- 1241 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1242 (i) a subscriber purchases;
- 1243 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1244 the subscriber's:
- 1245 (A) prerecorded announcement; or
- 1246 (B) live service; and
- 1247 (iii) is typically marketed:
- 1248 (A) under the name 900 service; or
- 1249 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1250 Communications Commission.
- 1251 (b) "900 service" does not include a charge for:
- 1252 (i) a collection service a seller of a telecommunications service provides to a
- 1253 subscriber; or
- 1254 (ii) the following a subscriber sells to the subscriber's customer:
- 1255 (A) a product; or
- 1256 (B) a service.
- 1257 (3) (a) "Admission or user fees" includes season passes.
- 1258 (b) "Admission or user fees" does not include:
- 1259 (i) annual membership dues to private organizations; or
- 1260 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 1261 facility listed in Subsection [59-12-103\(1\)\(f\)](#).
- 1262 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 1263 person:
- 1264 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 1265 person; or

1266 (b) is related to the other person because a third person, or a group of third persons who
1267 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
1268 whether direct or indirect, in the related persons.

1269 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
1270 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
1271 Agreement after November 12, 2002.

1272 (6) "Agreement combined tax rate" means the sum of the tax rates:

1273 (a) listed under Subsection (7); and

1274 (b) that are imposed within a local taxing jurisdiction.

1275 (7) "Agreement sales and use tax" means a tax imposed under:

1276 (a) Subsection 59-12-103(2)(a)(i)(A);

1277 (b) Subsection 59-12-103(2)(b)(i);

1278 (c) Subsection 59-12-103(2)(c)(i);

1279 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

1280 (e) Section 59-12-204;

1281 (f) Section 59-12-401;

1282 (g) Section 59-12-402;

1283 (h) Section 59-12-402.1;

1284 (i) Section 59-12-703;

1285 (j) Section 59-12-802;

1286 (k) Section 59-12-804;

1287 (l) Section 59-12-1102;

1288 (m) Section 59-12-1302;

1289 (n) Section 59-12-1402;

1290 (o) Section 59-12-1802;

1291 (p) Section 59-12-2003;

1292 (q) Section 59-12-2103;

1293 (r) Section 59-12-2213;

1294 (s) Section 59-12-2214;

1295 (t) Section 59-12-2215;

1296 (u) Section 59-12-2216;

- 1297 (v) Section 59-12-2217;
- 1298 (w) Section 59-12-2218;
- 1299 (x) Section 59-12-2219; or
- 1300 (y) Section 59-12-2220.
- 1301 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 1302 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1303 (a) except for:
- 1304 (i) an airline as defined in Section 59-2-102; or
- 1305 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1306 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1307 state, of an airline; and
- 1308 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1309 whether the business entity performs the following in this state:
- 1310 (i) check, diagnose, overhaul, and repair:
- 1311 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1312 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1313 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1314 engine;
- 1315 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1316 aircraft:
- 1317 (A) an inspection;
- 1318 (B) a repair, including a structural repair or modification;
- 1319 (C) changing landing gear; and
- 1320 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1321 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1322 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1323 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1324 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1325 authority that certifies the fixed wing turbine powered aircraft.
- 1326 (10) "Alcoholic beverage" means a beverage that:
- 1327 (a) is suitable for human consumption; and

- 1328 (b) contains .5% or more alcohol by volume.
- 1329 (11) "Alternative energy" means:
- 1330 (a) biomass energy;
- 1331 (b) hydrogen fuel cell system energy;
- 1332 [~~(b)~~] (c) geothermal energy;
- 1333 [~~(c)~~] (d) hydroelectric energy;
- 1334 [~~(d)~~] (e) solar energy;
- 1335 [~~(e)~~] (f) wind energy; or
- 1336 [~~(f)~~] (g) energy that is derived from:
- 1337 (i) coal-to-liquids;
- 1338 (ii) nuclear fuel;
- 1339 (iii) oil-impregnated diatomaceous earth;
- 1340 (iv) oil sands;
- 1341 (v) oil shale;
- 1342 (vi) petroleum coke; or
- 1343 (vii) waste heat from:
- 1344 (A) an industrial facility; or
- 1345 (B) a power station in which an electric generator is driven through a process in which
- 1346 water is heated, turns into steam, and spins a steam turbine.
- 1347 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 1348 facility" means a facility that:
- 1349 (i) uses alternative energy to produce electricity; and
- 1350 (ii) has a production capacity of two megawatts or greater.
- 1351 (b) A facility is an alternative energy electricity production facility regardless of
- 1352 whether the facility is:
- 1353 (i) connected to an electric grid; or
- 1354 (ii) located on the premises of an electricity consumer.
- 1355 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1356 provision of telecommunications service.
- 1357 (b) "Ancillary service" includes:
- 1358 (i) a conference bridging service;

1359 (ii) a detailed communications billing service;

1360 (iii) directory assistance;

1361 (iv) a vertical service; or

1362 (v) a voice mail service.

1363 (14) "Area agency on aging" means the same as that term is defined in Section

1364 [62A-3-101](#).

1365 (15) "Assisted amusement device" means an amusement device, skill device, or ride
1366 device that is started and stopped by an individual:

1367 (a) who is not the purchaser or renter of the right to use or operate the amusement
1368 device, skill device, or ride device; and

1369 (b) at the direction of the seller of the right to use the amusement device, skill device,
1370 or ride device.

1371 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
1372 washing of tangible personal property if the cleaning or washing labor is primarily performed
1373 by an individual:

1374 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1375 property; and

1376 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1377 property.

1378 (17) "Authorized carrier" means:

1379 (a) in the case of vehicles operated over public highways, the holder of credentials
1380 indicating that the vehicle is or will be operated pursuant to both the International Registration
1381 Plan and the International Fuel Tax Agreement;

1382 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1383 certificate or air carrier's operating certificate; or

1384 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1385 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
1386 stock in more than one state.

1387 (18) (a) [~~Except as provided in Subsection (18)(b), "biomass]~~ "Biomass energy" means
1388 any of the following that is used as the primary source of energy to produce fuel or electricity:

1389 (i) material from a plant or tree; or

- 1390 (ii) other organic matter that is available on a renewable basis, including:
- 1391 (A) slash and brush from forests and woodlands;
- 1392 (B) animal waste;
- 1393 (C) waste vegetable oil;
- 1394 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 1395 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 1396 thermal conversion process;
- 1397 (E) aquatic plants; and
- 1398 (F) agricultural products.
- 1399 (b) "Biomass energy" does not include:
- 1400 (i) black liquor; or
- 1401 (ii) treated woods.
- 1402 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1403 property, products, or services if the tangible personal property, products, or services are:
- 1404 (i) distinct and identifiable; and
- 1405 (ii) sold for one nonitemized price.
- 1406 (b) "Bundled transaction" does not include:
- 1407 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1408 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1409 the transaction;
- 1410 (ii) the sale of real property;
- 1411 (iii) the sale of services to real property;
- 1412 (iv) the retail sale of tangible personal property and a service if:
- 1413 (A) the tangible personal property:
- 1414 (I) is essential to the use of the service; and
- 1415 (II) is provided exclusively in connection with the service; and
- 1416 (B) the service is the true object of the transaction;
- 1417 (v) the retail sale of two services if:
- 1418 (A) one service is provided that is essential to the use or receipt of a second service;
- 1419 (B) the first service is provided exclusively in connection with the second service; and
- 1420 (C) the second service is the true object of the transaction;

1421 (vi) a transaction that includes tangible personal property or a product subject to
1422 taxation under this chapter and tangible personal property or a product that is not subject to
1423 taxation under this chapter if the:

1424 (A) seller's purchase price of the tangible personal property or product subject to
1425 taxation under this chapter is de minimis; or

1426 (B) seller's sales price of the tangible personal property or product subject to taxation
1427 under this chapter is de minimis; and

1428 (vii) the retail sale of tangible personal property that is not subject to taxation under
1429 this chapter and tangible personal property that is subject to taxation under this chapter if:

1430 (A) that retail sale includes:

1431 (I) food and food ingredients;

1432 (II) a drug;

1433 (III) durable medical equipment;

1434 (IV) mobility enhancing equipment;

1435 (V) an over-the-counter drug;

1436 (VI) a prosthetic device; or

1437 (VII) a medical supply; and

1438 (B) subject to Subsection (19)(f):

1439 (I) the seller's purchase price of the tangible personal property subject to taxation under
1440 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1441 (II) the seller's sales price of the tangible personal property subject to taxation under
1442 this chapter is 50% or less of the seller's total sales price of that retail sale.

1443 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
1444 service that is distinct and identifiable does not include:

1445 (A) packaging that:

1446 (I) accompanies the sale of the tangible personal property, product, or service; and

1447 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1448 service;

1449 (B) tangible personal property, a product, or a service provided free of charge with the
1450 purchase of another item of tangible personal property, a product, or a service; or

1451 (C) an item of tangible personal property, a product, or a service included in the

1452 definition of "purchase price."

1453 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
1454 product, or a service is provided free of charge with the purchase of another item of tangible
1455 personal property, a product, or a service if the sales price of the purchased item of tangible
1456 personal property, product, or service does not vary depending on the inclusion of the tangible
1457 personal property, product, or service provided free of charge.

1458 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
1459 does not include a price that is separately identified by tangible personal property, product, or
1460 service on the following, regardless of whether the following is in paper format or electronic
1461 format:

1462 (A) a binding sales document; or

1463 (B) another supporting sales-related document that is available to a purchaser.

1464 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
1465 supporting sales-related document that is available to a purchaser includes:

1466 (A) a bill of sale;

1467 (B) a contract;

1468 (C) an invoice;

1469 (D) a lease agreement;

1470 (E) a periodic notice of rates and services;

1471 (F) a price list;

1472 (G) a rate card;

1473 (H) a receipt; or

1474 (I) a service agreement.

1475 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
1476 property or a product subject to taxation under this chapter is de minimis if:

1477 (A) the seller's purchase price of the tangible personal property or product is 10% or
1478 less of the seller's total purchase price of the bundled transaction; or

1479 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1480 the seller's total sales price of the bundled transaction.

1481 (ii) For purposes of Subsection (19)(b)(vi), a seller:

1482 (A) shall use the seller's purchase price or the seller's sales price to determine if the

1483 purchase price or sales price of the tangible personal property or product subject to taxation
1484 under this chapter is de minimis; and

1485 (B) may not use a combination of the seller's purchase price and the seller's sales price
1486 to determine if the purchase price or sales price of the tangible personal property or product
1487 subject to taxation under this chapter is de minimis.

1488 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
1489 contract to determine if the sales price of tangible personal property or a product is de minimis.

1490 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
1491 the seller's purchase price and the seller's sales price to determine if tangible personal property
1492 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1493 price of that retail sale.

1494 (20) "Certified automated system" means software certified by the governing board of
1495 the agreement that:

1496 (a) calculates the agreement sales and use tax imposed within a local taxing
1497 jurisdiction:

1498 (i) on a transaction; and

1499 (ii) in the states that are members of the agreement;

1500 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1501 member of the agreement; and

1502 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

1503 (21) "Certified service provider" means an agent certified:

1504 (a) by the governing board of the agreement; and

1505 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
1506 as outlined in the contract between the governing board of the agreement and the certified
1507 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
1508 seller's own purchases.

1509 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
1510 suitable for general use.

1511 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1512 commission shall make rules:

1513 (i) listing the items that constitute "clothing"; and

1514 (ii) that are consistent with the list of items that constitute "clothing" under the
1515 agreement.

1516 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1517 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, hydrogen,
1518 or other fuels that does not constitute industrial use under Subsection (57) or residential use
1519 under Subsection (112).

1520 (25) (a) "Common carrier" means a person engaged in or transacting the business of
1521 transporting passengers, freight, merchandise, or other property for hire within this state.

1522 (b) (i) "Common carrier" does not include a person that, at the time the person is
1523 traveling to or from that person's place of employment, transports a passenger to or from the
1524 passenger's place of employment.

1525 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
1526 Utah Administrative Rulemaking Act, the commission may make rules defining what
1527 constitutes a person's place of employment.

1528 (c) "Common carrier" does not include a person that provides transportation network
1529 services, as defined in Section [13-51-102](#).

1530 (26) "Component part" includes:

1531 (a) poultry, dairy, and other livestock feed, and their components;

1532 (b) baling ties and twine used in the baling of hay and straw;

1533 (c) fuel used for providing temperature control of orchards and commercial
1534 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1535 off-highway type farm machinery; and

1536 (d) feed, seeds, and seedlings.

1537 (27) "Computer" means an electronic device that accepts information:

1538 (a) (i) in digital form; or

1539 (ii) in a form similar to digital form; and

1540 (b) manipulates that information for a result based on a sequence of instructions.

1541 (28) "Computer software" means a set of coded instructions designed to cause:

1542 (a) a computer to perform a task; or

1543 (b) automatic data processing equipment to perform a task.

1544 (29) "Computer software maintenance contract" means a contract that obligates a seller

1545 of computer software to provide a customer with:

- 1546 (a) future updates or upgrades to computer software;
- 1547 (b) support services with respect to computer software; or
- 1548 (c) a combination of Subsections (29)(a) and (b).

1549 (30) (a) "Conference bridging service" means an ancillary service that links two or
1550 more participants of an audio conference call or video conference call.

1551 (b) "Conference bridging service" may include providing a telephone number as part of
1552 the ancillary service described in Subsection (30)(a).

1553 (c) "Conference bridging service" does not include a telecommunications service used
1554 to reach the ancillary service described in Subsection (30)(a).

1555 (31) "Construction materials" means any tangible personal property that will be
1556 converted into real property.

