

**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

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**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 residential use and a sales tax exemption if for industrial 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       ▶ defines "infrastructure" to include hydrogen fuel production or distribution projects  
28 for purposes of qualifying for a high cost infrastructure development tax credit;

29       ▶ repeals the Alternative Energy Development Tax Credit Act and related tax credits;

30 and

31       ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

38       59-7-159, as last amended by Laws of Utah 2019, Chapters 247 and 465

39       59-7-614, as last amended by Laws of Utah 2019, Chapter 247

40       59-7-619, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

41       59-10-137, as last amended by Laws of Utah 2019, Chapters 247 and 465

42       59-10-1014, as last amended by Laws of Utah 2019, Chapter 247

43       59-10-1034, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

44       59-10-1106, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

45       59-12-102, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438

46       59-12-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

47       63M-4-401, as last amended by Laws of Utah 2019, Chapter 247

48       63M-4-602, as last amended by Laws of Utah 2019, Chapter 501

49 ENACTS:

50       59-7-626, Utah Code Annotated 1953

51       59-10-1113, Utah Code Annotated 1953

52 REPEALS:

53       59-7-614.7, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

54       59-10-1029, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

55       63M-4-501, as enacted by Laws of Utah 2012, Chapter 410

56       63M-4-502, as enacted by Laws of Utah 2012, Chapter 410

57 **63M-4-503**, as last amended by Laws of Utah 2018, Chapter 149  
58 **63M-4-504**, as enacted by Laws of Utah 2012, Chapter 410  
59 **63M-4-505**, as last amended by Laws of Utah 2016, Chapters 13 and 135

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

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

63 **59-7-159. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

84 (v) undertake other review efforts as determined by the committee chairs or as  
85 otherwise required by law.

86 (3) (a) On or before November 30, 2017, and every three years after 2017, the  
87 committee shall conduct the review required under Subsection (2) of the tax credits allowed

88 under the following sections:

- 89 (i) Section 59-7-601;
- 90 (ii) Section 59-7-607;
- 91 (iii) Section 59-7-612;
- 92 (iv) Section 59-7-614.1; and
- 93 (v) Section 59-7-614.5.

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

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

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

- 106 (i) Section 59-7-610;
- 107 (ii) Section 59-7-614; and
- 108 [~~(iii) Section 59-7-614.7; and~~]
- 109 [~~(iv)~~] (iii) Section 59-7-618.

110 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
111 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
112 2017.

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

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

116 **59-7-614. Renewable energy systems tax credits -- Definitions -- Certification --**  
117 **Rulemaking authority.**

118 (1) As used in this section:

- 119 (a) (i) "Active solar system" means a system of equipment that is capable of:  
120 (A) collecting and converting incident solar radiation into thermal, mechanical, or  
121 electrical energy; and  
122 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate  
123 apparatus to storage or to the point of use.  
124 (ii) "Active solar system" includes water heating, space heating or cooling, and  
125 electrical or mechanical energy generation.
- 126 (b) "Biomass system" means a system of apparatus and equipment for use in:  
127 (i) converting material into biomass energy, as defined in Section 59-12-102; and  
128 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- 129 (c) "Commercial energy system" means a system that is:  
130 (i) (A) an active solar system;  
131 (B) a biomass system;  
132 (C) a direct use geothermal system;  
133 (D) a geothermal electricity system;  
134 (E) a geothermal heat pump system;  
135 (F) a hydroenergy system;  
136 (G) a passive solar system; or  
137 (H) a wind system;  
138 (ii) located in the state; and  
139 (iii) used:  
140 (A) to supply energy to a commercial unit; or  
141 (B) as a commercial enterprise.
- 142 (d) "Commercial enterprise" means an entity, the purpose of which is to produce;  
143 (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;  
144 or  
145 (ii) hydrogen for sale from a hydrogen production system.
- 146 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact  
147 business.  
148 (ii) Notwithstanding Subsection (1)(e)(i):  
149 (A) with respect to an active solar system used for agricultural water pumping or a

150 wind system, each individual energy generating device is considered to be a commercial unit;  
151 or

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

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

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

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

160 (ii) produce zero emissions of carbon dioxide, nitrides of oxygen, or sulfides of  
161 oxygen.

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

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

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

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

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

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

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

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

174 (i) intercepting and converting kinetic water energy into electrical or mechanical  
175 energy; and

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

177 (l) "Hydrogen production system" means a system of apparatus and equipment, located  
178 in this state, that uses:

179 (i) electricity from a renewable energy source to create hydrogen gas from water,

180 regardless of whether the renewable energy source is at a separate facility or the same facility

181 as the system of apparatus and equipment; or

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

183 ~~[(k)]~~ (m) "Office" means the Office of Energy Development created in Section  
184 [63M-4-401](#).

185 ~~[(t)]~~ (n) (i) "Passive solar system" means a direct thermal system that utilizes the  
186 structure of a building and ~~[its]~~ the structure's operable components to provide for collection,  
187 storage, and distribution of heating or cooling during the appropriate times of the year by  
188 utilizing the climate resources available at the site.

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

191 ~~[(m)]~~ (o) "Photovoltaic system" means an active solar system that generates electricity  
192 from sunlight.

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

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

196 (A) an interest charge; or

197 (B) a maintenance expense.

198 (q) "Renewable energy source" means the same as that term is defined in Section  
199 [54-17-601](#).

200 ~~[(o)]~~ (r) "Residential energy system" means the following used to supply energy to or  
201 for a residential unit:

202 (i) an active solar system;

203 (ii) a biomass system;

204 (iii) a direct use geothermal system;

205 (iv) a geothermal heat pump system;

206 (v) a hydroenergy system;

207 (vi) a passive solar system; or

208 (vii) a wind system.

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

211 (A) is located in the state; and

- 212 (B) serves as a dwelling for a person, group of persons, or a family.
- 213 (ii) "Residential unit" does not include property subject to a fee under:
- 214 (A) Section 59-2-405;
- 215 (B) Section 59-2-405.1;
- 216 (C) Section 59-2-405.2;
- 217 (D) Section 59-2-405.3; or
- 218 (E) Section 72-10-110.5.

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

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

221 (ii) transferring these forms of energy by a separate apparatus to the point of use, sale,

222 or storage.

223 (2) A taxpayer may claim an energy system tax credit as provided in this section

224 against a tax due under this chapter for a taxable year.

225 (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a

226 nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer

227 owns or uses if:

- 228 (i) the taxpayer:
- 229 (A) purchases and completes a residential energy system to supply all or part of the
- 230 energy required for the residential unit; or
- 231 (B) participates in the financing of a residential energy system to supply all or part of
- 232 the energy required for the residential unit; and

233 ~~[(ii) the residential energy system is completed and placed in service on or after~~

234 ~~January 1, 2007; and]~~

235 ~~[(iii)]~~ (ii) the taxpayer obtains a written certification from the office in accordance with

236 Subsection ~~[(7)]~~ (8).

237 (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection

238 (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy

239 system installed with respect to each residential unit the taxpayer owns or uses.

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

241 (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in

242 which the residential energy system is completed and placed in service.



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

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

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

252 (i) for a system installed on or after January 1, 2018, but on or before December 31,  
253 2020, \$1,600;

254 (ii) for a system installed on or after January 1, 2021, but on or before December 31,  
255 2021, \$1,200;

256 (iii) for a system installed on or after January 1, 2022, but on or before December 31,  
257 2022, \$800;

258 (iv) for a system installed on or after January 1, 2023, but on or before December 31,  
259 2023, \$400; and

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

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

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

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

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

270 (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a  
271 refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

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

273 (A) wind, geothermal electricity, [~~solar~~], or biomass equipment capable of producing a

274 total of 660 or more kilowatts of electricity; or  
275 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;  
276 (ii) the taxpayer purchases or participates in the financing of the commercial energy  
277 system;  
278 (iii) (A) the commercial energy system supplies all or part of the energy required by  
279 commercial units owned or used by the taxpayer; or  
280 (B) the taxpayer sells all or part of the energy produced by the commercial energy  
281 system as a commercial enterprise;  
282 ~~[(iv) the commercial energy system is completed and placed in service on or after~~  
283 ~~January 1, 2007; and]~~  
284 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (6) or  
285 (7) for fuel cell use or hydrogen production using electricity for which the taxpayer claims a tax  
286 credit under this Subsection (4); and  
287 (v) the taxpayer obtains a written certification from the office in accordance with  
288 Subsection ~~[(7)]~~ (8).  
289 (b) (i) Subject to Subsections (4)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10%  
290 of the reasonable costs of the commercial energy system.  
291 (ii) A tax credit under this Subsection (4) may include installation costs.  
292 (iii) A taxpayer ~~[may claim]~~ is eligible to claim a tax credit under this Subsection (4)  
293 for the taxable year in which the commercial energy system is completed and placed in service.  
294 ~~[(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.]~~  
295 ~~[(v)]~~ (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4)  
296 may not exceed \$50,000 per commercial unit.  
297 (c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a  
298 commercial energy system installed on a commercial unit may claim a tax credit under this  
299 Subsection (4) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax~~  
300 ~~credit]~~ obtains a written certification from the office in accordance with Subsection (8).  
301 (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this  
302 Subsection (4) only the principal recovery portion of the lease payments.  
303 (iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this  
304 Subsection (4) for a period that does not exceed seven taxable years after the ~~[date]~~ day on

305 which the lease begins, as stated in the lease agreement.

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

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

310 (B) the commercial energy system uses solar equipment capable of producing a total of  
311 2,000 or more kilowatts of electricity;

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

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

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

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

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

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

325 (A) 0.35 cents; and

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

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

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

331 (c) A taxpayer that is a lessee of a commercial energy system installed on a commercial  
332 unit may claim a tax credit under this Subsection (5) if the taxpayer ~~[confirms that the lessor~~  
333 ~~irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in  
334 accordance with Subsection (8).

335 ~~[(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a~~

336 refundable tax credit as provided in this Subsection (6) if:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

364 (ii) the fuel cell is completed and placed in service in this state on or after January 1,  
365 2022;

366 (iii) the fuel cell supplies all or part of the electricity required by commercial units

367 owned or used by the taxpayer;

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

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

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

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

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

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

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

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

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

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

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

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

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

397 (A) a vehicle; or

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

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

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

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

407 (A) \$2.34; and

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

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

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

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

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

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

424 [~~(7)~~] (8) (a) Before a taxpayer, including a lessee under Subsection (4), (5), (6), or (7),  
425 may claim a tax credit under this section, the taxpayer shall obtain a written certification from  
426 the office.