1557 (32) "Delivered electronically" means delivered to a purchaser by means other than
1558 tangible storage media.

1559 (33) (a) "Delivery charge" means a charge:

- 1560 (i) by a seller of:
 - 1561 (A) tangible personal property;
 - 1562 (B) a product transferred electronically; or
 - 1563 (C) a service; and

1564 (ii) for preparation and delivery of the tangible personal property, product transferred
1565 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
1566 purchaser.

1567 (b) "Delivery charge" includes a charge for the following:

- 1568 (i) transportation;
- 1569 (ii) shipping;
- 1570 (iii) postage;
- 1571 (iv) handling;
- 1572 (v) crating; or
- 1573 (vi) packing.

1574 (34) "Detailed telecommunications billing service" means an ancillary service of
1575 separately stating information pertaining to individual calls on a customer's billing statement.

- 1576 (35) "Dietary supplement" means a product, other than tobacco, that:
- 1577 (a) is intended to supplement the diet;
- 1578 (b) contains one or more of the following dietary ingredients:
- 1579 (i) a vitamin;
- 1580 (ii) a mineral;
- 1581 (iii) an herb or other botanical;
- 1582 (iv) an amino acid;
- 1583 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1584 dietary intake; or
- 1585 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1586 described in Subsections (35)(b)(i) through (v);
- 1587 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 1588 (A) tablet form;
- 1589 (B) capsule form;
- 1590 (C) powder form;
- 1591 (D) softgel form;
- 1592 (E) gelcap form; or
- 1593 (F) liquid form; or
- 1594 (ii) if the product is not intended for ingestion in a form described in Subsections
- 1595 (35)(c)(i)(A) through (F), is not represented:
- 1596 (A) as conventional food; and
- 1597 (B) for use as a sole item of:
- 1598 (I) a meal; or
- 1599 (II) the diet; and
- 1600 (d) is required to be labeled as a dietary supplement:
- 1601 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1602 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1603 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 1604 musical, spoken, or other sounds.
- 1605 (b) "Digital audio work" includes a ringtone.
- 1606 (37) "Digital audio-visual work" means a series of related images which, when shown

1607 in succession, imparts an impression of motion, together with accompanying sounds, if any.

1608 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
1609 sense as a book.

1610 (39) (a) "Direct mail" means printed material delivered or distributed by United States
1611 mail or other delivery service:

1612 (i) to:

1613 (A) a mass audience; or

1614 (B) addressees on a mailing list provided:

1615 (I) by a purchaser of the mailing list; or

1616 (II) at the discretion of the purchaser of the mailing list; and

1617 (ii) if the cost of the printed material is not billed directly to the recipients.

1618 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1619 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1620 (c) "Direct mail" does not include multiple items of printed material delivered to a
1621 single address.

1622 (40) "Directory assistance" means an ancillary service of providing:

1623 (a) address information; or

1624 (b) telephone number information.

1625 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
1626 or supplies that:

1627 (i) cannot withstand repeated use; and

1628 (ii) are purchased by, for, or on behalf of a person other than:

1629 (A) a health care facility as defined in Section 26-21-2;

1630 (B) a health care provider as defined in Section 78B-3-403;

1631 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

1632 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

1633 (b) "Disposable home medical equipment or supplies" does not include:

1634 (i) a drug;

1635 (ii) durable medical equipment;

1636 (iii) a hearing aid;

1637 (iv) a hearing aid accessory;

- 1638 (v) mobility enhancing equipment; or
- 1639 (vi) tangible personal property used to correct impaired vision, including:
- 1640 (A) eyeglasses; or
- 1641 (B) contact lenses.
- 1642 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1643 commission may by rule define what constitutes medical equipment or supplies.
- 1644 (42) "Drilling equipment manufacturer" means a facility:
- 1645 (a) located in the state;
- 1646 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 1647 consist of manufacturing component parts of drilling equipment;
- 1648 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 1649 manufacturing process; and
- 1650 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 1651 manufacturing process.
- 1652 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1653 compound, substance, or preparation that is:
- 1654 (i) recognized in:
- 1655 (A) the official United States Pharmacopoeia;
- 1656 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1657 (C) the official National Formulary; or
- 1658 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 1659 (ii) intended for use in the:
- 1660 (A) diagnosis of disease;
- 1661 (B) cure of disease;
- 1662 (C) mitigation of disease;
- 1663 (D) treatment of disease; or
- 1664 (E) prevention of disease; or
- 1665 (iii) intended to affect:
- 1666 (A) the structure of the body; or
- 1667 (B) any function of the body.
- 1668 (b) "Drug" does not include:

- 1669 (i) food and food ingredients;
- 1670 (ii) a dietary supplement;
- 1671 (iii) an alcoholic beverage; or
- 1672 (iv) a prosthetic device.
- 1673 (44) (a) [~~Except as provided in Subsection (44)(c), "durable"~~] "Durable medical
- 1674 equipment" means equipment that:
- 1675 (i) can withstand repeated use;
- 1676 (ii) is primarily and customarily used to serve a medical purpose;
- 1677 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1678 (iv) is not worn in or on the body.
- 1679 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1680 equipment described in Subsection (44)(a).
- 1681 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1682 (45) "Electronic" means:
- 1683 (a) relating to technology; and
- 1684 (b) having:
- 1685 (i) electrical capabilities;
- 1686 (ii) digital capabilities;
- 1687 (iii) magnetic capabilities;
- 1688 (iv) wireless capabilities;
- 1689 (v) optical capabilities;
- 1690 (vi) electromagnetic capabilities; or
- 1691 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 1692 (46) "Electronic financial payment service" means an establishment:
- 1693 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 1694 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 1695 federal Executive Office of the President, Office of Management and Budget; and
- 1696 (b) that performs electronic financial payment services.
- 1697 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1698 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 1699 (a) rail for the use of public transit; or

- 1700 (b) a separate right-of-way for the use of public transit.
- 1701 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1702 (a) is powered by turbine engines;
- 1703 (b) operates on jet fuel; and
- 1704 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1705 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 1706 communication between fixed points.
- 1707 (51) (a) "Food and food ingredients" means substances:
- 1708 (i) regardless of whether the substances are in:
- 1709 (A) liquid form;
- 1710 (B) concentrated form;
- 1711 (C) solid form;
- 1712 (D) frozen form;
- 1713 (E) dried form; or
- 1714 (F) dehydrated form; and
- 1715 (ii) that are:
- 1716 (A) sold for:
- 1717 (I) ingestion by humans; or
- 1718 (II) chewing by humans; and
- 1719 (B) consumed for the substance's:
- 1720 (I) taste; or
- 1721 (II) nutritional value.
- 1722 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 1723 (c) "Food and food ingredients" does not include:
- 1724 (i) an alcoholic beverage;
- 1725 (ii) tobacco; or
- 1726 (iii) prepared food.
- 1727 (52) (a) "Fundraising sales" means sales:
- 1728 (i) (A) made by a school; or
- 1729 (B) made by a school student;
- 1730 (ii) that are for the purpose of raising funds for the school to purchase equipment,

1731 materials, or provide transportation; and

1732 (iii) that are part of an officially sanctioned school activity.

1733 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"

1734 means a school activity:

1735 (i) that is conducted in accordance with a formal policy adopted by the school or school
1736 district governing the authorization and supervision of fundraising activities;

1737 (ii) that does not directly or indirectly compensate an individual teacher or other
1738 educational personnel by direct payment, commissions, or payment in kind; and

1739 (iii) the net or gross revenues from which are deposited in a dedicated account
1740 controlled by the school or school district.

1741 (53) "Geothermal energy" means energy contained in heat that continuously flows
1742 outward from the earth that is used as the sole source of energy to produce electricity.

1743 (54) "Governing board of the agreement" means the governing board of the agreement
1744 that is:

1745 (a) authorized to administer the agreement; and

1746 (b) established in accordance with the agreement.

1747 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1748 (i) the executive branch of the state, including all departments, institutions, boards,
1749 divisions, bureaus, offices, commissions, and committees;

1750 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1751 Administrative Office of the Courts, and similar administrative units in the judicial branch;

1752 (iii) the legislative branch of the state, including the House of Representatives, the
1753 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1754 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1755 Analyst;

1756 (iv) the National Guard;

1757 (v) an independent entity as defined in Section 63E-1-102; or

1758 (vi) a political subdivision as defined in Section 17B-1-102.

1759 (b) "Governmental entity" does not include the state systems of public and higher
1760 education, including:

1761 (i) a school;

- 1762 (ii) the State Board of Education;
- 1763 (iii) the Utah Board of Higher Education; or
- 1764 (iv) an institution of higher education described in Section [53B-1-102](#).
- 1765 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 1766 electricity.
- 1767 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 1768 hydrogen, or other fuels:
- 1769 (a) in mining or extraction of minerals;
- 1770 (b) in agricultural operations to produce an agricultural product up to the time of
- 1771 harvest or placing the agricultural product into a storage facility, including:
- 1772 (i) commercial greenhouses;
- 1773 (ii) irrigation pumps;
- 1774 (iii) farm machinery;
- 1775 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 1776 under Title 41, Chapter 1a, Part 2, Registration; and
- 1777 (v) other farming activities;
- 1778 (c) in manufacturing tangible personal property at an establishment described in:
- 1779 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 1780 the federal Executive Office of the President, Office of Management and Budget; or
- 1781 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 1782 American Industry Classification System of the federal Executive Office of the President,
- 1783 Office of Management and Budget;
- 1784 (d) by a scrap recycler if:
- 1785 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1786 one or more of the following items into prepared grades of processed materials for use in new
- 1787 products:
- 1788 (A) iron;
- 1789 (B) steel;
- 1790 (C) nonferrous metal;
- 1791 (D) paper;
- 1792 (E) glass;

- 1793 (F) plastic;
- 1794 (G) textile; or
- 1795 (H) rubber; and
- 1796 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
- 1797 nonrecycled materials; or
- 1798 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 1799 cogeneration facility as defined in Section 54-2-1.
- 1800 (58) (a) [~~Except as provided in Subsection (58)(b), "installation]~~ "Installation charge"
- 1801 means a charge for installing:
- 1802 (i) tangible personal property; or
- 1803 (ii) a product transferred electronically.
- 1804 (b) "Installation charge" does not include a charge for:
- 1805 (i) repairs or renovations of:
- 1806 (A) tangible personal property; or
- 1807 (B) a product transferred electronically; or
- 1808 (ii) attaching tangible personal property or a product transferred electronically:
- 1809 (A) to other tangible personal property; and
- 1810 (B) as part of a manufacturing or fabrication process.
- 1811 (59) "Institution of higher education" means an institution of higher education listed in
- 1812 Section 53B-2-101.
- 1813 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1814 personal property or a product transferred electronically for:
- 1815 (i) (A) a fixed term; or
- 1816 (B) an indeterminate term; and
- 1817 (ii) consideration.
- 1818 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1819 amount of consideration may be increased or decreased by reference to the amount realized
- 1820 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 1821 Code.
- 1822 (c) "Lease" or "rental" does not include:
- 1823 (i) a transfer of possession or control of property under a security agreement or

1824 deferred payment plan that requires the transfer of title upon completion of the required
1825 payments;

1826 (ii) a transfer of possession or control of property under an agreement that requires the
1827 transfer of title:

1828 (A) upon completion of required payments; and

1829 (B) if the payment of an option price does not exceed the greater of:

1830 (I) \$100; or

1831 (II) 1% of the total required payments; or

1832 (iii) providing tangible personal property along with an operator for a fixed period of
1833 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1834 designed.

1835 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
1836 perform as designed if the operator's duties exceed the:

1837 (i) set-up of tangible personal property;

1838 (ii) maintenance of tangible personal property; or

1839 (iii) inspection of tangible personal property.

1840 (61) "Lesson" means a fixed period of time for the duration of which a trained
1841 instructor:

1842 (a) is present with a student in person or by video; and

1843 (b) actively instructs the student, including by providing observation or feedback.

1844 (62) "Life science establishment" means an establishment in this state that is classified
1845 under the following NAICS codes of the 2007 North American Industry Classification System
1846 of the federal Executive Office of the President, Office of Management and Budget:

1847 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1848 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1849 Manufacturing; or

1850 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1851 (63) "Life science research and development facility" means a facility owned, leased,
1852 or rented by a life science establishment if research and development is performed in 51% or
1853 more of the total area of the facility.

1854 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media

1855 if the tangible storage media is not physically transferred to the purchaser.

1856 (65) "Local taxing jurisdiction" means a:

1857 (a) county that is authorized to impose an agreement sales and use tax;

1858 (b) city that is authorized to impose an agreement sales and use tax; or

1859 (c) town that is authorized to impose an agreement sales and use tax.

1860 (66) "Manufactured home" means the same as that term is defined in Section

1861 [15A-1-302](#).

1862 (67) "Manufacturing facility" means:

1863 (a) an establishment described in:

1864 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

1865 the federal Executive Office of the President, Office of Management and Budget; or

1866 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

1867 American Industry Classification System of the federal Executive Office of the President,

1868 Office of Management and Budget;

1869 (b) a scrap recycler if:

1870 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1871 one or more of the following items into prepared grades of processed materials for use in new

1872 products:

1873 (A) iron;

1874 (B) steel;

1875 (C) nonferrous metal;

1876 (D) paper;

1877 (E) glass;

1878 (F) plastic;

1879 (G) textile; or

1880 (H) rubber; and

1881 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with

1882 nonrecycled materials; or

1883 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is

1884 placed in service on or after May 1, 2006.

1885 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where

1886 tangible personal property, a product transferred electronically, or a service is offered for sale.

1887 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
1888 dedicated sales software application.

1889 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
1890 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
1891 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
1892 controls and that directly or indirectly:

1893 (i) does any of the following:

1894 (A) lists, makes available, or advertises tangible personal property, a product
1895 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
1896 person owns, operates, or controls;

1897 (B) facilitates the sale of a marketplace seller's tangible personal property, product
1898 transferred electronically, or service by transmitting or otherwise communicating an offer or
1899 acceptance of a retail sale between the marketplace seller and a purchaser using the
1900 marketplace;

1901 (C) owns, rents, licenses, makes available, or operates any electronic or physical
1902 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
1903 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
1904 property, a product transferred electronically, or a service;

1905 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
1906 personal property, a product transferred electronically, or a service, regardless of ownership or
1907 control of the tangible personal property, the product transferred electronically, or the service
1908 that is the subject of the retail sale;

1909 (E) provides software development or research and development activities related to
1910 any activity described in this Subsection (69)(a)(i), if the software development or research and
1911 development activity is directly related to the person's marketplace;

1912 (F) provides or offers fulfillment or storage services for a marketplace seller;

1913 (G) sets prices for the sale of tangible personal property, a product transferred
1914 electronically, or a service by a marketplace seller;

1915 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
1916 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal

1917 property, a product transferred electronically, or a service sold by a marketplace seller on the
1918 person's marketplace; or

1919 (I) brands or otherwise identifies sales as those of the person; and

1920 (ii) does any of the following:

1921 (A) collects the sales price or purchase price of a retail sale of tangible personal
1922 property, a product transferred electronically, or a service;

1923 (B) provides payment processing services for a retail sale of tangible personal property,
1924 a product transferred electronically, or a service;

1925 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
1926 fee, a fee for inserting or making available tangible personal property, a product transferred
1927 electronically, or a service on the person's marketplace, or other consideration for the
1928 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
1929 a service, regardless of ownership or control of the tangible personal property, the product
1930 transferred electronically, or the service that is the subject of the retail sale;

1931 (D) through terms and conditions, an agreement, or another arrangement with a third
1932 person, collects payment from a purchase for a retail sale of tangible personal property, a
1933 product transferred electronically, or a service and transmits that payment to the marketplace
1934 seller, regardless of whether the third person receives compensation or other consideration in
1935 exchange for the service; or

1936 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
1937 property, a product transferred electronically, or service offered for sale.

1938 (b) "Marketplace facilitator" does not include:

1939 (i) a person that only provides payment processing services; or

1940 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a
1941 sale for a seller that is a restaurant as defined in Section [59-12-602](#).

1942 (70) "Marketplace seller" means a seller that makes one or more retail sales through a
1943 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
1944 seller is required to be registered to collect and remit the tax under this part.

1945 (71) "Member of the immediate family of the producer" means a person who is related
1946 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

1947 (a) child or stepchild, regardless of whether the child or stepchild is:

- 1948 (i) an adopted child or adopted stepchild; or
- 1949 (ii) a foster child or foster stepchild;
- 1950 (b) grandchild or stepgrandchild;
- 1951 (c) grandparent or stepgrandparent;
- 1952 (d) nephew or stepnephew;
- 1953 (e) niece or stepniece;
- 1954 (f) parent or stepparent;
- 1955 (g) sibling or stepsibling;
- 1956 (h) spouse;
- 1957 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

1958 or

- 1959 (j) person similar to a person described in Subsections (71)(a) through (i) as
- 1960 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1961 Administrative Rulemaking Act.

1962 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

1963 (73) "Mobile telecommunications service" means the same as that term is defined in

1964 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1965 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of

1966 the technology used, if:

- 1967 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1968 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1969 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
- 1970 described in Subsection (74)(a)(ii) are not fixed.

1971 (b) "Mobile wireless service" includes a telecommunications service that is provided

1972 by a commercial mobile radio service provider.

1973 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1974 commission may by rule define "commercial mobile radio service provider."

1975 (75) (a) [~~Except as provided in Subsection (75)(c), "mobility"~~] "Mobility enhancing

1976 equipment" means equipment that is:

- 1977 (i) primarily and customarily used to provide or increase the ability to move from one
- 1978 place to another;

- 1979 (ii) appropriate for use in a:
- 1980 (A) home; or
- 1981 (B) motor vehicle; and
- 1982 (iii) not generally used by persons with normal mobility.
- 1983 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 1984 the equipment described in Subsection (75)(a).
- 1985 (c) "Mobility enhancing equipment" does not include:
- 1986 (i) a motor vehicle;
- 1987 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 1988 vehicle manufacturer;
- 1989 (iii) durable medical equipment; or
- 1990 (iv) a prosthetic device.
- 1991 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
- 1992 certified service provider as the seller's agent to perform the seller's sales and use tax functions
- 1993 for agreement sales and use taxes, as outlined in the contract between the governing board of
- 1994 the agreement and the certified service provider, other than the seller's obligation under Section
- 1995 [59-12-124](#) to remit a tax on the seller's own purchases.
- 1996 (77) "Model 2 seller" means a seller registered under the agreement that:
- 1997 (a) except as provided in Subsection (77)(b), has selected a certified automated system
- 1998 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 1999 (b) retains responsibility for remitting all of the sales tax:
- 2000 (i) collected by the seller; and
- 2001 (ii) to the appropriate local taxing jurisdiction.
- 2002 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
- 2003 the agreement that has:
- 2004 (i) sales in at least five states that are members of the agreement;
- 2005 (ii) total annual sales revenues of at least \$500,000,000;
- 2006 (iii) a proprietary system that calculates the amount of tax:
- 2007 (A) for an agreement sales and use tax; and
- 2008 (B) due to each local taxing jurisdiction; and
- 2009 (iv) entered into a performance agreement with the governing board of the agreement.

2010 (b) ~~[For purposes of Subsection (78)(a), "model]~~ "Model 3 seller" includes an affiliated
2011 group of sellers using the same proprietary system.

2012 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a
2013 model 1 seller, model 2 seller, or model 3 seller.

2014 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2015 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

2016 (82) "Oil sands" means impregnated bituminous sands that:

2017 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2018 other hydrocarbons, or otherwise treated;

2019 (b) yield mixtures of liquid hydrocarbon; and

2020 (c) require further processing other than mechanical blending before becoming finished
2021 petroleum products.

2022 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2023 material that yields petroleum upon heating and distillation.

2024 (84) "Optional computer software maintenance contract" means a computer software
2025 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2026 sale of computer software.

2027 (85) (a) "Other fuels" means products that burn independently to produce heat or
2028 energy.

2029 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2030 personal property.

2031 (86) (a) "Paging service" means a telecommunications service that provides
2032 transmission of a coded radio signal for the purpose of activating a specific pager.

2033 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal
2034 includes a transmission by message or sound.

2035 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2036 ~~[(87)]~~ (88) "Pawnbroker" means the same as that term is defined in Section
2037 [13-32a-102](#).

2038 ~~[(88) "Pawn transaction" means the same as that term is defined in Section~~
2039 ~~[13-32a-102](#).]~~

2040 (89) (a) "Permanently attached to real property" means that for tangible personal

2041 property attached to real property:

2042 (i) the attachment of the tangible personal property to the real property:

2043 (A) is essential to the use of the tangible personal property; and

2044 (B) suggests that the tangible personal property will remain attached to the real

2045 property in the same place over the useful life of the tangible personal property; or

2046 (ii) if the tangible personal property is detached from the real property, the detachment

2047 would:

2048 (A) cause substantial damage to the tangible personal property; or

2049 (B) require substantial alteration or repair of the real property to which the tangible

2050 personal property is attached.

2051 (b) "Permanently attached to real property" includes:

2052 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2053 (A) essential to the operation of the tangible personal property; and

2054 (B) attached only to facilitate the operation of the tangible personal property;

2055 (ii) a temporary detachment of tangible personal property from real property for a

2056 repair or renovation if the repair or renovation is performed where the tangible personal

2057 property and real property are located; or

2058 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

2059 Subsection (89)(c)(iii) or (iv).

2060 (c) "Permanently attached to real property" does not include:

2061 (i) the attachment of portable or movable tangible personal property to real property if

2062 that portable or movable tangible personal property is attached to real property only for:

2063 (A) convenience;

2064 (B) stability; or

2065 (C) for an obvious temporary purpose;

2066 (ii) the detachment of tangible personal property from real property except for the

2067 detachment described in Subsection (89)(b)(ii);

2068 (iii) an attachment of the following tangible personal property to real property if the

2069 attachment to real property is only through a line that supplies water, electricity, gas,

2070 telecommunications, cable, or supplies a similar item as determined by the commission by rule

2071 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 2072 (A) a computer;
- 2073 (B) a telephone;
- 2074 (C) a television; or
- 2075 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
- 2076 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2077 Administrative Rulemaking Act; or
- 2078 (iv) an item listed in Subsection (130)(c).
- 2079 (90) "Person" includes any individual, firm, partnership, joint venture, association,
- 2080 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 2081 municipality, district, or other local governmental entity of the state, or any group or
- 2082 combination acting as a unit.
- 2083 (91) "Place of primary use":
- 2084 (a) for telecommunications service other than mobile telecommunications service,
- 2085 means the street address representative of where the customer's use of the telecommunications
- 2086 service primarily occurs, which shall be:
- 2087 (i) the residential street address of the customer; or
- 2088 (ii) the primary business street address of the customer; or
- 2089 (b) for mobile telecommunications service, means the same as that term is defined in
- 2090 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2091 (92) (a) "Postpaid calling service" means a telecommunications service a person
- 2092 obtains by making a payment on a call-by-call basis:
- 2093 (i) through the use of a:
- 2094 (A) bank card;
- 2095 (B) credit card;
- 2096 (C) debit card; or
- 2097 (D) travel card; or
- 2098 (ii) by a charge made to a telephone number that is not associated with the origination
- 2099 or termination of the telecommunications service.
- 2100 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 2101 service, that would be a prepaid wireless calling service if the service were exclusively a
- 2102 telecommunications service.

2103 (93) "Postproduction" means an activity related to the finishing or duplication of a
2104 medium described in Subsection 59-12-104(54)(a).

2105 (94) "Prepaid calling service" means a telecommunications service:

2106 (a) that allows a purchaser access to telecommunications service that is exclusively
2107 telecommunications service;

2108 (b) that:

2109 (i) is paid for in advance; and

2110 (ii) enables the origination of a call using an:

2111 (A) access number; or

2112 (B) authorization code;

2113 (c) that is dialed:

2114 (i) manually; or

2115 (ii) electronically; and

2116 (d) sold in predetermined units or dollars that decline:

2117 (i) by a known amount; and

2118 (ii) with use.

2119 (95) "Prepaid wireless calling service" means a telecommunications service:

2120 (a) that provides the right to utilize:

2121 (i) mobile wireless service; and

2122 (ii) other service that is not a telecommunications service, including:

2123 (A) the download of a product transferred electronically;

2124 (B) a content service; or

2125 (C) an ancillary service;

2126 (b) that:

2127 (i) is paid for in advance; and

2128 (ii) enables the origination of a call using an:

2129 (A) access number; or

2130 (B) authorization code;

2131 (c) that is dialed:

2132 (i) manually; or

2133 (ii) electronically; and

- 2134 (d) sold in predetermined units or dollars that decline:
- 2135 (i) by a known amount; and
- 2136 (ii) with use.
- 2137 (96) (a) "Prepared food" means:
- 2138 (i) food:
- 2139 (A) sold in a heated state; or
- 2140 (B) heated by a seller;
- 2141 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2142 item; or
- 2143 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 2144 by the seller, including a:
- 2145 (A) plate;
- 2146 (B) knife;
- 2147 (C) fork;
- 2148 (D) spoon;
- 2149 (E) glass;
- 2150 (F) cup;
- 2151 (G) napkin; or
- 2152 (H) straw.
- 2153 (b) "Prepared food" does not include:
- 2154 (i) food that a seller only:
- 2155 (A) cuts;
- 2156 (B) repackages; or
- 2157 (C) pasteurizes; or
- 2158 (ii) (A) the following:
- 2159 (I) raw egg;
- 2160 (II) raw fish;
- 2161 (III) raw meat;
- 2162 (IV) raw poultry; or
- 2163 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
- 2164 and

2165 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
2166 Food and Drug Administration's Food Code that a consumer cook the items described in
2167 Subsection (96)(b)(ii)(A) to prevent food borne illness; or

2168 (iii) the following if sold without eating utensils provided by the seller:

2169 (A) food and food ingredients sold by a seller if the seller's proper primary
2170 classification under the 2002 North American Industry Classification System of the federal
2171 Executive Office of the President, Office of Management and Budget, is manufacturing in
2172 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

2173 Manufacturing;

2174 (B) food and food ingredients sold in an unheated state:

2175 (I) by weight or volume; and

2176 (II) as a single item; or

2177 (C) a bakery item, including:

2178 (I) a bagel;

2179 (II) a bar;

2180 (III) a biscuit;

2181 (IV) bread;

2182 (V) a bun;

2183 (VI) a cake;

2184 (VII) a cookie;

2185 (VIII) a croissant;

2186 (IX) a danish;

2187 (X) a donut;

2188 (XI) a muffin;

2189 (XII) a pastry;

2190 (XIII) a pie;

2191 (XIV) a roll;

2192 (XV) a tart;

2193 (XVI) a torte; or

2194 (XVII) a tortilla.

2195 (c) An eating utensil provided by the seller does not include the following used to

2196 transport the food:

2197 (i) a container; or

2198 (ii) packaging.