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

429 (i) the taxpayer meets the requirements of this section to receive a tax credit; and  
 430 (ii) the residential energy system ~~[or]~~, the commercial energy system, the fuel cell, or  
 431 the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

432 (A) has been completely installed;

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

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

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

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

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

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

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

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

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

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

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

458 (ii) for each taxpayer or lessee:

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

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

461 [~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
462 Act, the commission may make rules to address the certification of a tax credit under this  
463 section.

464 [~~(9)~~] (10) A tax credit under this section is in addition to any tax credits provided under  
465 the laws or rules and regulations of the United States.

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

467 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

468 (1) As used in this section:

469 (a) "High cost infrastructure project" means the same as that term is defined in Section  
470 [63M-4-602](#).

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

473 (c) "Infrastructure-related revenue" means the same as that term is defined in Section  
474 [63M-4-602](#).

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

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

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

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

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

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

489 (5) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim  
490 Committee shall study the tax credit allowed by this section and make recommendations



491 concerning whether the tax credit should be continued, modified, or repealed.

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

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

497 (B) the infrastructure-related revenue generated by each high cost infrastructure  
498 project;

499 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]  
500 [63M-4-605](#); and

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

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

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

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

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

- 515 (i) the cost of the tax credit to the state;  
516 (ii) the purpose and effectiveness of the tax credit; and  
517 (iii) the extent to which the state benefits from the tax credit.

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

519 **59-7-626. Refundable tax credit for nonrenewable hydrogen production system.**

520 **(1) As used in this section:**

521 **(a) "Commercial enterprise" means an entity, the purpose of which is to produce**

522 hydrogen for sale from a hydrogen production system.

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

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

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

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

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

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

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

535 (A) a vehicle; or

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

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

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

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

544 (A) \$2.34; and

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

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

549 (iii) A taxpayer is eligible to claim a tax credit under this section for production  
550 occurring during a period of 48 months beginning with the month in which the hydrogen  
551 production system is placed in commercial service.

552 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a taxpayer that is a lessee of a

553 hydrogen production system installed on a commercial unit may claim a tax credit under this  
554 section if the lessee obtains a written certification from the office in accordance with  
555 Subsection (3).

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

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

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

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

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

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

568 (A) has been completely installed; and

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

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

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

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

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

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

- 584 (f) The office shall submit to the commission an electronic list that includes:
- 585 (i) the name and identifying information of each taxpayer or lessee to which the office
- 586 issues a written certification; and
- 587 (ii) for each taxpayer or lessee:
- 588 (A) the amount of the tax credit listed on the written certification; and
- 589 (B) the date the hydrogen production system was installed.
- 590 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 591 commission may make rules to address the certification of a tax credit under this section.
- 592 (5) A tax credit under this section is in addition to any tax credits provided under the
- 593 laws or rules and regulations of the United States.

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

595 **59-10-137. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

615 (C) the extent to which the state benefits from the tax credit; and  
616 (v) undertake other review efforts as determined by the committee chairs or as  
617 otherwise required by law.

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

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

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

- 635 (i) Section 59-10-1005;
- 636 (ii) Section 59-10-1006;
- 637 (iii) Section 59-10-1012;
- 638 (iv) Section 59-10-1022;
- 639 (v) Section 59-10-1023;
- 640 (vi) Section 59-10-1028;
- 641 (vii) Section 59-10-1034;
- 642 (viii) Section 59-10-1037;
- 643 (ix) Section 59-10-1107; and
- 644 (x) Section 59-10-1112.

645 (c) On or before November 30, 2019, and every three years after 2019, the committee

646 shall conduct the review required under Subsection (2) of the tax credits allowed under the  
647 following sections:

- 648 (i) Section 59-10-1007;
- 649 (ii) Section 59-10-1014;
- 650 (iii) Section 59-10-1017;
- 651 (iv) Section 59-10-1018;
- 652 (v) Section 59-10-1019;
- 653 (vi) Section 59-10-1024;
- 654 [~~(vii) Section 59-10-1029;~~]
- 655 [~~(viii)~~ (vii) Section 59-10-1033;
- 656 [~~(ix)~~ (viii) Section 59-10-1036;
- 657 [~~(x)~~ (ix) Section 59-10-1106; and
- 658 [~~(xi)~~ (x) Section 59-10-1111.

659 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
660 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
661 2017.

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

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

665 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**

666 **Certification -- Rulemaking authority.**

667 (1) As used in this section:

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

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

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

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

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

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

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

678 (c) "Direct use geothermal system" means a system of apparatus and equipment that  
679 enables the direct use of geothermal energy to meet energy needs, including heating a building,  
680 an industrial process, and aquaculture.

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

682 ~~(d)~~ (e) "Geothermal electricity" means energy that is:

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

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

685 ~~(e)~~ (f) "Geothermal energy" means energy generated by heat that is contained in the  
686 earth.

687 ~~(f)~~ (g) "Geothermal heat pump system" means a system of apparatus and equipment  
688 that:

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

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

692 ~~(g)~~ (h) "Hydroenergy system" means a system of apparatus and equipment that is  
693 capable of:

694 (i) intercepting and converting kinetic water energy into electrical or mechanical  
695 energy; and

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

697 ~~(h)~~ (i) "Office" means the Office of Energy Development created in Section  
698 [63M-4-401](#).

699 ~~(i)~~ (j) (i) "Passive solar system" means a direct thermal system that utilizes the  
700 structure of a building and its operable components to provide for collection, storage, and  
701 distribution of heating or cooling during the appropriate times of the year by utilizing the  
702 climate resources available at the site.

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

705 ~~(j)~~ (k) "Photovoltaic system" means an active solar system that generates electricity  
706 from sunlight.

707 ~~(k)~~ (l) (i) "Principal recovery portion" means the portion of a lease payment that

708 constitutes the cost a person incurs in acquiring a residential energy system.

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

710 (A) an interest charge; or

711 (B) a maintenance expense.

712 ~~[(h)]~~ (m) "Residential energy system" means the following used to supply energy to or  
713 for a residential unit:

714 (i) an active solar system;

715 (ii) a biomass system;

716 (iii) a direct use geothermal system;

717 (iv) a geothermal heat pump system;

718 (v) a hydroenergy system;

719 (vi) a passive solar system; or

720 (vii) a wind system.

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

723 (A) is located in the state; and

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

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

726 (A) Section 59-2-405;

727 (B) Section 59-2-405.1;

728 (C) Section 59-2-405.2;

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

730 (E) Section 72-10-110.5.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

754 (ii) \$2,000.

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

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

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

760 (ii) (A) for a system installed on or after January 1, 2007, but on or before December  
761 31, 2017, \$2,000;

762 (B) for a system installed on or after January 1, 2018, but on or before December 31,  
763 2020, \$1,600;

764 (C) for a system installed on or after January 1, 2021, but on or before December 31,  
765 2021, \$1,200;

766 (D) for a system installed on or after January 1, 2022, but on or before December 31,  
767 2022, \$800;

768 (E) for a system installed on or after January 1, 2023, but on or before December 31,  
769 2023, \$400; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

811 (ii) the fuel cell is completed and placed in service in this state on or after January 1,  
812 2022;

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

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

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

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

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

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

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

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

832 (5).

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

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

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

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

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

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

847 (A) has been completely installed;

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

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

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

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

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

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

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

862 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or

863 trust may receive under Subsection (3) or (4), establishing the reasonable costs of a residential  
864 energy system or a fuel cell, as an amount per unit of energy production.

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

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

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

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

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

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

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

876 (7) A purchaser of one or more solar units that claims a tax credit under Section  
877 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this  
878 section for that purchase.

879 Section 7. Section 59-10-1034 is amended to read:

880 **59-10-1034. Nonrefundable high cost infrastructure development tax credit.**

881 (1) As used in this section:

882 (a) "High cost infrastructure project" means the same as that term is defined in Section  
883 63M-4-602.

884 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in  
885 Section 63M-4-602.

886 (c) "Infrastructure-related revenue" means the same as that term is defined in Section  
887 63M-4-602.

888 (d) "Office" means the Office of Energy Development created in Section 63M-4-401.

889 (2) Subject to the other provisions of this section, a claimant, estate, or trust that is an  
890 infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a  
891 high cost infrastructure project as provided in this section.

892 (3) The tax credit under this section is the amount listed as the tax credit amount on a  
893 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost

894 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the  
895 taxable year.

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

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

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

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

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

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

910 (B) the infrastructure-related revenue generated by each high cost infrastructure  
911 project;

912 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]  
913 [63M-4-605](#); and

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

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

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

922 (c) As part of the study required by this Subsection (5), the Office of the Legislative  
923 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
924 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the

925 office under Subsection (5)(b).

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

- 928 (i) the cost of the tax credit to the state;
- 929 (ii) the purpose and effectiveness of the tax credit; and
- 930 (iii) the extent to which the state benefits from the tax credit.

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

932 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**  
933 **Certification -- Rulemaking authority.**

934 (1) As used in this section:

935 (a) "Active solar system" means the same as that term is defined in Section  
936 [59-10-1014](#).

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

938 (c) "Commercial energy system" means the same as that term is defined in Section  
939 [59-7-614](#).

940 (d) "Commercial enterprise" means the same as that term is defined in Section  
941 [59-7-614](#).

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

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

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

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

949 (f) "Direct use geothermal system" means the same as that term is defined in Section  
950 [59-10-1014](#).

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

952 [(g)] (h) "Geothermal electricity" means the same as that term is defined in Section  
953 [59-10-1014](#).

954 [(h)] (i) "Geothermal energy" means the same as that term is defined in Section  
955 [59-10-1014](#).

956            ~~[(i)]~~ (j) "Geothermal heat pump system" means the same as that term is defined in  
957 Section 59-10-1014.

958            ~~[(j)]~~ (k) "Hydroenergy system" means the same as that term is defined in Section  
959 59-10-1014.

960            (l) "Hydrogen production system" means the same as that term is defined in Section  
961 59-7-614.

962            ~~[(k)]~~ (m) "Office" means the Office of Energy Development created in Section  
963 63M-4-401.

964            ~~[(l)]~~ (n) "Passive solar system" means the same as that term is defined in Section  
965 59-10-1014.

966            ~~[(m)]~~ (o) "Principal recovery portion" means the same as that term is defined in Section  
967 59-10-1014.

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

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

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

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

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

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

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

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

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

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

986            (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under



987 Subsection (5) or Subsection 59-10-1014(4) for fuel cell use or hydrogen production using  
988 electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3);  
989 and

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

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

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

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

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

999 ~~[(v)]~~ (iv) The total amount of tax credit a claimant, estate, or trust may claim under this  
1000 Subsection (3) may not exceed \$50,000 per commercial unit.

1001 (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a  
1002 lessee of a commercial energy system installed on a commercial unit may claim a tax credit  
1003 under this Subsection (3) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably~~  
1004 ~~elects not to claim the tax credit]~~ obtains a written certification from the office in accordance  
1005 with Subsection (6).