2199 (97) "Prescription" means an order, formula, or recipe that is issued:

2200 (a) (i) orally;

2201 (ii) in writing;

2202 (iii) electronically; or

2203 (iv) by any other manner of transmission; and

2204 (b) by a licensed practitioner authorized by the laws of a state.

2205 (98) (a) [~~Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten]~~ "Prewritten

2206 computer software" means computer software that is not designed and developed:

2207 (i) by the author or other creator of the computer software; and

2208 (ii) to the specifications of a specific purchaser.

2209 (b) "Prewritten computer software" includes:

2210 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
2211 software is not designed and developed:

2212 (A) by the author or other creator of the computer software; and

2213 (B) to the specifications of a specific purchaser;

2214 (ii) computer software designed and developed by the author or other creator of the
2215 computer software to the specifications of a specific purchaser if the computer software is sold
2216 to a person other than the purchaser; or

2217 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
2218 prewritten portion of prewritten computer software:

2219 (A) that is modified or enhanced to any degree; and

2220 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
2221 designed and developed to the specifications of a specific purchaser.

2222 (c) "Prewritten computer software" does not include a modification or enhancement
2223 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

2224 (i) reasonable; and

2225 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), separately stated on the
2226 invoice or other statement of price provided to the purchaser at the time of sale or later, as

2227 demonstrated by:

2228 (A) the books and records the seller keeps at the time of the transaction in the regular
2229 course of business, including books and records the seller keeps at the time of the transaction in
2230 the regular course of business for nontax purposes;

2231 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2232 (C) the understanding of all of the parties to the transaction.

2233 (99) (a) "Private communications service" means a telecommunications service:

2234 (i) that entitles a customer to exclusive or priority use of one or more communications
2235 channels between or among termination points; and

2236 (ii) regardless of the manner in which the one or more communications channels are
2237 connected.

2238 (b) "Private communications service" includes the following provided in connection
2239 with the use of one or more communications channels:

2240 (i) an extension line;

2241 (ii) a station;

2242 (iii) switching capacity; or

2243 (iv) another associated service that is provided in connection with the use of one or
2244 more communications channels as defined in Section [59-12-215](#).

2245 (100) (a) [~~Except as provided in Subsection (100)(b), "product]~~ "Product transferred
2246 electronically" means a product transferred electronically that would be subject to a tax under
2247 this chapter if that product was transferred in a manner other than electronically.

2248 (b) "Product transferred electronically" does not include:

2249 (i) an ancillary service;

2250 (ii) computer software; or

2251 (iii) a telecommunications service.

2252 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

2253 (i) artificially replace a missing portion of the body;

2254 (ii) prevent or correct a physical deformity or physical malfunction; or

2255 (iii) support a weak or deformed portion of the body.

2256 (b) "Prosthetic device" includes:

2257 (i) parts used in the repairs or renovation of a prosthetic device;

- 2258 (ii) replacement parts for a prosthetic device;
- 2259 (iii) a dental prosthesis; or
- 2260 (iv) a hearing aid.
- 2261 (c) "Prosthetic device" does not include:
- 2262 (i) corrective eyeglasses; or
- 2263 (ii) contact lenses.
- 2264 (102) (a) "Protective equipment" means an item:
- 2265 (i) for human wear; and
- 2266 (ii) that is:
- 2267 (A) designed as protection:
- 2268 (I) to the wearer against injury or disease; or
- 2269 (II) against damage or injury of other persons or property; and
- 2270 (B) not suitable for general use.
- 2271 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2272 commission shall make rules:
- 2273 (i) listing the items that constitute "protective equipment"; and
- 2274 (ii) that are consistent with the list of items that constitute "protective equipment"
- 2275 under the agreement.
- 2276 (103) (a) For purposes of Subsection [59-12-104](#)(41), "publication" means any written
- 2277 or printed matter, other than a photocopy:
- 2278 (i) regardless of:
- 2279 (A) characteristics;
- 2280 (B) copyright;
- 2281 (C) form;
- 2282 (D) format;
- 2283 (E) method of reproduction; or
- 2284 (F) source; and
- 2285 (ii) made available in printed or electronic format.
- 2286 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2287 commission may by rule define the term "photocopy."
- 2288 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 2289 (i) valued in money; and
- 2290 (ii) for which tangible personal property, a product transferred electronically, or
- 2291 services are:
 - 2292 (A) sold;
 - 2293 (B) leased; or
 - 2294 (C) rented.
- 2295 (b) "Purchase price" and "sales price" include:
 - 2296 (i) the seller's cost of the tangible personal property, a product transferred
 - 2297 electronically, or services sold;
 - 2298 (ii) expenses of the seller, including:
 - 2299 (A) the cost of materials used;
 - 2300 (B) a labor cost;
 - 2301 (C) a service cost;
 - 2302 (D) interest;
 - 2303 (E) a loss;
 - 2304 (F) the cost of transportation to the seller; or
 - 2305 (G) a tax imposed on the seller;
 - 2306 (iii) a charge by the seller for any service necessary to complete the sale; or
 - 2307 (iv) consideration a seller receives from a person other than the purchaser if:
 - 2308 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 2309 and
 - 2310 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
 - 2311 price reduction or discount on the sale;
 - 2312 (B) the seller has an obligation to pass the price reduction or discount through to the
 - 2313 purchaser;
 - 2314 (C) the amount of the consideration attributable to the sale is fixed and determinable by
 - 2315 the seller at the time of the sale to the purchaser; and
 - 2316 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
 - 2317 seller to claim a price reduction or discount; and
 - 2318 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
 - 2319 coupon, or other documentation with the understanding that the person other than the seller

2320 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

2321 (II) the purchaser identifies that purchaser to the seller as a member of a group or
2322 organization allowed a price reduction or discount, except that a preferred customer card that is
2323 available to any patron of a seller does not constitute membership in a group or organization
2324 allowed a price reduction or discount; or

2325 (III) the price reduction or discount is identified as a third party price reduction or
2326 discount on the:

2327 (Aa) invoice the purchaser receives; or

2328 (Bb) certificate, coupon, or other documentation the purchaser presents.

2329 (c) "Purchase price" and "sales price" do not include:

2330 (i) a discount:

2331 (A) in a form including:

2332 (I) cash;

2333 (II) term; or

2334 (III) coupon;

2335 (B) that is allowed by a seller;

2336 (C) taken by a purchaser on a sale; and

2337 (D) that is not reimbursed by a third party; or

2338 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately
2339 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
2340 sale or later, as demonstrated by the books and records the seller keeps at the time of the
2341 transaction in the regular course of business, including books and records the seller keeps at the
2342 time of the transaction in the regular course of business for nontax purposes, by a
2343 preponderance of the facts and circumstances at the time of the transaction, and by the
2344 understanding of all of the parties to the transaction:

2345 (A) the following from credit extended on the sale of tangible personal property or
2346 services:

2347 (I) a carrying charge;

2348 (II) a financing charge; or

2349 (III) an interest charge;

2350 (B) a delivery charge;

- 2351 (C) an installation charge;
- 2352 (D) a manufacturer rebate on a motor vehicle; or
- 2353 (E) a tax or fee legally imposed directly on the consumer.
- 2354 (105) "Purchaser" means a person to whom:
 - 2355 (a) a sale of tangible personal property is made;
 - 2356 (b) a product is transferred electronically; or
 - 2357 (c) a service is furnished.
- 2358 (106) "Qualifying data center" means a data center facility that:
 - 2359 (a) houses a group of networked server computers in one physical location in order to
 - 2360 disseminate, manage, and store data and information;
 - 2361 (b) is located in the state;
 - 2362 (c) is a new operation constructed on or after July 1, 2016;
 - 2363 (d) consists of one or more buildings that total 150,000 or more square feet;
 - 2364 (e) is owned or leased by:
 - 2365 (i) the operator of the data center facility; or
 - 2366 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
 - 2367 of the data center facility; and
 - 2368 (f) is located on one or more parcels of land that are owned or leased by:
 - 2369 (i) the operator of the data center facility; or
 - 2370 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
 - 2371 of the data center facility.
 - 2372 (107) "Regularly rented" means:
 - 2373 (a) rented to a guest for value three or more times during a calendar year; or
 - 2374 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 2375 value.
 - 2376 (108) "Rental" means the same as that term is defined in Subsection (60).
 - 2377 (109) (a) [~~Except as provided in Subsection (109)(b), "repairs"~~] "Repairs or renovations
 - 2378 of tangible personal property" means:
 - 2379 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 2380 to real property; or
 - 2381 (ii) attaching tangible personal property or a product transferred electronically to other

2382 tangible personal property or detaching tangible personal property or a product transferred
2383 electronically from other tangible personal property if:

2384 (A) the other tangible personal property to which the tangible personal property or
2385 product transferred electronically is attached or from which the tangible personal property or
2386 product transferred electronically is detached is not permanently attached to real property; and

2387 (B) the attachment of tangible personal property or a product transferred electronically
2388 to other tangible personal property or detachment of tangible personal property or a product
2389 transferred electronically from other tangible personal property is made in conjunction with a
2390 repair or replacement of tangible personal property or a product transferred electronically.

2391 (b) "Repairs or renovations of tangible personal property" does not include:

2392 (i) attaching prewritten computer software to other tangible personal property if the
2393 other tangible personal property to which the prewritten computer software is attached is not
2394 permanently attached to real property; or

2395 (ii) detaching prewritten computer software from other tangible personal property if the
2396 other tangible personal property from which the prewritten computer software is detached is
2397 not permanently attached to real property.

2398 (110) "Research and development" means the process of inquiry or experimentation
2399 aimed at the discovery of facts, devices, technologies, or applications and the process of
2400 preparing those devices, technologies, or applications for marketing.

2401 (111) (a) "Residential telecommunications services" means a telecommunications
2402 service or an ancillary service that is provided to an individual for personal use:

2403 (i) at a residential address; or

2404 (ii) at an institution, including a nursing home or a school, if the telecommunications
2405 service or ancillary service is provided to and paid for by the individual residing at the
2406 institution rather than the institution.

2407 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

2408 (i) apartment; or

2409 (ii) other individual dwelling unit.

2410 (112) "Residential use" means the use in or around a home, apartment building,
2411 sleeping quarters, and similar facilities or accommodations.

2412 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other

2413 than:

2414 (a) resale;

2415 (b) sublease; or

2416 (c) subrent.

2417 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
2418 United States or federal law, that is engaged in a regularly organized business in tangible
2419 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
2420 selling to the user or consumer and not for resale.

2421 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2422 engaged in the business of selling to users or consumers within the state.

2423 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2424 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2425 Subsection 59-12-103(1), for consideration.

2426 (b) "Sale" includes:

2427 (i) installment and credit sales;

2428 (ii) any closed transaction constituting a sale;

2429 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2430 chapter;

2431 (iv) any transaction if the possession of property is transferred but the seller retains the
2432 title as security for the payment of the price; and

2433 (v) any transaction under which right to possession, operation, or use of any article of
2434 tangible personal property is granted under a lease or contract and the transfer of possession
2435 would be taxable if an outright sale were made.

2436 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

2437 (117) "Sale-leaseback transaction" means a transaction by which title to tangible
2438 personal property or a product transferred electronically that is subject to a tax under this
2439 chapter is transferred:

2440 (a) by a purchaser-lessee;

2441 (b) to a lessor;

2442 (c) for consideration; and

2443 (d) if:

2444 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2445 of the tangible personal property or product transferred electronically;

2446 (ii) the sale of the tangible personal property or product transferred electronically to the
2447 lessor is intended as a form of financing:

2448 (A) for the tangible personal property or product transferred electronically; and

2449 (B) to the purchaser-lessee; and

2450 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2451 is required to:

2452 (A) capitalize the tangible personal property or product transferred electronically for
2453 financial reporting purposes; and

2454 (B) account for the lease payments as payments made under a financing arrangement.

2455 (118) "Sales price" means the same as that term is defined in Subsection (104).

2456 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
2457 amounts charged by a school:

2458 (i) sales that are directly related to the school's educational functions or activities
2459 including:

2460 (A) the sale of:

2461 (I) textbooks;

2462 (II) textbook fees;

2463 (III) laboratory fees;

2464 (IV) laboratory supplies; or

2465 (V) safety equipment;

2466 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
2467 that:

2468 (I) a student is specifically required to wear as a condition of participation in a
2469 school-related event or school-related activity; and

2470 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2471 place of ordinary clothing;

2472 (C) sales of the following if the net or gross revenues generated by the sales are
2473 deposited into a school district fund or school fund dedicated to school meals:

2474 (I) food and food ingredients; or

- 2475 (II) prepared food; or
- 2476 (D) transportation charges for official school activities; or
- 2477 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 2478 event or school-related activity.
- 2479 (b) "Sales relating to schools" does not include:
- 2480 (i) bookstore sales of items that are not educational materials or supplies;
- 2481 (ii) except as provided in Subsection (119)(a)(i)(B):
- 2482 (A) clothing;
- 2483 (B) clothing accessories or equipment;
- 2484 (C) protective equipment; or
- 2485 (D) sports or recreational equipment; or
- 2486 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2487 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2488 (A) other than a:
- 2489 (I) school;
- 2490 (II) nonprofit organization authorized by a school board or a governing body of a
- 2491 private school to organize and direct a competitive secondary school activity; or
- 2492 (III) nonprofit association authorized by a school board or a governing body of a
- 2493 private school to organize and direct a competitive secondary school activity; and
- 2494 (B) that is required to collect sales and use taxes under this chapter.
- 2495 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2496 commission may make rules defining the term "passed through."
- 2497 (120) For purposes of this section and Section [59-12-104](#), "school" means:
- 2498 (a) an elementary school or a secondary school that:
- 2499 (i) is a:
- 2500 (A) public school; or
- 2501 (B) private school; and
- 2502 (ii) provides instruction for one or more grades kindergarten through 12; or
- 2503 (b) a public school district.
- 2504 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 2505 (i) tangible personal property;

- 2506 (ii) a product transferred electronically; or
- 2507 (iii) a service.
- 2508 (b) "Seller" includes a marketplace facilitator.
- 2509 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2510 means tangible personal property or a product transferred electronically if the tangible personal
- 2511 property or product transferred electronically is:
 - 2512 (i) used primarily in the process of:
 - 2513 (A) (I) manufacturing a semiconductor;
 - 2514 (II) fabricating a semiconductor; or
 - 2515 (III) research or development of a:
 - 2516 (Aa) semiconductor; or
 - 2517 (Bb) semiconductor manufacturing process; or
 - 2518 (B) maintaining an environment suitable for a semiconductor; or
 - 2519 (ii) consumed primarily in the process of:
 - 2520 (A) (I) manufacturing a semiconductor;
 - 2521 (II) fabricating a semiconductor; or
 - 2522 (III) research or development of a:
 - 2523 (Aa) semiconductor; or
 - 2524 (Bb) semiconductor manufacturing process; or
 - 2525 (B) maintaining an environment suitable for a semiconductor.
- 2526 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2527 includes:
 - 2528 (i) parts used in the repairs or renovations of tangible personal property or a product
 - 2529 transferred electronically described in Subsection (122)(a); or
 - 2530 (ii) a chemical, catalyst, or other material used to:
 - 2531 (A) produce or induce in a semiconductor a:
 - 2532 (I) chemical change; or
 - 2533 (II) physical change;
 - 2534 (B) remove impurities from a semiconductor; or
 - 2535 (C) improve the marketable condition of a semiconductor.
 - 2536 (123) "Senior citizen center" means a facility having the primary purpose of providing

2537 services to the aged as defined in Section 62A-3-101.