1006 (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax  
1007 credit under this Subsection (3) only the principal recovery portion of the lease payments.

1008 (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit  
1009 under this Subsection (3) for a period that does not exceed seven taxable years after the ~~[date]~~  
1010 day on which the lease begins, as stated in the lease agreement.

1011 (4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust  
1012 may claim a refundable tax credit under this Subsection (4) with respect to a commercial  
1013 energy system if:

1014 (i) (A) the commercial energy system uses wind, geothermal electricity, or biomass  
1015 equipment capable of producing a total of 660 or more kilowatts of electricity; or

1016 (B) the commercial energy system uses solar equipment capable of producing a total of  
1017 2,000 or more kilowatts of electricity;

1018 (ii) (A) the commercial energy system supplies all or part of the energy required by  
1019 commercial units owned or used by the claimant, estate, or trust; or

1020 (B) the claimant, estate, or trust sells all or part of the energy produced by the  
1021 commercial energy system as a commercial enterprise; and

1022 [~~(iii) the commercial energy system is completed and placed in service on or after~~  
1023 ~~January 1, 2007; and]~~

1024 (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under  
1025 Subsection (5) or Subsection 59-10-1014(4) for fuel cell use or hydrogen production using  
1026 electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4);  
1027 and

1028 (iv) the claimant, estate, or trust obtains a written certification from the office in  
1029 accordance with Subsection (6).

1030 (b) (i) Subject to [~~Subsections~~] Subsection (4)(b)(ii) [~~and (iii)~~], a tax credit under this  
1031 Subsection (4) is equal to the product of:

1032 (A) 0.35 cents; and

1033 (B) the kilowatt hours of electricity produced and used or sold during the taxable year.

1034 (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4)  
1035 [~~may be claimed~~] for production occurring during a period of 48 months beginning with the  
1036 month in which the commercial energy system is placed in commercial service.

1037 [~~(iii) A tax credit under this Subsection (4) may not be carried forward or back.~~]

1038 (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed  
1039 on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or  
1040 trust [~~confirms that the lessor irrevocably elects not to claim the tax credit~~] obtains a written  
1041 certification from the office in accordance with Subsection (6).

1042 [~~(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust~~  
1043 ~~may claim a refundable tax credit as provided in this Subsection (5) if:~~]

1044 [~~(i) the claimant, estate, or trust owns a commercial energy system that uses solar~~  
1045 ~~equipment capable of producing a total of 660 or more kilowatts of electricity;~~]

1046 [~~(ii) (A) the commercial energy system supplies all or part of the energy required by~~  
1047 ~~commercial units owned or used by the claimant, estate, or trust; or]~~

1048 [~~(B) the claimant, estate, or trust sells all or part of the energy produced by the~~

1049 ~~commercial energy system as a commercial enterprise;]~~  
1050 ~~[(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);]~~  
1051 ~~[(iv) the commercial energy system is completed and placed in service on or after~~  
1052 ~~January 1, 2015; and]~~  
1053 ~~[(v) the claimant, estate, or trust obtains a written certification from the office in~~  
1054 ~~accordance with Subsection (6).]~~  
1055 ~~[(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)~~  
1056 ~~is equal to the product of:]~~  
1057 ~~[(A) 0.35 cents; and]~~  
1058 ~~[(B) the kilowatt hours of electricity produced and used or sold during the taxable~~  
1059 ~~year.]~~  
1060 ~~[(ii) A tax credit under this Subsection (5) may be claimed for production occurring~~  
1061 ~~during a period of 48 months beginning with the month in which the commercial energy~~  
1062 ~~system is placed in commercial service.]~~  
1063 ~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~  
1064 ~~[(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed~~  
1065 ~~on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or~~  
1066 ~~trust confirms that the lessor irrevocably elects not to claim the tax credit.]~~  
1067 (5) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this  
1068 Subsection (5) if:  
1069 (i) the claimant, estate, or trust owns a hydrogen production system;  
1070 (ii) the hydrogen production system is completed and placed in service on or after  
1071 January 1, 2022;  
1072 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the  
1073 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the  
1074 hydrogen production system for use in:  
1075 (A) a vehicle; or  
1076 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or  
1077 less;  
1078 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under  
1079 Subsection (3), (4), or [59-10-1014\(4\)](#) or Section [59-10-1113](#) for electricity or hydrogen used to

1080 meet the requirements of this Subsection (5); and

1081 (v) the claimant, estate, or trust obtains a written certification from the office in  
1082 accordance with Subsection (6).

1083 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)  
1084 is equal to the product of:

1085 (A) \$2.34; and

1086 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the  
1087 taxable year.

1088 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (5) for  
1089 more than 365 metric tons of hydrogen per taxable year.

1090 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)  
1091 for production occurring during a period of 48 months beginning with the month in which the  
1092 hydrogen production system is placed in commercial service.

1093 (c) (i) Subject to Subsections (5)(c)(ii) and (iii), a claimant, estate, or trust that is a  
1094 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit  
1095 under this Subsection (5) if the lessee obtains a written certification from the office in  
1096 accordance with Subsection (6).

1097 (ii) A claimant, estate, or trust described in Subsection (5)(c)(i) may claim as a tax  
1098 credit under this Subsection (5) only the principal recovery portion of the lease payments.

1099 (iii) A claimant, estate, or trust described in Subsection (5)(c)(i) may claim a tax credit  
1100 under this Subsection (5) for a period that does not exceed seven taxable years after the day on  
1101 which the lease begins, as stated in the lease agreement.

1102 (6) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit  
1103 under this section, the claimant, estate, or trust shall obtain a written certification from the  
1104 office.

1105 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written  
1106 certification if the office determines that:

1107 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax  
1108 credit; and

1109 (ii) ~~[the office determines that]~~ the commercial energy system or the hydrogen  
1110 production system with respect to which the claimant, estate, or trust seeks to claim a tax

1111 credit:

1112 (A) has been completely installed;

1113 (B) is a viable system for saving or producing energy from renewable resources; and

1114 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial  
1115 energy system or the hydrogen production system uses the state's renewable and nonrenewable  
1116 resources in an appropriate and economic manner.

1117 (c) The office shall issue a claimant, estate, or trust that is a lessee a written  
1118 certification if the office receives:

1119 (i) a copy of the lessor's written certification or other proof, in a form established by the  
1120 office, that the lessor qualified for a tax credit under this section; and

1121 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the  
1122 lessor qualified.

1123 ~~[(c)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1124 Act, the office may make rules:

1125 (i) for determining whether a commercial energy system or a hydrogen production  
1126 system meets the requirements of Subsection (6)(b)(ii); and

1127 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs  
1128 of a commercial energy system, as an amount per unit of energy production.

1129 ~~[(d)]~~ (e) A claimant, estate, or trust, including a lessee, that obtains a written  
1130 certification from the office shall retain the certification for the same time period a person is  
1131 required to keep books and records under Section [59-1-1406](#).

1132 (f) The office shall submit to the commission an electronic list that includes:

1133 (i) the name and identifying information of each claimant, estate, trust, or lessee to  
1134 which the office issues a written certification; and

1135 (ii) for each claimant, estate, trust, or lessee:

1136 (A) the amount of the tax credit listed on the written certification; and

1137 (B) the date the commercial energy system or the hydrogen production system was  
1138 installed.

1139 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1140 commission may make rules to address the certification of a tax credit under this section.

1141 (8) A tax credit under this section is in addition to any tax credits provided under the

1142 laws or rules and regulations of the United States.

1143 (9) A purchaser of one or more solar units that claims a tax credit under Section  
1144 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
1145 section for that purchase.

1146 Section 9. Section **59-10-1113** is enacted to read:

1147 **59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.**

1148 (1) As used in this section:

1149 (a) "Commercial enterprise" means the same as that term is defined in Section  
1150 [59-7-626](#).

1151 (b) "Commercial unit" means the same as that term is defined in Section [59-7-626](#).

1152 (c) "Hydrogen production system" means the same as that term is defined in Section  
1153 [59-7-626](#).

1154 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1155 (2) (a) A claimant, estate, or trust may claim a refundable credit under this section if:

1156 (i) the claimant, estate, or trust owns a hydrogen production system;

1157 (ii) the hydrogen production system is completed and placed in service on or after  
1158 January 1, 2022;

1159 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the  
1160 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the  
1161 hydrogen production system for use in:

1162 (A) a vehicle; or

1163 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or  
1164 less;

1165 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under  
1166 Section [59-10-1014](#) or [59-10-1106](#) for electricity or hydrogen used to meet the requirements of  
1167 this section; and

1168 (v) the taxpayer obtains a written certification from the office in accordance with  
1169 Subsection (3).

1170 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal  
1171 to the product of:

1172 (A) \$2.34; and

1173 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the  
1174 taxable year.

1175 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more  
1176 than 365 metric tons of hydrogen per taxable year.

1177 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for  
1178 production occurring during a period of 48 months beginning with the month in which the  
1179 hydrogen production system is placed in commercial service.

1180 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a claimant, estate, or trust that is a  
1181 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit  
1182 under this section if the lessee obtains a written certification from the office in accordance with  
1183 Subsection (3).

1184 (ii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim as a tax  
1185 credit under this section only the principal recovery portion of the lease payments.

1186 (iii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim a tax credit  
1187 under this section for a period that does not exceed seven taxable years after the day on which  
1188 the lease begins, as stated in the lease agreement.

1189 (3) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit  
1190 under this section, the claimant, estate, or trust shall obtain a written certification from the  
1191 office.

1192 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written  
1193 certification if the office determines that:

1194 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax  
1195 credit; and

1196 (ii) the hydrogen production system with respect to which the claimant, estate, or trust  
1197 seeks to claim a tax credit:

1198 (A) has been completely installed;

1199 (B) is safe, reliable, efficient, and technically feasible to ensure that the  
1200 hydrogen production system uses the state's nonrenewable energy resources in an  
1201 appropriate and economic manner.

1202 (c) The office shall issue a claimant, estate, or trust that is a lessee a written  
1203 certification if the office receives:

1204 (i) a copy of the lessor's written certification or other proof, in a form established by the  
1205 office, that the lessor qualified for a tax credit under this section; and

1206 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the  
1207 lessor qualified.

1208 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1209 Act, the office may make rules for determining whether a hydrogen production system  
1210 meets the requirements of this Subsection (3)(b)(ii).

1211 (e) A claimant, estate, or trust, including a lessee, that obtains a written certification  
1212 from the office shall retain the certification for the same time period a person is required to  
1213 keep books and records under Section 59-1-1406.

1214 (f) The office shall submit to the commission an electronic list that includes:

1215 (i) the name and identifying information of each claimant, estate, trust, or lessee to  
1216 which the office issues a written certification; and

1217 (ii) for each claimant, estate, trust, or lessee:

1218 (A) the amount of the tax credit listed on the written certification; and

1219 (B) the date the hydrogen production system was installed.

1220 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1221 Act, the commission may make rules to address the certification of a tax credit under  
1222 this section.

1223 (5) A tax credit under this section is in addition to any tax credits provided under the  
1224 laws or rules and regulations of the United States.

1225 Section 10. Section **59-12-102** is amended to read:

1226 **59-12-102. Definitions.**

1227 As used in this chapter:

1228 (1) "800 service" means a telecommunications service that:

1229 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1230 (b) is typically marketed:

1231 (i) under the name 800 toll-free calling;

1232 (ii) under the name 855 toll-free calling;

1233 (iii) under the name 866 toll-free calling;

1234 (iv) under the name 877 toll-free calling;



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

1266 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
1267 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
1268 Agreement after November 12, 2002.

1269 (6) "Agreement combined tax rate" means the sum of the tax rates:

1270 (a) listed under Subsection (7); and

1271 (b) that are imposed within a local taxing jurisdiction.

1272 (7) "Agreement sales and use tax" means a tax imposed under:

1273 (a) Subsection 59-12-103(2)(a)(i)(A);

1274 (b) Subsection 59-12-103(2)(b)(i);

1275 (c) Subsection 59-12-103(2)(c)(i);

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

1277 (e) Section 59-12-204;

1278 (f) Section 59-12-401;

1279 (g) Section 59-12-402;

1280 (h) Section 59-12-402.1;

1281 (i) Section 59-12-703;

1282 (j) Section 59-12-802;

1283 (k) Section 59-12-804;

1284 (l) Section 59-12-1102;

1285 (m) Section 59-12-1302;

1286 (n) Section 59-12-1402;

1287 (o) Section 59-12-1802;

1288 (p) Section 59-12-2003;

1289 (q) Section 59-12-2103;

1290 (r) Section 59-12-2213;

1291 (s) Section 59-12-2214;

1292 (t) Section 59-12-2215;

1293 (u) Section 59-12-2216;

1294 (v) Section 59-12-2217;

1295 (w) Section 59-12-2218;

1296 (x) Section 59-12-2219; or

- 1297 (y) Section 59-12-2220.
- 1298 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 1299 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1300 (a) except for:
- 1301 (i) an airline as defined in Section 59-2-102; or
- 1302 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1303 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1304 state, of an airline; and
- 1305 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1306 whether the business entity performs the following in this state:
- 1307 (i) check, diagnose, overhaul, and repair:
- 1308 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1309 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1310 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1311 engine;
- 1312 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1313 aircraft:
- 1314 (A) an inspection;
- 1315 (B) a repair, including a structural repair or modification;
- 1316 (C) changing landing gear; and
- 1317 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1318 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1319 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1320 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1321 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1322 authority that certifies the fixed wing turbine powered aircraft.
- 1323 (10) "Alcoholic beverage" means a beverage that:
- 1324 (a) is suitable for human consumption; and
- 1325 (b) contains .5% or more alcohol by volume.
- 1326 (11) "Alternative energy" means:
- 1327 (a) biomass energy;

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

1359 (v) a voice mail service.

1360 (14) "Area agency on aging" means the same as that term is defined in Section

1361 62A-3-101.

1362 (15) "Assisted amusement device" means an amusement device, skill device, or ride

1363 device that is started and stopped by an individual:

1364 (a) who is not the purchaser or renter of the right to use or operate the amusement

1365 device, skill device, or ride device; and

1366 (b) at the direction of the seller of the right to use the amusement device, skill device,

1367 or ride device.

1368 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or

1369 washing of tangible personal property if the cleaning or washing labor is primarily performed

1370 by an individual:

1371 (a) who is not the purchaser of the cleaning or washing of the tangible personal

1372 property; and

1373 (b) at the direction of the seller of the cleaning or washing of the tangible personal

1374 property.

1375 (17) "Authorized carrier" means:

1376 (a) in the case of vehicles operated over public highways, the holder of credentials

1377 indicating that the vehicle is or will be operated pursuant to both the International Registration

1378 Plan and the International Fuel Tax Agreement;

1379 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

1380 certificate or air carrier's operating certificate; or

1381 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

1382 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling

1383 stock in more than one state.

1384 (18) (a) [~~Except as provided in Subsection (18)(b), "biomass]~~ "Biomass energy" means

1385 any of the following that is used as the primary source of energy to produce fuel or electricity:

1386 (i) material from a plant or tree; or

1387 (ii) other organic matter that is available on a renewable basis, including:

1388 (A) slash and brush from forests and woodlands;

1389 (B) animal waste;

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

1421 (A) seller's purchase price of the tangible personal property or product subject to  
1422 taxation under this chapter is de minimis; or

1423 (B) seller's sales price of the tangible personal property or product subject to taxation  
1424 under this chapter is de minimis; and

1425 (vii) the retail sale of tangible personal property that is not subject to taxation under  
1426 this chapter and tangible personal property that is subject to taxation under this chapter if:

1427 (A) that retail sale includes:

1428 (I) food and food ingredients;

1429 (II) a drug;

1430 (III) durable medical equipment;

1431 (IV) mobility enhancing equipment;

1432 (V) an over-the-counter drug;

1433 (VI) a prosthetic device; or

1434 (VII) a medical supply; and

1435 (B) subject to Subsection (19)(f):

1436 (I) the seller's purchase price of the tangible personal property subject to taxation under  
1437 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1438 (II) the seller's sales price of the tangible personal property subject to taxation under  
1439 this chapter is 50% or less of the seller's total sales price of that retail sale.

1440 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a  
1441 service that is distinct and identifiable does not include:

1442 (A) packaging that:

1443 (I) accompanies the sale of the tangible personal property, product, or service; and

1444 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
1445 service;

1446 (B) tangible personal property, a product, or a service provided free of charge with the  
1447 purchase of another item of tangible personal property, a product, or a service; or

1448 (C) an item of tangible personal property, a product, or a service included in the  
1449 definition of "purchase price."

1450 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
1451 product, or a service is provided free of charge with the purchase of another item of tangible

1452 personal property, a product, or a service if the sales price of the purchased item of tangible  
1453 personal property, product, or service does not vary depending on the inclusion of the tangible  
1454 personal property, product, or service provided free of charge.

1455 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
1456 does not include a price that is separately identified by tangible personal property, product, or  
1457 service on the following, regardless of whether the following is in paper format or electronic  
1458 format:

1459 (A) a binding sales document; or

1460 (B) another supporting sales-related document that is available to a purchaser.

1461 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
1462 supporting sales-related document that is available to a purchaser includes:

1463 (A) a bill of sale;

1464 (B) a contract;

1465 (C) an invoice;

1466 (D) a lease agreement;

1467 (E) a periodic notice of rates and services;

1468 (F) a price list;

1469 (G) a rate card;

1470 (H) a receipt; or

1471 (I) a service agreement.

1472 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
1473 property or a product subject to taxation under this chapter is de minimis if:

1474 (A) the seller's purchase price of the tangible personal property or product is 10% or  
1475 less of the seller's total purchase price of the bundled transaction; or

1476 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
1477 the seller's total sales price of the bundled transaction.

1478 (ii) For purposes of Subsection (19)(b)(vi), a seller:

1479 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
1480 purchase price or sales price of the tangible personal property or product subject to taxation  
1481 under this chapter is de minimis; and

1482 (B) may not use a combination of the seller's purchase price and the seller's sales price



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

1485 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
1486 contract to determine if the sales price of tangible personal property or a product is de minimis.

1487 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
1488 the seller's purchase price and the seller's sales price to determine if tangible personal property  
1489 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
1490 price of that retail sale.

1491 (20) "Certified automated system" means software certified by the governing board of  
1492 the agreement that:

1493 (a) calculates the agreement sales and use tax imposed within a local taxing  
1494 jurisdiction:

1495 (i) on a transaction; and

1496 (ii) in the states that are members of the agreement;

1497 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
1498 member of the agreement; and

1499 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

1500 (21) "Certified service provider" means an agent certified:

1501 (a) by the governing board of the agreement; and

1502 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
1503 as outlined in the contract between the governing board of the agreement and the certified  
1504 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
1505 seller's own purchases.

1506 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
1507 suitable for general use.

1508 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1509 commission shall make rules:

1510 (i) listing the items that constitute "clothing"; and

1511 (ii) that are consistent with the list of items that constitute "clothing" under the  
1512 agreement.

1513 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1514 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, hydrogen,  
1515 or other fuels that does not constitute industrial use under Subsection (57) or residential use  
1516 under Subsection (112).

1517 (25) (a) "Common carrier" means a person engaged in or transacting the business of  
1518 transporting passengers, freight, merchandise, or other property for hire within this state.

1519 (b) (i) "Common carrier" does not include a person that, at the time the person is  
1520 traveling to or from that person's place of employment, transports a passenger to or from the  
1521 passenger's place of employment.

1522 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
1523 Utah Administrative Rulemaking Act, the commission may make rules defining what  
1524 constitutes a person's place of employment.

1525 (c) "Common carrier" does not include a person that provides transportation network  
1526 services, as defined in Section [13-51-102](#).

1527 (26) "Component part" includes:

1528 (a) poultry, dairy, and other livestock feed, and their components;

1529 (b) baling ties and twine used in the baling of hay and straw;

1530 (c) fuel used for providing temperature control of orchards and commercial  
1531 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
1532 off-highway type farm machinery; and

1533 (d) feed, seeds, and seedlings.

1534 (27) "Computer" means an electronic device that accepts information:

1535 (a) (i) in digital form; or

1536 (ii) in a form similar to digital form; and

1537 (b) manipulates that information for a result based on a sequence of instructions.

1538 (28) "Computer software" means a set of coded instructions designed to cause:

1539 (a) a computer to perform a task; or

1540 (b) automatic data processing equipment to perform a task.

1541 (29) "Computer software maintenance contract" means a contract that obligates a seller  
1542 of computer software to provide a customer with:

1543 (a) future updates or upgrades to computer software;

1544 (b) support services with respect to computer software; or

1545 (c) a combination of Subsections (29)(a) and (b).

1546 (30) (a) "Conference bridging service" means an ancillary service that links two or  
1547 more participants of an audio conference call or video conference call.

1548 (b) "Conference bridging service" may include providing a telephone number as part of  
1549 the ancillary service described in Subsection (30)(a).

1550 (c) "Conference bridging service" does not include a telecommunications service used  
1551 to reach the ancillary service described in Subsection (30)(a).

1552 (31) "Construction materials" means any tangible personal property that will be  
1553 converted into real property.

1554 (32) "Delivered electronically" means delivered to a purchaser by means other than  
1555 tangible storage media.