2538 (124) (a) [~~Subject to Subsections (124)(b) and (c), "short-term]~~ "Short-term lodging
2539 consumable" means tangible personal property that:

2540 (i) a business that provides accommodations and services described in Subsection
2541 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
2542 to a purchaser;

2543 (ii) is intended to be consumed by the purchaser; and

2544 (iii) is:

2545 (A) included in the purchase price of the accommodations and services; and

2546 (B) not separately stated on an invoice, bill of sale, or other similar document provided
2547 to the purchaser.

2548 (b) "Short-term lodging consumable" includes:

2549 (i) a beverage;

2550 (ii) a brush or comb;

2551 (iii) a cosmetic;

2552 (iv) a hair care product;

2553 (v) lotion;

2554 (vi) a magazine;

2555 (vii) makeup;

2556 (viii) a meal;

2557 (ix) mouthwash;

2558 (x) nail polish remover;

2559 (xi) a newspaper;

2560 (xii) a notepad;

2561 (xiii) a pen;

2562 (xiv) a pencil;

2563 (xv) a razor;

2564 (xvi) saline solution;

2565 (xvii) a sewing kit;

2566 (xviii) shaving cream;

2567 (xix) a shoe shine kit;

- 2568 (xx) a shower cap;
- 2569 (xxi) a snack item;
- 2570 (xxii) soap;
- 2571 (xxiii) toilet paper;
- 2572 (xxiv) a toothbrush;
- 2573 (xxv) toothpaste; or
- 2574 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
- 2575 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2576 Rulemaking Act.
- 2577 (c) "Short-term lodging consumable" does not include:
- 2578 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 2579 property to be reused; or
- 2580 (ii) a product transferred electronically.
- 2581 (125) "Simplified electronic return" means the electronic return:
- 2582 (a) described in Section 318(C) of the agreement; and
- 2583 (b) approved by the governing board of the agreement.
- 2584 (126) "Solar energy" means the sun used as the sole source of energy for producing
- 2585 electricity.
- 2586 (127) (a) "Sports or recreational equipment" means an item:
- 2587 (i) designed for human use; and
- 2588 (ii) that is:
- 2589 (A) worn in conjunction with:
- 2590 (I) an athletic activity; or
- 2591 (II) a recreational activity; and
- 2592 (B) not suitable for general use.
- 2593 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2594 commission shall make rules:
- 2595 (i) listing the items that constitute "sports or recreational equipment"; and
- 2596 (ii) that are consistent with the list of items that constitute "sports or recreational
- 2597 equipment" under the agreement.
- 2598 (128) "State" means the state of Utah, its departments, and agencies.

2599 (129) "Storage" means any keeping or retention of tangible personal property or any
2600 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
2601 sale in the regular course of business.

2602 (130) (a) [~~Except as provided in Subsection (130)(d) or (e), "tangible]~~ "Tangible
2603 personal property" means personal property that:

2604 (i) may be:

2605 (A) seen;

2606 (B) weighed;

2607 (C) measured;

2608 (D) felt; or

2609 (E) touched; or

2610 (ii) is in any manner perceptible to the senses.

2611 (b) "Tangible personal property" includes:

2612 (i) electricity;

2613 (ii) water;

2614 (iii) gas;

2615 (iv) steam; or

2616 (v) prewritten computer software, regardless of the manner in which the prewritten
2617 computer software is transferred.

2618 (c) "Tangible personal property" includes the following regardless of whether the item
2619 is attached to real property:

2620 (i) a dishwasher;

2621 (ii) a dryer;

2622 (iii) a freezer;

2623 (iv) a microwave;

2624 (v) a refrigerator;

2625 (vi) a stove;

2626 (vii) a washer; or

2627 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
2628 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2629 Rulemaking Act.

2630 (d) "Tangible personal property" does not include a product that is transferred
2631 electronically.

2632 (e) "Tangible personal property" does not include the following if attached to real
2633 property, regardless of whether the attachment to real property is only through a line that
2634 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2635 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2636 Rulemaking Act:

- 2637 (i) a hot water heater;
- 2638 (ii) a water filtration system; or
- 2639 (iii) a water softener system.

2640 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2641 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
2642 primarily to enable or facilitate one or more of the following to function:

- 2643 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2644 (ii) telecommunications transmission equipment, machinery, or software.

2645 (b) The following apply to Subsection (131)(a):

- 2646 (i) a pole;
- 2647 (ii) software;
- 2648 (iii) a supplementary power supply;
- 2649 (iv) temperature or environmental equipment or machinery;
- 2650 (v) test equipment;
- 2651 (vi) a tower; or

2652 (vii) equipment, machinery, or software that functions similarly to an item listed in
2653 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
2654 accordance with Subsection (131)(c).

2655 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2656 commission may by rule define what constitutes equipment, machinery, or software that
2657 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

2658 (132) "Telecommunications equipment, machinery, or software required for 911
2659 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2660 Sec. 20.18.

2661 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
2662 means equipment, machinery, or software purchased or leased primarily to maintain or repair
2663 one or more of the following, regardless of whether the equipment, machinery, or software is
2664 purchased or leased as a spare part or as an upgrade or modification to one or more of the
2665 following:

- 2666 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 2667 (b) telecommunications switching or routing equipment, machinery, or software; or
- 2668 (c) telecommunications transmission equipment, machinery, or software.

2669 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
2670 transmission of audio, data, video, voice, or any other information or signal to a point, or
2671 among or between points.

2672 (b) "Telecommunications service" includes:

2673 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2674 processing application is used to act:

2675 (A) on the code, form, or protocol of the content;

2676 (B) for the purpose of electronic conveyance, routing, or transmission; and

2677 (C) regardless of whether the service:

2678 (I) is referred to as voice over Internet protocol service; or

2679 (II) is classified by the Federal Communications Commission as enhanced or value
2680 added;

2681 (ii) an 800 service;

2682 (iii) a 900 service;

2683 (iv) a fixed wireless service;

2684 (v) a mobile wireless service;

2685 (vi) a postpaid calling service;

2686 (vii) a prepaid calling service;

2687 (viii) a prepaid wireless calling service; or

2688 (ix) a private communications service.

2689 (c) "Telecommunications service" does not include:

2690 (i) advertising, including directory advertising;

2691 (ii) an ancillary service;

- 2692 (iii) a billing and collection service provided to a third party;
- 2693 (iv) a data processing and information service if:
- 2694 (A) the data processing and information service allows data to be:
- 2695 (I) (Aa) acquired;
- 2696 (Bb) generated;
- 2697 (Cc) processed;
- 2698 (Dd) retrieved; or
- 2699 (Ee) stored; and
- 2700 (II) delivered by an electronic transmission to a purchaser; and
- 2701 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2702 or information;
- 2703 (v) installation or maintenance of the following on a customer's premises:
- 2704 (A) equipment; or
- 2705 (B) wiring;
- 2706 (vi) Internet access service;
- 2707 (vii) a paging service;
- 2708 (viii) a product transferred electronically, including:
- 2709 (A) music;
- 2710 (B) reading material;
- 2711 (C) a ring tone;
- 2712 (D) software; or
- 2713 (E) video;
- 2714 (ix) a radio and television audio and video programming service:
- 2715 (A) regardless of the medium; and
- 2716 (B) including:
- 2717 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2718 programming service by a programming service provider;
- 2719 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2720 (III) audio and video programming services delivered by a commercial mobile radio
- 2721 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2722 (x) a value-added nonvoice data service; or

- 2723 (xi) tangible personal property.
- 2724 (135) (a) "Telecommunications service provider" means a person that:
- 2725 (i) owns, controls, operates, or manages a telecommunications service; and
- 2726 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
- 2727 resale to any person of the telecommunications service.
- 2728 (b) A person described in Subsection (135)(a) is a telecommunications service provider
- 2729 whether or not the Public Service Commission of Utah regulates:
- 2730 (i) that person; or
- 2731 (ii) the telecommunications service that the person owns, controls, operates, or
- 2732 manages.
- 2733 (136) (a) "Telecommunications switching or routing equipment, machinery, or
- 2734 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
- 2735 primarily for switching or routing:
- 2736 (i) an ancillary service;
- 2737 (ii) data communications;
- 2738 (iii) voice communications; or
- 2739 (iv) telecommunications service.
- 2740 (b) The following apply to Subsection (136)(a):
- 2741 (i) a bridge;
- 2742 (ii) a computer;
- 2743 (iii) a cross connect;
- 2744 (iv) a modem;
- 2745 (v) a multiplexer;
- 2746 (vi) plug in circuitry;
- 2747 (vii) a router;
- 2748 (viii) software;
- 2749 (ix) a switch; or
- 2750 (x) equipment, machinery, or software that functions similarly to an item listed in
- 2751 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
- 2752 accordance with Subsection (136)(c).
- 2753 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2754 commission may by rule define what constitutes equipment, machinery, or software that
2755 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

2756 (137) (a) "Telecommunications transmission equipment, machinery, or software"
2757 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for
2758 sending, receiving, or transporting:

- 2759 (i) an ancillary service;
 - 2760 (ii) data communications;
 - 2761 (iii) voice communications; or
 - 2762 (iv) telecommunications service.
- 2763 (b) The following apply to Subsection (137)(a):
- 2764 (i) an amplifier;
 - 2765 (ii) a cable;
 - 2766 (iii) a closure;
 - 2767 (iv) a conduit;
 - 2768 (v) a controller;
 - 2769 (vi) a duplexer;
 - 2770 (vii) a filter;
 - 2771 (viii) an input device;
 - 2772 (ix) an input/output device;
 - 2773 (x) an insulator;
 - 2774 (xi) microwave machinery or equipment;
 - 2775 (xii) an oscillator;
 - 2776 (xiii) an output device;
 - 2777 (xiv) a pedestal;
 - 2778 (xv) a power converter;
 - 2779 (xvi) a power supply;
 - 2780 (xvii) a radio channel;
 - 2781 (xviii) a radio receiver;
 - 2782 (xix) a radio transmitter;
 - 2783 (xx) a repeater;
 - 2784 (xxi) software;

2785 (xxii) a terminal;
2786 (xxiii) a timing unit;
2787 (xxiv) a transformer;
2788 (xxv) a wire; or
2789 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2790 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
2791 accordance with Subsection (137)(c).

2792 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2793 commission may by rule define what constitutes equipment, machinery, or software that
2794 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

2795 (138) (a) "Textbook for a higher education course" means a textbook or other printed
2796 material that is required for a course:

- 2797 (i) offered by an institution of higher education; and
- 2798 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2799 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2800 (139) "Tobacco" means:

- 2801 (a) a cigarette;
- 2802 (b) a cigar;
- 2803 (c) chewing tobacco;
- 2804 (d) pipe tobacco; or
- 2805 (e) any other item that contains tobacco.

2806 (140) "Unassisted amusement device" means an amusement device, skill device, or
2807 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2808 the amusement device, skill device, or ride device.

2809 (141) (a) "Use" means the exercise of any right or power over tangible personal
2810 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
2811 incident to the ownership or the leasing of that tangible personal property, product transferred
2812 electronically, or service.

2813 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2814 property, a product transferred electronically, or a service in the regular course of business and
2815 held for resale.