1556 (33) (a) "Delivery charge" means a charge:

1557 (i) by a seller of:

1558 (A) tangible personal property;

1559 (B) a product transferred electronically; or

1560 (C) a service; and

1561 (ii) for preparation and delivery of the tangible personal property, product transferred  
1562 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
1563 purchaser.

1564 (b) "Delivery charge" includes a charge for the following:

1565 (i) transportation;

1566 (ii) shipping;

1567 (iii) postage;

1568 (iv) handling;

1569 (v) crating; or

1570 (vi) packing.

1571 (34) "Detailed telecommunications billing service" means an ancillary service of  
1572 separately stating information pertaining to individual calls on a customer's billing statement.

1573 (35) "Dietary supplement" means a product, other than tobacco, that:

1574 (a) is intended to supplement the diet;

1575 (b) contains one or more of the following dietary ingredients:

- 1576 (i) a vitamin;
- 1577 (ii) a mineral;
- 1578 (iii) an herb or other botanical;
- 1579 (iv) an amino acid;
- 1580 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1581 dietary intake; or
- 1582 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1583 described in Subsections (35)(b)(i) through (v);
- 1584 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 1585 (A) tablet form;
- 1586 (B) capsule form;
- 1587 (C) powder form;
- 1588 (D) softgel form;
- 1589 (E) gelcap form; or
- 1590 (F) liquid form; or
- 1591 (ii) if the product is not intended for ingestion in a form described in Subsections
- 1592 (35)(c)(i)(A) through (F), is not represented:
- 1593 (A) as conventional food; and
- 1594 (B) for use as a sole item of:
- 1595 (I) a meal; or
- 1596 (II) the diet; and
- 1597 (d) is required to be labeled as a dietary supplement:
- 1598 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1599 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1600 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 1601 musical, spoken, or other sounds.
- 1602 (b) "Digital audio work" includes a ringtone.
- 1603 (37) "Digital audio-visual work" means a series of related images which, when shown
- 1604 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 1605 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
- 1606 sense as a book.

1607 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
1608 mail or other delivery service:

1609 (i) to:

1610 (A) a mass audience; or

1611 (B) addressees on a mailing list provided:

1612 (I) by a purchaser of the mailing list; or

1613 (II) at the discretion of the purchaser of the mailing list; and

1614 (ii) if the cost of the printed material is not billed directly to the recipients.

1615 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
1616 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1617 (c) "Direct mail" does not include multiple items of printed material delivered to a  
1618 single address.

1619 (40) "Directory assistance" means an ancillary service of providing:

1620 (a) address information; or

1621 (b) telephone number information.

1622 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
1623 or supplies that:

1624 (i) cannot withstand repeated use; and

1625 (ii) are purchased by, for, or on behalf of a person other than:

1626 (A) a health care facility as defined in Section 26-21-2;

1627 (B) a health care provider as defined in Section 78B-3-403;

1628 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

1629 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

1630 (b) "Disposable home medical equipment or supplies" does not include:

1631 (i) a drug;

1632 (ii) durable medical equipment;

1633 (iii) a hearing aid;

1634 (iv) a hearing aid accessory;

1635 (v) mobility enhancing equipment; or

1636 (vi) tangible personal property used to correct impaired vision, including:

1637 (A) eyeglasses; or

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

- 1669 (iv) a prosthetic device.
- 1670 (44) (a) [~~Except as provided in Subsection (44)(c), "durable"~~] "Durable medical  
1671 equipment" means equipment that:
- 1672 (i) can withstand repeated use;
- 1673 (ii) is primarily and customarily used to serve a medical purpose;
- 1674 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1675 (iv) is not worn in or on the body.
- 1676 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
1677 equipment described in Subsection (44)(a).
- 1678 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1679 (45) "Electronic" means:
- 1680 (a) relating to technology; and
- 1681 (b) having:
- 1682 (i) electrical capabilities;
- 1683 (ii) digital capabilities;
- 1684 (iii) magnetic capabilities;
- 1685 (iv) wireless capabilities;
- 1686 (v) optical capabilities;
- 1687 (vi) electromagnetic capabilities; or
- 1688 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 1689 (46) "Electronic financial payment service" means an establishment:
- 1690 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
1691 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
1692 federal Executive Office of the President, Office of Management and Budget; and
- 1693 (b) that performs electronic financial payment services.
- 1694 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1695 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 1696 (a) rail for the use of public transit; or
- 1697 (b) a separate right-of-way for the use of public transit.
- 1698 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1699 (a) is powered by turbine engines;

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



1731 means a school activity:

1732 (i) that is conducted in accordance with a formal policy adopted by the school or school  
1733 district governing the authorization and supervision of fundraising activities;

1734 (ii) that does not directly or indirectly compensate an individual teacher or other  
1735 educational personnel by direct payment, commissions, or payment in kind; and

1736 (iii) the net or gross revenues from which are deposited in a dedicated account  
1737 controlled by the school or school district.

1738 (53) "Geothermal energy" means energy contained in heat that continuously flows  
1739 outward from the earth that is used as the sole source of energy to produce electricity.

1740 (54) "Governing board of the agreement" means the governing board of the agreement  
1741 that is:

1742 (a) authorized to administer the agreement; and

1743 (b) established in accordance with the agreement.

1744 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1745 (i) the executive branch of the state, including all departments, institutions, boards,  
1746 divisions, bureaus, offices, commissions, and committees;

1747 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
1748 Administrative Office of the Courts, and similar administrative units in the judicial branch;

1749 (iii) the legislative branch of the state, including the House of Representatives, the  
1750 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
1751 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
1752 Analyst;

1753 (iv) the National Guard;

1754 (v) an independent entity as defined in Section 63E-1-102; or

1755 (vi) a political subdivision as defined in Section 17B-1-102.

1756 (b) "Governmental entity" does not include the state systems of public and higher  
1757 education, including:

1758 (i) a school;

1759 (ii) the State Board of Education;

1760 (iii) the Utah Board of Higher Education; or

1761 (iv) an institution of higher education described in Section 53B-1-102.

1762 (56) "Hydroelectric energy" means water used as the sole source of energy to produce  
1763 electricity.

1764 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
1765 hydrogen, or other fuels:

1766 (a) in mining or extraction of minerals;

1767 (b) in agricultural operations to produce an agricultural product up to the time of  
1768 harvest or placing the agricultural product into a storage facility, including:

1769 (i) commercial greenhouses;

1770 (ii) irrigation pumps;

1771 (iii) farm machinery;

1772 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
1773 under Title 41, Chapter 1a, Part 2, Registration; and

1774 (v) other farming activities;

1775 (c) in manufacturing tangible personal property at an establishment described in:

1776 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
1777 the federal Executive Office of the President, Office of Management and Budget; or

1778 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
1779 American Industry Classification System of the federal Executive Office of the President,  
1780 Office of Management and Budget;

1781 (d) by a scrap recycler if:

1782 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1783 one or more of the following items into prepared grades of processed materials for use in new  
1784 products:

1785 (A) iron;

1786 (B) steel;

1787 (C) nonferrous metal;

1788 (D) paper;

1789 (E) glass;

1790 (F) plastic;

1791 (G) textile; or

1792 (H) rubber; and

1793 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
1794 nonrecycled materials; or

1795 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
1796 cogeneration facility as defined in Section 54-2-1.

1797 (58) (a) [~~Except as provided in Subsection (58)(b), "installation~~] "Installation charge"  
1798 means a charge for installing:

1799 (i) tangible personal property; or

1800 (ii) a product transferred electronically.

1801 (b) "Installation charge" does not include a charge for:

1802 (i) repairs or renovations of:

1803 (A) tangible personal property; or

1804 (B) a product transferred electronically; or

1805 (ii) attaching tangible personal property or a product transferred electronically:

1806 (A) to other tangible personal property; and

1807 (B) as part of a manufacturing or fabrication process.

1808 (59) "Institution of higher education" means an institution of higher education listed in  
1809 Section 53B-2-101.

1810 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
1811 personal property or a product transferred electronically for:

1812 (i) (A) a fixed term; or

1813 (B) an indeterminate term; and

1814 (ii) consideration.

1815 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
1816 amount of consideration may be increased or decreased by reference to the amount realized  
1817 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
1818 Code.

1819 (c) "Lease" or "rental" does not include:

1820 (i) a transfer of possession or control of property under a security agreement or  
1821 deferred payment plan that requires the transfer of title upon completion of the required  
1822 payments;

1823 (ii) a transfer of possession or control of property under an agreement that requires the

- 1824 transfer of title:
- 1825 (A) upon completion of required payments; and
- 1826 (B) if the payment of an option price does not exceed the greater of:
- 1827 (I) \$100; or
- 1828 (II) 1% of the total required payments; or
- 1829 (iii) providing tangible personal property along with an operator for a fixed period of
- 1830 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 1831 designed.
- 1832 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
- 1833 perform as designed if the operator's duties exceed the:
- 1834 (i) set-up of tangible personal property;
- 1835 (ii) maintenance of tangible personal property; or
- 1836 (iii) inspection of tangible personal property.
- 1837 (61) "Lesson" means a fixed period of time for the duration of which a trained
- 1838 instructor:
- 1839 (a) is present with a student in person or by video; and
- 1840 (b) actively instructs the student, including by providing observation or feedback.
- 1841 (62) "Life science establishment" means an establishment in this state that is classified
- 1842 under the following NAICS codes of the 2007 North American Industry Classification System
- 1843 of the federal Executive Office of the President, Office of Management and Budget:
- 1844 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 1845 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 1846 Manufacturing; or
- 1847 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 1848 (63) "Life science research and development facility" means a facility owned, leased,
- 1849 or rented by a life science establishment if research and development is performed in 51% or
- 1850 more of the total area of the facility.
- 1851 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 1852 if the tangible storage media is not physically transferred to the purchaser.
- 1853 (65) "Local taxing jurisdiction" means a:
- 1854 (a) county that is authorized to impose an agreement sales and use tax;

- 1855 (b) city that is authorized to impose an agreement sales and use tax; or  
1856 (c) town that is authorized to impose an agreement sales and use tax.  
1857 (66) "Manufactured home" means the same as that term is defined in Section  
1858 [15A-1-302](#).  
1859 (67) "Manufacturing facility" means:  
1860 (a) an establishment described in:  
1861 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
1862 the federal Executive Office of the President, Office of Management and Budget; or  
1863 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
1864 American Industry Classification System of the federal Executive Office of the President,  
1865 Office of Management and Budget;  
1866 (b) a scrap recycler if:  
1867 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
1868 one or more of the following items into prepared grades of processed materials for use in new  
1869 products:  
1870 (A) iron;  
1871 (B) steel;  
1872 (C) nonferrous metal;  
1873 (D) paper;  
1874 (E) glass;  
1875 (F) plastic;  
1876 (G) textile; or  
1877 (H) rubber; and  
1878 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with  
1879 nonrecycled materials; or  
1880 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is  
1881 placed in service on or after May 1, 2006.  
1882 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
1883 tangible personal property, a product transferred electronically, or a service is offered for sale.  
1884 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
1885 dedicated sales software application.