2816 (142) "Value-added nonvoice data service" means a service:
2817 (a) that otherwise meets the definition of a telecommunications service except that a
2818 computer processing application is used to act primarily for a purpose other than conveyance,
2819 routing, or transmission; and
2820 (b) with respect to which a computer processing application is used to act on data or
2821 information:
2822 (i) code;
2823 (ii) content;
2824 (iii) form; or
2825 (iv) protocol.
2826 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
2827 required to be titled, registered, or titled and registered:
2828 (i) an aircraft as defined in Section 72-10-102;
2829 (ii) a vehicle as defined in Section 41-1a-102;
2830 (iii) an off-highway vehicle as defined in Section 41-22-2; or
2831 (iv) a vessel as defined in Section 41-1a-102.
2832 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
2833 (i) a vehicle described in Subsection (143)(a); or
2834 (ii) (A) a locomotive;
2835 (B) a freight car;
2836 (C) railroad work equipment; or
2837 (D) other railroad rolling stock.
2838 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2839 exchanging a vehicle as defined in Subsection (143).
2840 (145) (a) "Vertical service" means an ancillary service that:
2841 (i) is offered in connection with one or more telecommunications services; and
2842 (ii) offers an advanced calling feature that allows a customer to:
2843 (A) identify a caller; and
2844 (B) manage multiple calls and call connections.
2845 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2846 conference bridging service.

2847 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
 2848 receive, send, or store a recorded message.

2849 (b) "Voice mail service" does not include a vertical service that a customer is required
 2850 to have in order to utilize a voice mail service.

2851 (147) (a) [~~Except as provided in Subsection (147)(b), "waste"~~] "Waste energy facility"
 2852 means a facility that generates electricity:

2853 (i) using as the primary source of energy waste materials that would be placed in a
 2854 landfill or refuse pit if it were not used to generate electricity, including:

2855 (A) tires;

2856 (B) waste coal;

2857 (C) oil shale; or

2858 (D) municipal solid waste; and

2859 (ii) in amounts greater than actually required for the operation of the facility.

2860 (b) "Waste energy facility" does not include a facility that incinerates:

2861 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2862 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2863 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

2864 (149) "Wind energy" means wind used as the sole source of energy to produce
 2865 electricity.

2866 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
 2867 location by the United States Postal Service.

2868 Section 11. Section **59-12-103** is amended to read:

2869 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
 2870 **tax revenue.**

2871 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
 2872 sales price for amounts paid or charged for the following transactions:

2873 (a) retail sales of tangible personal property made within the state;

2874 (b) amounts paid for:

2875 (i) telecommunications service, other than mobile telecommunications service, that
 2876 originates and terminates within the boundaries of this state;

2877 (ii) mobile telecommunications service that originates and terminates within the

2878 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2879 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
2880 (iii) an ancillary service associated with a:
2881 (A) telecommunications service described in Subsection (1)(b)(i); or
2882 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
2883 (c) sales of the following for commercial use:
2884 (i) gas;
2885 (ii) electricity;
2886 (iii) heat;
2887 (iv) coal;
2888 (v) fuel oil; [~~or~~]
2889 (vi) hydrogen; or
2890 [~~(vi)~~] (vii) other fuels;
2891 (d) sales of the following for residential use:
2892 (i) gas;
2893 (ii) electricity;
2894 (iii) heat;
2895 (iv) coal;
2896 (v) fuel oil; [~~or~~]
2897 (vi) hydrogen; or
2898 [~~(vi)~~] (vii) other fuels;
2899 (e) sales of prepared food;
2900 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
2901 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2902 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
2903 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2904 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2905 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2906 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2907 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2908 exhibition, cultural, or athletic activity;

2909 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2910 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2911 (i) the tangible personal property; and

2912 (ii) parts used in the repairs or renovations of the tangible personal property described
2913 in Subsection (1)(g)(i), regardless of whether:

2914 (A) any parts are actually used in the repairs or renovations of that tangible personal
2915 property; or

2916 (B) the particular parts used in the repairs or renovations of that tangible personal
2917 property are exempt from a tax under this chapter;

2918 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2919 assisted cleaning or washing of tangible personal property;

2920 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2921 accommodations and services that are regularly rented for less than 30 consecutive days;

2922 (j) amounts paid or charged for laundry or dry cleaning services;

2923 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2924 this state the tangible personal property is:

2925 (i) stored;

2926 (ii) used; or

2927 (iii) otherwise consumed;

2928 (l) amounts paid or charged for tangible personal property if within this state the
2929 tangible personal property is:

2930 (i) stored;

2931 (ii) used; or

2932 (iii) consumed; and

2933 (m) amounts paid or charged for a sale:

2934 (i) (A) of a product transferred electronically; or

2935 (B) of a repair or renovation of a product transferred electronically; and

2936 (ii) regardless of whether the sale provides:

2937 (A) a right of permanent use of the product; or

2938 (B) a right to use the product that is less than a permanent use, including a right:

2939 (I) for a definite or specified length of time; and

2940 (II) that terminates upon the occurrence of a condition.

2941 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
2942 are imposed on a transaction described in Subsection (1) equal to the sum of:

2943 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2944 (A) (I) through March 31, 2019, 4.70%; and
2945 (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a);
2946 and

2947 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2948 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2949 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2950 State Sales and Use Tax Act; and

2951 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2952 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2953 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2954 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2955 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2956 transaction under this chapter other than this part.

2957 (b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a
2958 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to
2959 the sum of:

2960 (i) a state tax imposed on the transaction at a tax rate of 2%; and
2961 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2962 transaction under this chapter other than this part.

2963 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
2964 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2965 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2966 a tax rate of 1.75%; and
2967 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2968 amounts paid or charged for food and food ingredients under this chapter other than this part.

2969 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
2970 tangible personal property other than food and food ingredients, a state tax and a local tax is

2971 imposed on the entire bundled transaction equal to the sum of:

2972 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2973 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2974 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

2975 Sales and Use Tax Act, if the location of the transaction as determined under Sections

2976 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,

2977 Additional State Sales and Use Tax Act; and

2978 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State

2979 Sales and Use Tax Act, if the location of the transaction as determined under Sections

2980 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

2981 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2982 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

2983 described in Subsection (2)(a)(ii).

2984 (ii) If an optional computer software maintenance contract is a bundled transaction that

2985 consists of taxable and nontaxable products that are not separately itemized on an invoice or

2986 similar billing document, the purchase of the optional computer software maintenance contract

2987 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2988 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled

2989 transaction described in Subsection (2)(d)(i) or (ii):

2990 (A) if the sales price of the bundled transaction is attributable to tangible personal

2991 property, a product, or a service that is subject to taxation under this chapter and tangible

2992 personal property, a product, or service that is not subject to taxation under this chapter, the

2993 entire bundled transaction is subject to taxation under this chapter unless:

2994 (I) the seller is able to identify by reasonable and verifiable standards the tangible

2995 personal property, product, or service that is not subject to taxation under this chapter from the

2996 books and records the seller keeps in the seller's regular course of business; or

2997 (II) state or federal law provides otherwise; or

2998 (B) if the sales price of a bundled transaction is attributable to two or more items of

2999 tangible personal property, products, or services that are subject to taxation under this chapter

3000 at different rates, the entire bundled transaction is subject to taxation under this chapter at the

3001 higher tax rate unless:

3002 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3003 personal property, product, or service that is subject to taxation under this chapter at the lower
3004 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3005 (II) state or federal law provides otherwise.

3006 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3007 seller's regular course of business includes books and records the seller keeps in the regular
3008 course of business for nontax purposes.

3009 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3010 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3011 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3012 of tangible personal property, other property, a product, or a service that is not subject to
3013 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3014 the seller, at the time of the transaction:

3015 (A) separately states the portion of the transaction that is not subject to taxation under
3016 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3017 (B) is able to identify by reasonable and verifiable standards, from the books and
3018 records the seller keeps in the seller's regular course of business, the portion of the transaction
3019 that is not subject to taxation under this chapter.

3020 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3021 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3022 the transaction that is not subject to taxation under this chapter was not separately stated on an
3023 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3024 ignorance of the law; and

3025 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3026 and records the seller keeps in the seller's regular course of business, the portion of the
3027 transaction that is not subject to taxation under this chapter.

3028 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3029 in the seller's regular course of business includes books and records the seller keeps in the
3030 regular course of business for nontax purposes.

3031 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3032 personal property, products, or services that are subject to taxation under this chapter at

3033 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3034 unless the seller, at the time of the transaction:

3035 (A) separately states the items subject to taxation under this chapter at each of the
3036 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3037 (B) is able to identify by reasonable and verifiable standards the tangible personal
3038 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3039 from the books and records the seller keeps in the seller's regular course of business.

3040 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3041 seller's regular course of business includes books and records the seller keeps in the regular
3042 course of business for nontax purposes.

3043 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3044 rate imposed under the following shall take effect on the first day of a calendar quarter:

3045 (i) Subsection (2)(a)(i)(A);

3046 (ii) Subsection (2)(b)(i);

3047 (iii) Subsection (2)(c)(i); or

3048 (iv) Subsection (2)(d)(i)(A)(I).

3049 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3050 begins on or after the effective date of the tax rate increase if the billing period for the
3051 transaction begins before the effective date of a tax rate increase imposed under:

3052 (A) Subsection (2)(a)(i)(A);

3053 (B) Subsection (2)(b)(i);

3054 (C) Subsection (2)(c)(i); or

3055 (D) Subsection (2)(d)(i)(A)(I).

3056 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3057 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3058 or the tax rate decrease imposed under:

3059 (A) Subsection (2)(a)(i)(A);

3060 (B) Subsection (2)(b)(i);

3061 (C) Subsection (2)(c)(i); or

3062 (D) Subsection (2)(d)(i)(A)(I).

3063 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is

3064 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3065 change in a tax rate takes effect:

- 3066 (A) on the first day of a calendar quarter; and
- 3067 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3068 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- 3069 (A) Subsection (2)(a)(i)(A);
- 3070 (B) Subsection (2)(b)(i);
- 3071 (C) Subsection (2)(c)(i); or
- 3072 (D) Subsection (2)(d)(i)(A)(I).

3073 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3074 the commission may by rule define the term "catalogue sale."

3075 (j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine
3076 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the
3077 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

3078 (ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
3079 or other fuel is furnished through a single meter for two or more of the following uses:

- 3080 (A) a commercial use;
- 3081 (B) an industrial use; or
- 3082 (C) a residential use.

3083 (3) (a) The following state taxes shall be deposited into the General Fund:

- 3084 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3085 (ii) the tax imposed by Subsection (2)(b)(i);
- 3086 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3087 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3088 (b) The following local taxes shall be distributed to a county, city, or town as provided
3089 in this chapter:

- 3090 (i) the tax imposed by Subsection (2)(a)(ii);
- 3091 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3092 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3093 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3094 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

3095 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
3096 through (g):

3097 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3098 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3099 (B) for the fiscal year; or

3100 (ii) \$17,500,000.

3101 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

3102 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

3103 Department of Natural Resources to:

3104 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

3105 protect sensitive plant and animal species; or

3106 (B) award grants, up to the amount authorized by the Legislature in an appropriations

3107 act, to political subdivisions of the state to implement the measures described in Subsections

3108 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3109 (ii) Money transferred to the Department of Natural Resources under Subsection

3110 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

3111 person to list or attempt to have listed a species as threatened or endangered under the

3112 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3113 (iii) At the end of each fiscal year:

3114 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

3115 Conservation and Development Fund created in Section 73-10-24;

3116 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

3117 Program Subaccount created in Section 73-10c-5; and

3118 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3119 Program Subaccount created in Section 73-10c-5.

3120 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

3121 Subsection (4)(a) shall be deposited each year ~~in~~ into the Agriculture Resource Development

3122 Fund created in Section 4-18-106.

3123 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

3124 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

3125 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

3126 water rights.

3127 (ii) At the end of each fiscal year:

3128 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

3129 Conservation and Development Fund created in Section 73-10-24;

3130 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

3131 Program Subaccount created in Section 73-10c-5; and

3132 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3133 Program Subaccount created in Section 73-10c-5.

3134 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

3135 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

3136 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3137 (ii) In addition to the uses allowed of the Water Resources Conservation and

3138 Development Fund under Section 73-10-24, the Water Resources Conservation and

3139 Development Fund may also be used to:

3140 (A) conduct hydrologic and geotechnical investigations by the Division of Water

3141 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

3142 quantifying surface and ground water resources and describing the hydrologic systems of an

3143 area in sufficient detail so as to enable local and state resource managers to plan for and

3144 accommodate growth in water use without jeopardizing the resource;

3145 (B) fund state required dam safety improvements; and

3146 (C) protect the state's interest in interstate water compact allocations, including the

3147 hiring of technical and legal staff.

3148 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

3149 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount

3150 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3151 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

3152 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount

3153 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3154 (i) provide for the installation and repair of collection, treatment, storage, and

3155 distribution facilities for any public water system, as defined in Section 19-4-102;

3156 (ii) develop underground sources of water, including springs and wells; and

3157 (iii) develop surface water sources.

3158 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3159 2006, the difference between the following amounts shall be expended as provided in this
3160 Subsection (5), if that difference is greater than \$1:

3161 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3162 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3163 (ii) \$17,500,000.

3164 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3165 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3166 credits; and

3167 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3168 restoration.

3169 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3170 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3171 created in Section 73-10-24.

3172 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3173 remaining difference described in Subsection (5)(a) shall be:

3174 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3175 credits; and

3176 (B) expended by the Division of Water Resources for cloud-seeding projects
3177 authorized by Title 73, Chapter 15, Modification of Weather.

3178 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3179 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3180 created in Section 73-10-24.

3181 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
3182 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3183 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3184 Division of Water Resources for:

3185 (i) preconstruction costs:

3186 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3187 26, Bear River Development Act; and

3188 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3189 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3190 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3191 Chapter 26, Bear River Development Act;

3192 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3193 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3194 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
3195 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3196 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3197 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
3198 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3199 incurred for employing additional technical staff for the administration of water rights.

3200 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3201 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3202 Fund created in Section 73-10-24.

3203 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
3204 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
3205 (1) for the fiscal year shall be deposited as follows:

3206 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
3207 shall be deposited into the Transportation Investment Fund of 2005 created by Section
3208 72-2-124;

3209 (b) for fiscal year 2017-18 only:

3210 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
3211 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3212 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
3213 Water Infrastructure Restricted Account created by Section 73-10g-103;

3214 (c) for fiscal year 2018-19 only:

3215 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
3216 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3217 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
3218 Water Infrastructure Restricted Account created by Section 73-10g-103;

3219 (d) for fiscal year 2019-20 only:

3220 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
3221 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3222 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
3223 Water Infrastructure Restricted Account created by Section 73-10g-103;

3224 (e) for fiscal year 2020-21 only:

3225 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
3226 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3227 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
3228 Water Infrastructure Restricted Account created by Section 73-10g-103; and

3229 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
3230 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
3231 created by Section 73-10g-103.

3232 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3233 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
3234 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3235 created by Section 72-2-124:

3236 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3237 the [revenues] revenue collected from the following taxes, which represents a portion of the
3238 approximately 17% of sales and use tax [revenues] revenue generated annually by the sales and
3239 use tax on vehicles and vehicle-related products:

3240 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

3241 (B) the tax imposed by Subsection (2)(b)(i);

3242 (C) the tax imposed by Subsection (2)(c)(i); and

3243 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3244 (ii) an amount equal to 30% of the growth in the amount of [revenues] revenue
3245 collected in the current fiscal year from the sales and use taxes described in Subsections
3246 (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes
3247 described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3248 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
3249 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

3250 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
3251 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3252 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3253 (7)(a) equal to the product of:

3254 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
3255 previous fiscal year; and

3256 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3257 (7)(a)(i)(A) through (D) in the current fiscal year.

3258 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3259 Subsection (7)(a) would exceed 17% of the ~~[revenues]~~ revenue collected from the sales and use
3260 taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division
3261 of Finance shall deposit 17% of the ~~[revenues]~~ revenue collected from the sales and use taxes
3262 described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection
3263 (7)(a).

3264 (iii) In all subsequent fiscal years after a year in which 17% of the ~~[revenues]~~ revenue
3265 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was
3266 deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the
3267 ~~[revenues]~~ revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A)
3268 through (D) in the current fiscal year under Subsection (7)(a).

3269 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
3270 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
3271 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
3272 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3273 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3274 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
3275 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
3276 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3277 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
3278 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
3279 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
3280 Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a)

3281 in an amount equal to 3.68% of the ~~[revenues]~~ revenue collected from the following taxes:

3282 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

3283 (B) the tax imposed by Subsection (2)(b)(i);

3284 (C) the tax imposed by Subsection (2)(c)(i); and

3285 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3286 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
3287 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
3288 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
3289 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
3290 sale or use in this state that exceeds 29.4 cents per gallon.

3291 (iii) The commission shall annually deposit the amount described in Subsection
3292 (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

3293 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3294 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3295 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3296 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
3297 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
3298 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
3299 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
3300 the transactions described in Subsection (1).

3301 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
3302 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
3303 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
3304 amount of revenue described as follows:

3305 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
3306 tax rate on the transactions described in Subsection (1);

3307 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
3308 tax rate on the transactions described in Subsection (1);

3309 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
3310 tax rate on the transactions described in Subsection (1);

3311 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a

3312 .05% tax rate on the transactions described in Subsection (1); and

3313 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
3314 tax rate on the transactions described in Subsection (1).

3315 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
3316 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
3317 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
3318 transaction attributable to food and food ingredients and tangible personal property other than
3319 food and food ingredients described in Subsection (2)(d).

3320 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
3321 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
3322 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
3323 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
3324 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
3325 created in Section 63N-2-512.

3326 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
3327 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
3328 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

3329 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
3330 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
3331 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

3332 (13) (a) The rate specified in this subsection is 0.15%.

3333 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[-(i) on or before~~
3334 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
3335 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
3336 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
3337 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)],~~ for a fiscal year beginning
3338 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate
3339 described in Subsection (13)(a) on the transactions that are subject to the sales and use tax
3340 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
3341 26-36b-208.

3342 (14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year

3343 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated
3344 credit solely for use of the Search and Rescue Financial Assistance Program created in, and
3345 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

3346 (15) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
3347 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
3348 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

3349 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
3350 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
3351 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
3352 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

3353 Section 12. Section **59-13-102** is amended to read:

3354 **59-13-102. Definitions.**

3355 As used in this chapter:

3356 (1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the
3357 operation of aircraft.

3358 (2) "Clean fuel" means:

3359 (a) the following special fuels:

3360 (i) propane;

3361 (ii) compressed natural gas;

3362 (iii) liquified natural gas;

3363 (iv) electricity; or

3364 (v) hydrogen; or

3365 (b) any motor or special fuel that meets the clean fuel vehicle standards in the federal
3366 Clean Air Act Amendments of 1990, Title II.

3367 (3) "Commission" means the State Tax Commission.

3368 (4) "Consumer Price Index" means the Consumer Price Index for All Urban
3369 Consumers as published by the Bureau of Labor Statistics of the United States Department of
3370 Labor.

3371 (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
3372 offered for sale, or used as a fuel in diesel engines.

3373 (b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be

3374 known or sold, when the liquid is used in an internal combustion engine for the generation of
3375 power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject
3376 to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

3377 (6) "Diesel gallon equivalent" means 6.06 pounds of liquified natural gas.

3378 (7) "Distributor" means any person in this state who:

3379 (a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at
3380 retail or wholesale;

3381 (b) produces, refines, manufactures, or compounds motor fuel in this state for use,
3382 distribution, or sale in this state;

3383 (c) is engaged in the business of purchasing motor fuel for resale in wholesale
3384 quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability;
3385 or

3386 (d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

3387 (i) federally certificated air carriers; and

3388 (ii) other persons.

3389 (8) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C. Sec.
3390 4082 or United States Environmental Protection Agency or Internal Revenue Service
3391 regulations and that is considered destined for nontaxable off-highway use.

3392 (9) "Exchange agreement" means an agreement between licensed suppliers where one
3393 is a position holder in a terminal who agrees to deliver taxable special fuel to the other supplier
3394 or the other supplier's customer at the loading rack of the terminal where the delivering supplier
3395 holds an inventory position.

3396 (10) "Federally certificated air carrier" means a person who holds a certificate issued
3397 by the Federal Aviation Administration authorizing the person to conduct an all-cargo
3398 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

3399 (11) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is
3400 generally used in an engine or motor for the generation of power, including aviation fuel, clean
3401 fuel, diesel fuel, motor fuel, and special fuel.

3402 (12) "Gasoline gallon equivalent" means~~[:]~~ 5.660 pounds of compressed natural gas.

3403 ~~[(a) 5.660 pounds of compressed natural gas; or]~~

3404 ~~[(b) 2.198 pounds of hydrogen.]~~

3405 (13) "Highway" means every way or place, of whatever nature, generally open to the
3406 use of the public for the purpose of vehicular travel notwithstanding that the way or place may
3407 be temporarily closed for the purpose of construction, maintenance, or repair.

3408 (14) "Motor fuel" means fuel that is commonly or commercially known or sold as
3409 gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

3410 (15) "Motor fuels received" means:

3411 (a) motor fuels that have been loaded at the refinery or other place into tank cars,
3412 placed in any tank at the refinery from which any withdrawals are made directly into tank
3413 trucks, tank wagons, or other types of transportation equipment, containers, or facilities other
3414 than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not
3415 involving transportation are made directly; or

3416 (b) motor fuels that have been imported by any person into the state from any other
3417 state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when,
3418 and the place where, the interstate transportation of the motor fuel is completed within the state
3419 by the person who at the time of the delivery is the owner of the motor fuel.

3420 (16) "Oil pricing service" means an organization that:

3421 (a) publishes wholesale petroleum prices within the United States;

3422 (b) publishes at least 25,000 rack prices on a daily basis; and

3423 (c) receives daily gasoline and diesel prices from at least 100,000 retail outlets in the
3424 United States and Canada.

3425 (17) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle used,
3426 designed, or maintained for transportation of persons or property which:

3427 (i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000
3428 pounds;

3429 (ii) has three or more axles regardless of weight; or

3430 (iii) is used in a combination of vehicles when the weight of the combination of
3431 vehicles exceeds 26,000 pounds gross vehicle weight.

3432 (b) "Qualified motor vehicle" does not include a recreational vehicle not used in
3433 connection with any business activity.

3434 (18) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay which
3435 consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel from a

3436 refinery or terminal into a motor vehicle, rail car, or vessel.

3437 (19) "Removal," as used in Part 3, Special Fuel, means the physical transfer of diesel
3438 fuel from a production, manufacturing, terminal, or refinery facility and includes use of diesel
3439 fuel. Removal does not include:

3440 (a) loss by evaporation or destruction; or

3441 (b) transfers between refineries, racks, or terminals.

3442 (20) (a) "Special fuel" means any fuel regardless of name or character that:

3443 (i) is usable as fuel to operate or propel a motor vehicle upon the public highways of
3444 the state; and

3445 (ii) is not taxed under the category of aviation or motor fuel.

3446 (b) Special fuel includes:

3447 (i) fuels that are not conveniently measurable on a gallonage basis; and

3448 (ii) diesel fuel.

3449 (21) "Supplier," as used in Part 3, Special Fuel, means a person who:

3450 (a) imports or acquires immediately upon importation into this state diesel fuel from
3451 within or without a state, territory, or possession of the United States or the District of
3452 Columbia;

3453 (b) produces, manufactures, refines, or blends diesel fuel in this state;

3454 (c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to
3455 which there has been no previous taxable sale or use; or

3456 (d) is in a two party exchange where the receiving party is deemed to be the supplier.

3457 (22) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage of
3458 diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel
3459 is removed for distribution at a rack.

3460 (23) "Two party exchange" means a transaction in which special fuel is transferred
3461 between licensed suppliers pursuant to an exchange agreement.

3462 (24) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
3463 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
3464 Protection Agency or Internal Revenue Service regulations.

3465 (25) "Use," as used in Part 3, Special Fuel, means the consumption of special fuel for
3466 the operation or propulsion of a motor vehicle upon the public highways of the state and

3467 includes the reception of special fuel into the fuel supply tank of a motor vehicle.

3468 (26) "User," as used in Part 3, Special Fuel, means any person who uses special fuel
3469 within this state in an engine or motor for the generation of power to operate or propel a motor
3470 vehicle upon the public highways of the state.

3471 (27) "Ute tribal member" means an enrolled member of the Ute tribe.

3472 (28) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

3473 (29) "Ute trust land" means the lands:

3474 (a) of the Uintah and Ouray Reservation that are held in trust by the United States for
3475 the benefit of:

3476 (i) the Ute tribe;

3477 (ii) an individual; or

3478 (iii) a group of individuals; or

3479 (b) specified as trust land by agreement between the governor and the Ute tribe meeting
3480 the requirements of Subsections 59-13-201.5(3) and 59-13-301.5(3).

3481 Section 13. Section 59-13-301 is amended to read:

3482 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
3483 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

3484 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
3485 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

3486 (i) removal of undyed diesel fuel from any refinery;

3487 (ii) removal of undyed diesel fuel from any terminal;

3488 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
3489 warehousing;

3490 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
3491 this part unless the tax has been collected under this section;

3492 (v) any untaxed special fuel blended with undyed diesel fuel; or

3493 (vi) use of untaxed special fuel other than propane [or], electricity, or hydrogen.

3494 (b) The tax imposed under this section shall only be imposed once upon any special
3495 fuel.

3496 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

3497 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon

3498 the public highways of the state, but this exemption applies only in those cases where the
3499 purchasers or the users of special fuel establish to the satisfaction of the commission that the
3500 special fuel was used for purposes other than to operate a motor vehicle upon the public
3501 highways of the state; or

3502 (ii) is sold to this state or any of its political subdivisions.

3503 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

3504 (i) sold to the United States government or any of its instrumentalities or to this state or
3505 any of its political subdivisions;

3506 (ii) exported from this state if proof of actual exportation on forms prescribed by the
3507 commission is made within 180 days after exportation;

3508 (iii) used in a vehicle off-highway;

3509 (iv) used to operate a power take-off unit of a vehicle;

3510 (v) used for off-highway agricultural uses;

3511 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
3512 upon the highways of the state; or

3513 (vii) used in machinery and equipment not registered and not required to be registered
3514 for highway use.

3515 (3) No tax is imposed or collected on special fuel if it is:

3516 (a) (i) purchased for business use in machinery and equipment not registered and not
3517 required to be registered for highway use; and

3518 (ii) used pursuant to the conditions of a state implementation plan approved under Title
3519 19, Chapter 2, Air Conservation Act; or

3520 (b) propane or electricity.

3521 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
3522 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

3523 (5) The special fuel tax shall be paid by the supplier.

3524 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
3525 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

3526 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
3527 which are delivered into vehicles and for which special fuel tax liability is reported.

3528 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the

3529 commission from taxes and license fees under this part shall be deposited daily with the state
3530 treasurer and credited to the Transportation Fund.

3531 (b) An appropriation from the Transportation Fund shall be made to the commission to
3532 cover expenses incurred in the administration and enforcement of this part and the collection of
3533 the special fuel tax.

3534 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
3535 may be used by the commission as a dedicated credit to cover the costs of electronic
3536 credentialing as provided in Section 41-1a-303.

3537 (8) The commission may either collect no tax on special fuel exported from the state
3538 or, upon application, refund the tax paid.

3539 (9) (a) The United States government or any of its instrumentalities, this state, or a
3540 political subdivision of this state that has purchased special fuel from a supplier or from a retail
3541 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
3542 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
3543 manner prescribed by the commission.