1886 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
1887 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
1888 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
1889 controls and that directly or indirectly:

1890 (i) does any of the following:

1891 (A) lists, makes available, or advertises tangible personal property, a product  
1892 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
1893 person owns, operates, or controls;

1894 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
1895 transferred electronically, or service by transmitting or otherwise communicating an offer or  
1896 acceptance of a retail sale between the marketplace seller and a purchaser using the  
1897 marketplace;

1898 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
1899 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
1900 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
1901 property, a product transferred electronically, or a service;

1902 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
1903 personal property, a product transferred electronically, or a service, regardless of ownership or  
1904 control of the tangible personal property, the product transferred electronically, or the service  
1905 that is the subject of the retail sale;

1906 (E) provides software development or research and development activities related to  
1907 any activity described in this Subsection (69)(a)(i), if the software development or research and  
1908 development activity is directly related to the person's marketplace;

1909 (F) provides or offers fulfillment or storage services for a marketplace seller;

1910 (G) sets prices for the sale of tangible personal property, a product transferred  
1911 electronically, or a service by a marketplace seller;

1912 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
1913 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
1914 property, a product transferred electronically, or a service sold by a marketplace seller on the  
1915 person's marketplace; or

1916 (I) brands or otherwise identifies sales as those of the person; and

1917 (ii) does any of the following:

1918 (A) collects the sales price or purchase price of a retail sale of tangible personal  
1919 property, a product transferred electronically, or a service;

1920 (B) provides payment processing services for a retail sale of tangible personal property,  
1921 a product transferred electronically, or a service;

1922 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
1923 fee, a fee for inserting or making available tangible personal property, a product transferred  
1924 electronically, or a service on the person's marketplace, or other consideration for the  
1925 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
1926 a service, regardless of ownership or control of the tangible personal property, the product  
1927 transferred electronically, or the service that is the subject of the retail sale;

1928 (D) through terms and conditions, an agreement, or another arrangement with a third  
1929 person, collects payment from a purchase for a retail sale of tangible personal property, a  
1930 product transferred electronically, or a service and transmits that payment to the marketplace  
1931 seller, regardless of whether the third person receives compensation or other consideration in  
1932 exchange for the service; or

1933 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
1934 property, a product transferred electronically, or service offered for sale.

1935 (b) "Marketplace facilitator" does not include:

1936 (i) a person that only provides payment processing services; or

1937 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a  
1938 sale for a seller that is a restaurant as defined in Section [59-12-602](#).

1939 (70) "Marketplace seller" means a seller that makes one or more retail sales through a  
1940 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
1941 seller is required to be registered to collect and remit the tax under this part.

1942 (71) "Member of the immediate family of the producer" means a person who is related  
1943 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

1944 (a) child or stepchild, regardless of whether the child or stepchild is:

1945 (i) an adopted child or adopted stepchild; or

1946 (ii) a foster child or foster stepchild;

1947 (b) grandchild or stepgrandchild;

- 1948 (c) grandparent or stepgrandparent;
- 1949 (d) nephew or stepnephew;
- 1950 (e) niece or stepniece;
- 1951 (f) parent or stepparent;
- 1952 (g) sibling or stepsibling;
- 1953 (h) spouse;
- 1954 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);
- 1955 or
- 1956 (j) person similar to a person described in Subsections (71)(a) through (i) as
- 1957 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1958 Administrative Rulemaking Act.
- 1959 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).
- 1960 (73) "Mobile telecommunications service" means the same as that term is defined in
- 1961 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1962 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 1963 the technology used, if:
- 1964 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1965 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1966 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
- 1967 described in Subsection (74)(a)(ii) are not fixed.
- 1968 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 1969 by a commercial mobile radio service provider.
- 1970 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1971 commission may by rule define "commercial mobile radio service provider."
- 1972 (75) (a) [~~Except as provided in Subsection (75)(c), "mobility"~~] "Mobility enhancing
- 1973 equipment" means equipment that is:
- 1974 (i) primarily and customarily used to provide or increase the ability to move from one
- 1975 place to another;
- 1976 (ii) appropriate for use in a:
- 1977 (A) home; or
- 1978 (B) motor vehicle; and



- 1979 (iii) not generally used by persons with normal mobility.
- 1980 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
1981 the equipment described in Subsection (75)(a).
- 1982 (c) "Mobility enhancing equipment" does not include:
- 1983 (i) a motor vehicle;
- 1984 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
1985 vehicle manufacturer;
- 1986 (iii) durable medical equipment; or
- 1987 (iv) a prosthetic device.
- 1988 (76) "Model 1 seller" means a seller registered under the agreement that has selected a  
1989 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
1990 for agreement sales and use taxes, as outlined in the contract between the governing board of  
1991 the agreement and the certified service provider, other than the seller's obligation under Section  
1992 [59-12-124](#) to remit a tax on the seller's own purchases.
- 1993 (77) "Model 2 seller" means a seller registered under the agreement that:
- 1994 (a) except as provided in Subsection (77)(b), has selected a certified automated system  
1995 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 1996 (b) retains responsibility for remitting all of the sales tax:
- 1997 (i) collected by the seller; and
- 1998 (ii) to the appropriate local taxing jurisdiction.
- 1999 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under  
2000 the agreement that has:
- 2001 (i) sales in at least five states that are members of the agreement;
- 2002 (ii) total annual sales revenues of at least \$500,000,000;
- 2003 (iii) a proprietary system that calculates the amount of tax:
- 2004 (A) for an agreement sales and use tax; and
- 2005 (B) due to each local taxing jurisdiction; and
- 2006 (iv) entered into a performance agreement with the governing board of the agreement.
- 2007 (b) [~~For purposes of Subsection (78)(a), "model~~] "Model 3 seller" includes an affiliated  
2008 group of sellers using the same proprietary system.
- 2009 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a

2010 model 1 seller, model 2 seller, or model 3 seller.

2011 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2012 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

2013 (82) "Oil sands" means impregnated bituminous sands that:

2014 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
2015 other hydrocarbons, or otherwise treated;

2016 (b) yield mixtures of liquid hydrocarbon; and

2017 (c) require further processing other than mechanical blending before becoming finished  
2018 petroleum products.

2019 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
2020 material that yields petroleum upon heating and distillation.

2021 (84) "Optional computer software maintenance contract" means a computer software  
2022 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
2023 sale of computer software.

2024 (85) (a) "Other fuels" means products that burn independently to produce heat or  
2025 energy.

2026 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
2027 personal property.

2028 (86) (a) "Paging service" means a telecommunications service that provides  
2029 transmission of a coded radio signal for the purpose of activating a specific pager.

2030 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal  
2031 includes a transmission by message or sound.

2032 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2033 [~~(87)~~] (88) "Pawnbroker" means the same as that term is defined in Section  
2034 [13-32a-102](#).

2035 [~~(88) "Pawn transaction" means the same as that term is defined in Section~~  
2036 ~~[13-32a-102](#).]~~

2037 (89) (a) "Permanently attached to real property" means that for tangible personal  
2038 property attached to real property:

2039 (i) the attachment of the tangible personal property to the real property:

2040 (A) is essential to the use of the tangible personal property; and

2041 (B) suggests that the tangible personal property will remain attached to the real  
2042 property in the same place over the useful life of the tangible personal property; or  
2043 (ii) if the tangible personal property is detached from the real property, the detachment  
2044 would:  
2045 (A) cause substantial damage to the tangible personal property; or  
2046 (B) require substantial alteration or repair of the real property to which the tangible  
2047 personal property is attached.  
2048 (b) "Permanently attached to real property" includes:  
2049 (i) the attachment of an accessory to the tangible personal property if the accessory is:  
2050 (A) essential to the operation of the tangible personal property; and  
2051 (B) attached only to facilitate the operation of the tangible personal property;  
2052 (ii) a temporary detachment of tangible personal property from real property for a  
2053 repair or renovation if the repair or renovation is performed where the tangible personal  
2054 property and real property are located; or  
2055 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
2056 Subsection (89)(c)(iii) or (iv).  
2057 (c) "Permanently attached to real property" does not include:  
2058 (i) the attachment of portable or movable tangible personal property to real property if  
2059 that portable or movable tangible personal property is attached to real property only for:  
2060 (A) convenience;  
2061 (B) stability; or  
2062 (C) for an obvious temporary purpose;  
2063 (ii) the detachment of tangible personal property from real property except for the  
2064 detachment described in Subsection (89)(b)(ii);  
2065 (iii) an attachment of the following tangible personal property to real property if the  
2066 attachment to real property is only through a line that supplies water, electricity, gas,  
2067 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
2068 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:  
2069 (A) a computer;  
2070 (B) a telephone;  
2071 (C) a television; or

2072 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as  
2073 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2074 Administrative Rulemaking Act; or

2075 (iv) an item listed in Subsection (130)(c).

2076 (90) "Person" includes any individual, firm, partnership, joint venture, association,  
2077 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
2078 municipality, district, or other local governmental entity of the state, or any group or  
2079 combination acting as a unit.

2080 (91) "Place of primary use":

2081 (a) for telecommunications service other than mobile telecommunications service,  
2082 means the street address representative of where the customer's use of the telecommunications  
2083 service primarily occurs, which shall be:

2084 (i) the residential street address of the customer; or

2085 (ii) the primary business street address of the customer; or

2086 (b) for mobile telecommunications service, means the same as that term is defined in  
2087 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2088 (92) (a) "Postpaid calling service" means a telecommunications service a person  
2089 obtains by making a payment on a call-by-call basis:

2090 (i) through the use of a:

2091 (A) bank card;

2092 (B) credit card;

2093 (C) debit card; or

2094 (D) travel card; or

2095 (ii) by a charge made to a telephone number that is not associated with the origination  
2096 or termination of the telecommunications service.

2097 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
2098 service, that would be a prepaid wireless calling service if the service were exclusively a  
2099 telecommunications service.

2100 (93) "Postproduction" means an activity related to the finishing or duplication of a  
2101 medium described in Subsection [59-12-104\(54\)\(a\)](#).