3544 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3545 commission shall make rules governing the application and refund provided for in Subsection
3546 (9)(a).

3547 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses
3548 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid
3549 as provided in Subsection (9) and this Subsection (10).

3550 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3551 commission shall make rules governing the application and refund for off-highway and
3552 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

3553 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
3554 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

3555 (11) (a) [~~Beginning on April 1, 2001, a~~] A tax imposed under this section on special
3556 fuel is reduced to the extent provided in Subsection (11)(b) if:

3557 (i) the Navajo Nation imposes a tax on the special fuel;

3558 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
3559 person required to pay the tax is an enrolled member of the Navajo Nation; and

3560 (iii) the commission and the Navajo Nation execute and maintain an agreement as
3561 provided in this Subsection (11) for the administration of the reduction of tax.

3562 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
3563 section:

3564 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
3565 difference is greater than \$0; and

3566 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
3567 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

3568 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
3569 between:

3570 (A) the amount of tax imposed on the special fuel by this section; less

3571 (B) the tax imposed and collected by the Navajo Nation on the special fuel.

3572 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
3573 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
3574 the Navajo Nation.

3575 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3576 commission shall make rules governing the procedures for administering the reduction of tax
3577 provided under this Subsection (11).

3578 (e) The agreement required under Subsection (11)(a):

3579 (i) may not:

3580 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

3581 (B) provide a reduction of taxes greater than or different from the reduction described
3582 in this Subsection (11); or

3583 (C) affect the power of the state to establish rates of taxation;

3584 (ii) shall:

3585 (A) be in writing;

3586 (B) be signed by:

3587 (I) the chair of the commission or the chair's designee; and

3588 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

3589 (C) be conditioned on obtaining any approval required by federal law;

3590 (D) state the effective date of the agreement; and

3591 (E) state any accommodation the Navajo Nation makes related to the construction and
3592 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
3593 Nation; and

3594 (iii) may:

3595 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
3596 Navajo Nation information that is:

3597 (I) contained in a document filed with the commission; and

3598 (II) related to the tax imposed under this section;

3599 (B) provide for maintaining records by the commission or the Navajo Nation; or

3600 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
3601 located or doing business within the Utah portion of the Navajo Nation.

3602 (f) (i) If [~~on or after April 1, 2001;~~] the Navajo Nation changes the tax rate of a tax
3603 imposed on special fuel, any change in the amount of the reduction of taxes under this
3604 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
3605 calendar quarter after a 60-day period beginning on the date the commission receives notice:

3606 (A) from the Navajo Nation; and

3607 (B) meeting the requirements of Subsection (11)(f)(ii).

3608 (ii) The notice described in Subsection (11)(f)(i) shall state:

3609 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
3610 special fuel;

3611 (B) the effective date of the rate change of the tax described in Subsection
3612 (11)(f)(ii)(A); and

3613 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

3614 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
3615 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
3616 30-day period beginning on the day the agreement terminates.

3617 (h) If there is a conflict between this Subsection (11) and the agreement required by
3618 Subsection (11)(a), this Subsection (11) governs.

3619 (12) (a) (i) Subject to Subsections (12)(a)(ii) and (iii), a tax imposed under this section
3620 on compressed natural gas is imposed at a rate of:

3621 (A) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

3622 (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline
3623 gallon equivalent;

3624 (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline
3625 gallon equivalent; and

3626 (D) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

3627 (ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust
3628 the rate of a tax imposed under this section on compressed natural gas by taking the rate for the
3629 previous calendar year and adding an amount equal to the greater of:

3630 (A) an amount calculated by multiplying the rate of a tax imposed under this section on
3631 compressed natural gas for the previous calendar year by the actual percent change during the
3632 previous fiscal year in the Consumer Price Index; and

3633 (B) 0.

3634 (iii) The rate of a tax imposed under this section on compressed natural gas determined
3635 by the commission under Subsection (12)(a)(ii) may not exceed 22-1/2 cents per gasoline
3636 gallon equivalent.

3637 (b) (i) Subject to Subsections (12)(b)(ii) and (iii), a tax imposed under this section on
3638 liquified natural gas is imposed at a rate of:

3639 (A) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;

3640 (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon
3641 equivalent;

3642 (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon
3643 equivalent; and

3644 (D) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.

3645 (ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust
3646 the rate of a tax imposed under this section on liquified natural gas by taking the rate for the
3647 previous calendar year and adding an amount equal to the greater of:

3648 (A) an amount calculated by multiplying the rate of a tax imposed under this section on
3649 liquified natural gas for the previous calendar year by the actual percent change during the
3650 previous fiscal year in the Consumer Price Index; and

3651 (B) 0.

3652 (iii) The rate of a tax imposed under this section on liquified natural gas determined by

3653 the commission under Subsection (12)(b)(ii) may not exceed 22-1/2 cents per diesel gallon
3654 equivalent.

3655 ~~[(c) (i) Subject to Subsections (12)(c)(ii) and (iii), a tax imposed under this section on~~
3656 ~~hydrogen used to operate or propel a motor vehicle upon the public highways of the state is~~
3657 ~~imposed at a rate of:]~~

3658 ~~[(A) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;]~~

3659 ~~[(B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline~~
3660 ~~gallon equivalent;]~~

3661 ~~[(C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline~~
3662 ~~gallon equivalent; and]~~

3663 ~~[(D) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.]~~

3664 ~~[(ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust~~
3665 ~~the rate of a tax imposed under this section on hydrogen used to operate or propel a motor~~
3666 ~~vehicle upon the public highways of the state by taking the rate for the previous calendar year~~
3667 ~~and adding an amount equal to the greater of:]~~

3668 ~~[(A) an amount calculated by multiplying the rate of a tax imposed under this section~~
3669 ~~on hydrogen used to operate or propel a motor vehicle upon the public highways of the state for~~
3670 ~~the previous calendar year by the actual percent change during the previous fiscal year in the~~
3671 ~~Consumer Price Index; and]~~

3672 ~~[(B) 0.]~~

3673 ~~[(iii) The rate of a tax imposed under this section on hydrogen used to operate or propel~~
3674 ~~a motor vehicle upon the public highways of the state determined by the commission under~~
3675 ~~Subsection (12)(c)(ii) may not exceed 22-1/2 cents per gasoline gallon equivalent.]~~

3676 ~~[(d)]~~ (c) (i) The commission shall annually:

3677 (A) adjust the fuel tax rates imposed under Subsections (12)(a)(ii)[;] and (b)(ii), [~~and~~
3678 ~~(c)(ii);~~] rounded to the nearest one-tenth of a cent;

3679 (B) publish the adjusted fuel tax as a cents per gallon rate; and

3680 (C) post or otherwise make public the adjusted fuel tax rate as determined in

3681 Subsection (12)[~~(d)~~](c)(i)(A) no later than 60 days prior to the annual effective date under
3682 Subsection (12)[~~(d)~~](c)(ii).

3683 (ii) The tax rates imposed under this Subsection (12) and adjusted as required under

3684 Subsection (12)~~(d)~~(c)(i) shall take effect on January 1 of each year.

3685 Section 14. Section **63M-4-401** is amended to read:

3686 **63M-4-401. Office of Energy Development -- Creation -- Director -- Purpose --**
3687 **Rulemaking regarding confidential information -- Fees.**

3688 (1) There is created an Office of Energy Development.

3689 (2) (a) The governor's energy advisor shall serve as the director of the office or appoint
3690 a director of the office.

3691 (b) The director:

3692 (i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a),
3693 report to the governor's energy advisor; and

3694 (ii) may appoint staff as funding within existing budgets allows.

3695 (c) The office may consolidate energy staff and functions existing in the state energy
3696 program.

3697 (3) The purposes of the office are to:

3698 (a) serve as the primary resource for advancing energy and mineral development in the
3699 state;

3700 (b) implement:

3701 (i) the state energy policy under Section [63M-4-301](#); and

3702 (ii) the governor's energy and mineral development goals and objectives;

3703 (c) advance energy education, outreach, and research, including the creation of
3704 elementary, higher education, and technical college energy education programs;

3705 (d) promote energy and mineral development workforce initiatives; and

3706 (e) support collaborative research initiatives targeted at Utah-specific energy and
3707 mineral development.

3708 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal
3709 Funds Procedures Act, the office may:

3710 (a) seek federal grants or loans;

3711 (b) seek to participate in federal programs; and

3712 (c) in accordance with applicable federal program guidelines, administer federally
3713 funded state energy programs.

3714 (5) The office shall perform the duties required by Sections [11-42a-106](#)~~[;]~~ and

3715 ~~59-5-102~~[~~59-7-614.7~~, ~~59-10-1029~~, Part 5, Alternative Energy Development Tax Credit Act,]
3716 and Part 6, High Cost Infrastructure Development Tax Credit Act.

3717 (6) (a) For purposes of administering this section, the office may make rules, by
3718 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative
3719 Rulemaking Act, to maintain as confidential, and not as a public record, information that the
3720 office receives from any source.

3721 (b) The office shall maintain information the office receives from any source at the
3722 level of confidentiality assigned by the source.

3723 (7) The office may charge application, filing, and processing fees in amounts
3724 determined by the office in accordance with Section ~~63J-1-504~~ as dedicated credits for
3725 performing office duties described in this part.

3726 Section 15. Section ~~63M-4-602~~ is amended to read:

3727 **~~63M-4-602~~. Definitions.**

3728 As used in this part:

3729 (1) "Applicant" means a person that conducts business in the state and that applies for a
3730 tax credit under this part.

3731 (2) "Fuel standard compliance project" means a project designed to retrofit a fuel
3732 refinery in order to make the refinery capable of producing fuel that complies with the United
3733 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40
3734 C.F.R. Sec. 79.54.

3735 (3) "High cost infrastructure project" means a project:

3736 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture
3737 activity in the state, not including a retail business;

3738 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,
3739 mining, manufacturing, or agriculture entity, by the entity; or

3740 (iii) for the construction of a plant or other facility, including a fueling station, for the
3741 storage, production, or distribution of hydrogen fuel used for transportation, electricity
3742 generation, or industrial use;

3743 (b) that requires or is directly facilitated by infrastructure construction; and

3744 (c) for which the cost of infrastructure construction to the entity creating the project is
3745 greater than:

- 3746 (i) 10% of the total cost of the project; or
3747 (ii) \$10,000,000.
3748 (4) "Infrastructure" means:
3749 (a) an energy delivery project as defined in Section [63H-2-102](#);
3750 (b) a railroad as defined in Section [54-2-1](#);
3751 (c) a fuel standard compliance project;
3752 (d) a road improvement project;
3753 (e) a water self-supply project;
3754 (f) a water removal system project;
3755 (g) a solution-mined subsurface salt cavern; or
3756 (h) a project that is designed to:
3757 (i) increase the capacity for water delivery to a water user in the state; ~~or~~
3758 (ii) increase the capability of an existing water delivery system or related facility to
3759 deliver water to a water user in the state[-]; or
3760 (i) a hydrogen fuel production or distribution project.
3761 (5) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an
3762 agreement with the office that qualifies the applicant to receive a tax credit as provided in this
3763 part.
3764 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as
3765 defined in Section [59-10-1402](#), of a person described in Subsection (5)(a).
3766 (6) "Infrastructure-related revenue" means an amount of tax revenue, for an entity
3767 creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high
3768 cost infrastructure project, under:
3769 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
3770 (b) Title 59, Chapter 10, Individual Income Tax Act; and
3771 (c) Title 59, Chapter 12, Sales and Use Tax Act.
3772 (7) "Office" means the Office of Energy Development created in Section [63M-4-401](#).
3773 (8) "Tax credit" means a tax credit under Section [59-7-619](#) or [59-10-1034](#).
3774 (9) "Tax credit certificate" means a certificate issued by the office to an infrastructure
3775 cost-burdened entity that:
3776 (a) lists the name of the infrastructure cost-burdened entity;

- 3777 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
- 3778 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
- 3779 cost-burdened entity under this part; and
- 3780 (d) includes other information as determined by the office.

3781 Section 16. **Repealer.**

3782 This bill repeals:

3783 Section [59-7-614.7](#), **Nonrefundable alternative energy development tax credit.**

3784 Section [59-10-1029](#), **Nonrefundable alternative energy development tax credit.**

3785 Section [63M-4-501](#), **Title.**

3786 Section [63M-4-502](#), **Definitions.**

3787 Section [63M-4-503](#), **Tax credits.**

3788 Section [63M-4-504](#), **Qualifications for tax credit -- Procedure.**

3789 Section [63M-4-505](#), **Report to the Legislature.**

3790 Section 17. **Effective date.**

3791 (1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2021.

3792 (2) The changes to the following sections take effect on January 1, 2022:

3793 (a) Section [59-7-159](#);

3794 (b) Section [59-10-137](#);

3795 (c) Section [59-12-102](#);

3796 (d) Section [59-12-103](#); and

3797 (e) Section [63M-4-401](#).

3798 (3) The changes to the following sections take effect for a taxable year beginning on or
3799 after January 1, 2022:

3800 (a) Section [59-7-614](#);

3801 (b) Section [59-7-614.7](#);

3802 (c) Section [59-7-626](#);

3803 (d) Section [59-10-1014](#);

3804 (e) Section [59-10-1029](#);

3805 (f) Section [59-10-1106](#);

3806 (g) Section [59-10-1113](#);

3807 (h) Section [63M-4-401](#);

- 3808 (i) Section 63M-4-501;
- 3809 (j) Section 63M-4-502;
- 3810 (k) Section 63M-4-503;
- 3811 (l) Section 63M-4-504;
- 3812 (m) Section 63M-4-505; and
- 3813 (n) Section 63M-4-602.