2102 (94) "Prepaid calling service" means a telecommunications service:

- 2103 (a) that allows a purchaser access to telecommunications service that is exclusively  
2104 telecommunications service;
- 2105 (b) that:
- 2106 (i) is paid for in advance; and
- 2107 (ii) enables the origination of a call using an:
- 2108 (A) access number; or
- 2109 (B) authorization code;
- 2110 (c) that is dialed:
- 2111 (i) manually; or
- 2112 (ii) electronically; and
- 2113 (d) sold in predetermined units or dollars that decline:
- 2114 (i) by a known amount; and
- 2115 (ii) with use.
- 2116 (95) "Prepaid wireless calling service" means a telecommunications service:
- 2117 (a) that provides the right to utilize:
- 2118 (i) mobile wireless service; and
- 2119 (ii) other service that is not a telecommunications service, including:
- 2120 (A) the download of a product transferred electronically;
- 2121 (B) a content service; or
- 2122 (C) an ancillary service;
- 2123 (b) that:
- 2124 (i) is paid for in advance; and
- 2125 (ii) enables the origination of a call using an:
- 2126 (A) access number; or
- 2127 (B) authorization code;
- 2128 (c) that is dialed:
- 2129 (i) manually; or
- 2130 (ii) electronically; and
- 2131 (d) sold in predetermined units or dollars that decline:
- 2132 (i) by a known amount; and
- 2133 (ii) with use.

2134 (96) (a) "Prepared food" means:  
2135 (i) food:  
2136 (A) sold in a heated state; or  
2137 (B) heated by a seller;  
2138 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
2139 item; or  
2140 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided  
2141 by the seller, including a:  
2142 (A) plate;  
2143 (B) knife;  
2144 (C) fork;  
2145 (D) spoon;  
2146 (E) glass;  
2147 (F) cup;  
2148 (G) napkin; or  
2149 (H) straw.  
2150 (b) "Prepared food" does not include:  
2151 (i) food that a seller only:  
2152 (A) cuts;  
2153 (B) repackages; or  
2154 (C) pasteurizes; or  
2155 (ii) (A) the following:  
2156 (I) raw egg;  
2157 (II) raw fish;  
2158 (III) raw meat;  
2159 (IV) raw poultry; or  
2160 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);  
2161 and  
2162 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
2163 Food and Drug Administration's Food Code that a consumer cook the items described in  
2164 Subsection (96)(b)(ii)(A) to prevent food borne illness; or

- 2165 (iii) the following if sold without eating utensils provided by the seller:
- 2166 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2167 classification under the 2002 North American Industry Classification System of the federal
- 2168 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2169 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2170 Manufacturing;
- 2171 (B) food and food ingredients sold in an unheated state:
- 2172 (I) by weight or volume; and
- 2173 (II) as a single item; or
- 2174 (C) a bakery item, including:
- 2175 (I) a bagel;
- 2176 (II) a bar;
- 2177 (III) a biscuit;
- 2178 (IV) bread;
- 2179 (V) a bun;
- 2180 (VI) a cake;
- 2181 (VII) a cookie;
- 2182 (VIII) a croissant;
- 2183 (IX) a danish;
- 2184 (X) a donut;
- 2185 (XI) a muffin;
- 2186 (XII) a pastry;
- 2187 (XIII) a pie;
- 2188 (XIV) a roll;
- 2189 (XV) a tart;
- 2190 (XVI) a torte; or
- 2191 (XVII) a tortilla.
- 2192 (c) An eating utensil provided by the seller does not include the following used to
- 2193 transport the food:
- 2194 (i) a container; or
- 2195 (ii) packaging.

2196 (97) "Prescription" means an order, formula, or recipe that is issued:  
2197 (a) (i) orally;  
2198 (ii) in writing;  
2199 (iii) electronically; or  
2200 (iv) by any other manner of transmission; and  
2201 (b) by a licensed practitioner authorized by the laws of a state.

2202 (98) (a) [~~Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten]~~ "Prewritten  
2203 computer software" means computer software that is not designed and developed:  
2204 (i) by the author or other creator of the computer software; and  
2205 (ii) to the specifications of a specific purchaser.

2206 (b) "Prewritten computer software" includes:  
2207 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
2208 software is not designed and developed:  
2209 (A) by the author or other creator of the computer software; and  
2210 (B) to the specifications of a specific purchaser;  
2211 (ii) computer software designed and developed by the author or other creator of the  
2212 computer software to the specifications of a specific purchaser if the computer software is sold  
2213 to a person other than the purchaser; or  
2214 (iii) except as provided in Subsection (98)(c), prewritten computer software or a  
2215 prewritten portion of prewritten computer software:  
2216 (A) that is modified or enhanced to any degree; and  
2217 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is  
2218 designed and developed to the specifications of a specific purchaser.

2219 (c) "Prewritten computer software" does not include a modification or enhancement  
2220 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:  
2221 (i) reasonable; and  
2222 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
2223 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
2224 demonstrated by:  
2225 (A) the books and records the seller keeps at the time of the transaction in the regular  
2226 course of business, including books and records the seller keeps at the time of the transaction in



- 2227 the regular course of business for nontax purposes;
- 2228 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 2229 (C) the understanding of all of the parties to the transaction.
- 2230 (99) (a) "Private communications service" means a telecommunications service:
- 2231 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2232 channels between or among termination points; and
- 2233 (ii) regardless of the manner in which the one or more communications channels are
- 2234 connected.
- 2235 (b) "Private communications service" includes the following provided in connection
- 2236 with the use of one or more communications channels:
- 2237 (i) an extension line;
- 2238 (ii) a station;
- 2239 (iii) switching capacity; or
- 2240 (iv) another associated service that is provided in connection with the use of one or
- 2241 more communications channels as defined in Section [59-12-215](#).
- 2242 (100) (a) [~~Except as provided in Subsection (100)(b), "product]~~ "Product transferred
- 2243 electronically" means a product transferred electronically that would be subject to a tax under
- 2244 this chapter if that product was transferred in a manner other than electronically.
- 2245 (b) "Product transferred electronically" does not include:
- 2246 (i) an ancillary service;
- 2247 (ii) computer software; or
- 2248 (iii) a telecommunications service.
- 2249 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2250 (i) artificially replace a missing portion of the body;
- 2251 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2252 (iii) support a weak or deformed portion of the body.
- 2253 (b) "Prosthetic device" includes:
- 2254 (i) parts used in the repairs or renovation of a prosthetic device;
- 2255 (ii) replacement parts for a prosthetic device;
- 2256 (iii) a dental prosthesis; or
- 2257 (iv) a hearing aid.

- 2258 (c) "Prosthetic device" does not include:
- 2259 (i) corrective eyeglasses; or
- 2260 (ii) contact lenses.
- 2261 (102) (a) "Protective equipment" means an item:
- 2262 (i) for human wear; and
- 2263 (ii) that is:
- 2264 (A) designed as protection:
- 2265 (I) to the wearer against injury or disease; or
- 2266 (II) against damage or injury of other persons or property; and
- 2267 (B) not suitable for general use.
- 2268 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2269 commission shall make rules:
- 2270 (i) listing the items that constitute "protective equipment"; and
- 2271 (ii) that are consistent with the list of items that constitute "protective equipment"
- 2272 under the agreement.
- 2273 (103) (a) For purposes of Subsection [59-12-104](#)(41), "publication" means any written
- 2274 or printed matter, other than a photocopy:
- 2275 (i) regardless of:
- 2276 (A) characteristics;
- 2277 (B) copyright;
- 2278 (C) form;
- 2279 (D) format;
- 2280 (E) method of reproduction; or
- 2281 (F) source; and
- 2282 (ii) made available in printed or electronic format.
- 2283 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2284 commission may by rule define the term "photocopy."
- 2285 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 2286 (i) valued in money; and
- 2287 (ii) for which tangible personal property, a product transferred electronically, or
- 2288 services are:

- 2289 (A) sold;
- 2290 (B) leased; or
- 2291 (C) rented.
- 2292 (b) "Purchase price" and "sales price" include:
- 2293 (i) the seller's cost of the tangible personal property, a product transferred
- 2294 electronically, or services sold;
- 2295 (ii) expenses of the seller, including:
- 2296 (A) the cost of materials used;
- 2297 (B) a labor cost;
- 2298 (C) a service cost;
- 2299 (D) interest;
- 2300 (E) a loss;
- 2301 (F) the cost of transportation to the seller; or
- 2302 (G) a tax imposed on the seller;
- 2303 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2304 (iv) consideration a seller receives from a person other than the purchaser if:
- 2305 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2306 and
- 2307 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
- 2308 price reduction or discount on the sale;
- 2309 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2310 purchaser;
- 2311 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2312 the seller at the time of the sale to the purchaser; and
- 2313 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2314 seller to claim a price reduction or discount; and
- 2315 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2316 coupon, or other documentation with the understanding that the person other than the seller
- 2317 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2318 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2319 organization allowed a price reduction or discount, except that a preferred customer card that is

2320 available to any patron of a seller does not constitute membership in a group or organization  
2321 allowed a price reduction or discount; or

2322 (III) the price reduction or discount is identified as a third party price reduction or  
2323 discount on the:

2324 (Aa) invoice the purchaser receives; or

2325 (Bb) certificate, coupon, or other documentation the purchaser presents.

2326 (c) "Purchase price" and "sales price" do not include:

2327 (i) a discount:

2328 (A) in a form including:

2329 (I) cash;

2330 (II) term; or

2331 (III) coupon;

2332 (B) that is allowed by a seller;

2333 (C) taken by a purchaser on a sale; and

2334 (D) that is not reimbursed by a third party; or

2335 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

2336 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

2337 sale or later, as demonstrated by the books and records the seller keeps at the time of the

2338 transaction in the regular course of business, including books and records the seller keeps at the

2339 time of the transaction in the regular course of business for nontax purposes, by a

2340 preponderance of the facts and circumstances at the time of the transaction, and by the

2341 understanding of all of the parties to the transaction:

2342 (A) the following from credit extended on the sale of tangible personal property or  
2343 services:

2344 (I) a carrying charge;

2345 (II) a financing charge; or

2346 (III) an interest charge;

2347 (B) a delivery charge;

2348 (C) an installation charge;

2349 (D) a manufacturer rebate on a motor vehicle; or

2350 (E) a tax or fee legally imposed directly on the consumer.

- 2351 (105) "Purchaser" means a person to whom:  
2352 (a) a sale of tangible personal property is made;  
2353 (b) a product is transferred electronically; or  
2354 (c) a service is furnished.
- 2355 (106) "Qualifying data center" means a data center facility that:  
2356 (a) houses a group of networked server computers in one physical location in order to  
2357 disseminate, manage, and store data and information;  
2358 (b) is located in the state;  
2359 (c) is a new operation constructed on or after July 1, 2016;  
2360 (d) consists of one or more buildings that total 150,000 or more square feet;  
2361 (e) is owned or leased by:  
2362 (i) the operator of the data center facility; or  
2363 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
2364 of the data center facility; and  
2365 (f) is located on one or more parcels of land that are owned or leased by:  
2366 (i) the operator of the data center facility; or  
2367 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator  
2368 of the data center facility.
- 2369 (107) "Regularly rented" means:  
2370 (a) rented to a guest for value three or more times during a calendar year; or  
2371 (b) advertised or held out to the public as a place that is regularly rented to guests for  
2372 value.
- 2373 (108) "Rental" means the same as that term is defined in Subsection (60).
- 2374 (109) (a) [~~Except as provided in Subsection (109)(b), "repairs"~~] "Repairs or renovations  
2375 of tangible personal property" means:  
2376 (i) a repair or renovation of tangible personal property that is not permanently attached  
2377 to real property; or  
2378 (ii) attaching tangible personal property or a product transferred electronically to other  
2379 tangible personal property or detaching tangible personal property or a product transferred  
2380 electronically from other tangible personal property if:  
2381 (A) the other tangible personal property to which the tangible personal property or

2382 product transferred electronically is attached or from which the tangible personal property or  
2383 product transferred electronically is detached is not permanently attached to real property; and

2384 (B) the attachment of tangible personal property or a product transferred electronically  
2385 to other tangible personal property or detachment of tangible personal property or a product  
2386 transferred electronically from other tangible personal property is made in conjunction with a  
2387 repair or replacement of tangible personal property or a product transferred electronically.

2388 (b) "Repairs or renovations of tangible personal property" does not include:

2389 (i) attaching prewritten computer software to other tangible personal property if the  
2390 other tangible personal property to which the prewritten computer software is attached is not  
2391 permanently attached to real property; or

2392 (ii) detaching prewritten computer software from other tangible personal property if the  
2393 other tangible personal property from which the prewritten computer software is detached is  
2394 not permanently attached to real property.

2395 (110) "Research and development" means the process of inquiry or experimentation  
2396 aimed at the discovery of facts, devices, technologies, or applications and the process of  
2397 preparing those devices, technologies, or applications for marketing.

2398 (111) (a) "Residential telecommunications services" means a telecommunications  
2399 service or an ancillary service that is provided to an individual for personal use:

2400 (i) at a residential address; or

2401 (ii) at an institution, including a nursing home or a school, if the telecommunications  
2402 service or ancillary service is provided to and paid for by the individual residing at the  
2403 institution rather than the institution.

2404 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

2405 (i) apartment; or

2406 (ii) other individual dwelling unit.

2407 (112) "Residential use" means the use in or around a home, apartment building,  
2408 sleeping quarters, and similar facilities or accommodations.

2409 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
2410 than:

2411 (a) resale;

2412 (b) sublease; or

2413 (c) subrent.

2414 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
2415 United States or federal law, that is engaged in a regularly organized business in tangible  
2416 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
2417 selling to the user or consumer and not for resale.

2418 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
2419 engaged in the business of selling to users or consumers within the state.

2420 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
2421 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
2422 Subsection 59-12-103(1), for consideration.

2423 (b) "Sale" includes:

2424 (i) installment and credit sales;

2425 (ii) any closed transaction constituting a sale;

2426 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
2427 chapter;

2428 (iv) any transaction if the possession of property is transferred but the seller retains the  
2429 title as security for the payment of the price; and

2430 (v) any transaction under which right to possession, operation, or use of any article of  
2431 tangible personal property is granted under a lease or contract and the transfer of possession  
2432 would be taxable if an outright sale were made.

2433 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

2434 (117) "Sale-leaseback transaction" means a transaction by which title to tangible  
2435 personal property or a product transferred electronically that is subject to a tax under this  
2436 chapter is transferred:

2437 (a) by a purchaser-lessee;

2438 (b) to a lessor;

2439 (c) for consideration; and

2440 (d) if:

2441 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
2442 of the tangible personal property or product transferred electronically;

2443 (ii) the sale of the tangible personal property or product transferred electronically to the

2444 lessor is intended as a form of financing:

2445 (A) for the tangible personal property or product transferred electronically; and

2446 (B) to the purchaser-lessee; and

2447 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2448 is required to:

2449 (A) capitalize the tangible personal property or product transferred electronically for

2450 financial reporting purposes; and

2451 (B) account for the lease payments as payments made under a financing arrangement.

2452 (118) "Sales price" means the same as that term is defined in Subsection (104).

2453 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2454 amounts charged by a school:

2455 (i) sales that are directly related to the school's educational functions or activities

2456 including:

2457 (A) the sale of:

2458 (I) textbooks;

2459 (II) textbook fees;

2460 (III) laboratory fees;

2461 (IV) laboratory supplies; or

2462 (V) safety equipment;

2463 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

2464 that:

2465 (I) a student is specifically required to wear as a condition of participation in a

2466 school-related event or school-related activity; and

2467 (II) is not readily adaptable to general or continued usage to the extent that it takes the

2468 place of ordinary clothing;

2469 (C) sales of the following if the net or gross revenues generated by the sales are

2470 deposited into a school district fund or school fund dedicated to school meals:

2471 (I) food and food ingredients; or

2472 (II) prepared food; or

2473 (D) transportation charges for official school activities; or

2474 (ii) amounts paid to or amounts charged by a school for admission to a school-related



2475 event or school-related activity.

2476 (b) "Sales relating to schools" does not include:

2477 (i) bookstore sales of items that are not educational materials or supplies;

2478 (ii) except as provided in Subsection (119)(a)(i)(B):

2479 (A) clothing;

2480 (B) clothing accessories or equipment;

2481 (C) protective equipment; or

2482 (D) sports or recreational equipment; or

2483 (iii) amounts paid to or amounts charged by a school for admission to a school-related

2484 event or school-related activity if the amounts paid or charged are passed through to a person:

2485 (A) other than a:

2486 (I) school;

2487 (II) nonprofit organization authorized by a school board or a governing body of a

2488 private school to organize and direct a competitive secondary school activity; or

2489 (III) nonprofit association authorized by a school board or a governing body of a

2490 private school to organize and direct a competitive secondary school activity; and

2491 (B) that is required to collect sales and use taxes under this chapter.

2492 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2493 commission may make rules defining the term "passed through."

2494 (120) For purposes of this section and Section [59-12-104](#), "school" means:

2495 (a) an elementary school or a secondary school that:

2496 (i) is a:

2497 (A) public school; or

2498 (B) private school; and

2499 (ii) provides instruction for one or more grades kindergarten through 12; or

2500 (b) a public school district.

2501 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:

2502 (i) tangible personal property;

2503 (ii) a product transferred electronically; or

2504 (iii) a service.

2505 (b) "Seller" includes a marketplace facilitator.

2506 (122) (a) "Semiconductor fabricating, processing, research, or development materials"  
2507 means tangible personal property or a product transferred electronically if the tangible personal  
2508 property or product transferred electronically is:

2509 (i) used primarily in the process of:

2510 (A) (I) manufacturing a semiconductor;

2511 (II) fabricating a semiconductor; or

2512 (III) research or development of a:

2513 (Aa) semiconductor; or

2514 (Bb) semiconductor manufacturing process; or

2515 (B) maintaining an environment suitable for a semiconductor; or

2516 (ii) consumed primarily in the process of:

2517 (A) (I) manufacturing a semiconductor;

2518 (II) fabricating a semiconductor; or

2519 (III) research or development of a:

2520 (Aa) semiconductor; or

2521 (Bb) semiconductor manufacturing process; or

2522 (B) maintaining an environment suitable for a semiconductor.

2523 (b) "Semiconductor fabricating, processing, research, or development materials"

2524 includes:

2525 (i) parts used in the repairs or renovations of tangible personal property or a product  
2526 transferred electronically described in Subsection (122)(a); or

2527 (ii) a chemical, catalyst, or other material used to:

2528 (A) produce or induce in a semiconductor a:

2529 (I) chemical change; or

2530 (II) physical change;

2531 (B) remove impurities from a semiconductor; or

2532 (C) improve the marketable condition of a semiconductor.

2533 (123) "Senior citizen center" means a facility having the primary purpose of providing  
2534 services to the aged as defined in Section [62A-3-101](#).

2535 (124) (a) [~~Subject to Subsections (124)(b) and (c), "short-term"~~] "Short-term lodging  
2536 consumable" means tangible personal property that:

- 2537 (i) a business that provides accommodations and services described in Subsection  
2538 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
2539 to a purchaser;
- 2540 (ii) is intended to be consumed by the purchaser; and  
2541 (iii) is:
- 2542 (A) included in the purchase price of the accommodations and services; and  
2543 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
2544 to the purchaser.
- 2545 (b) "Short-term lodging consumable" includes:
- 2546 (i) a beverage;  
2547 (ii) a brush or comb;  
2548 (iii) a cosmetic;  
2549 (iv) a hair care product;  
2550 (v) lotion;  
2551 (vi) a magazine;  
2552 (vii) makeup;  
2553 (viii) a meal;  
2554 (ix) mouthwash;  
2555 (x) nail polish remover;  
2556 (xi) a newspaper;  
2557 (xii) a notepad;  
2558 (xiii) a pen;  
2559 (xiv) a pencil;  
2560 (xv) a razor;  
2561 (xvi) saline solution;  
2562 (xvii) a sewing kit;  
2563 (xviii) shaving cream;  
2564 (xix) a shoe shine kit;  
2565 (xx) a shower cap;  
2566 (xxi) a snack item;  
2567 (xxii) soap;

2568 (xxiii) toilet paper;  
2569 (xxiv) a toothbrush;  
2570 (xxv) toothpaste; or  
2571 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may  
2572 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
2573 Rulemaking Act.  
2574 (c) "Short-term lodging consumable" does not include:  
2575 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
2576 property to be reused; or  
2577 (ii) a product transferred electronically.  
2578 (125) "Simplified electronic return" means the electronic return:  
2579 (a) described in Section 318(C) of the agreement; and  
2580 (b) approved by the governing board of the agreement.  
2581 (126) "Solar energy" means the sun used as the sole source of energy for producing  
2582 electricity.  
2583 (127) (a) "Sports or recreational equipment" means an item:  
2584 (i) designed for human use; and  
2585 (ii) that is:  
2586 (A) worn in conjunction with:  
2587 (I) an athletic activity; or  
2588 (II) a recreational activity; and  
2589 (B) not suitable for general use.  
2590 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2591 commission shall make rules:  
2592 (i) listing the items that constitute "sports or recreational equipment"; and  
2593 (ii) that are consistent with the list of items that constitute "sports or recreational  
2594 equipment" under the agreement.  
2595 (128) "State" means the state of Utah, its departments, and agencies.  
2596 (129) "Storage" means any keeping or retention of tangible personal property or any  
2597 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
2598 sale in the regular course of business.

2599 (130) (a) [~~Except as provided in Subsection (130)(d) or (e), "tangible]~~ "Tangible  
2600 personal property" means personal property that:  
2601 (i) may be:  
2602 (A) seen;  
2603 (B) weighed;  
2604 (C) measured;  
2605 (D) felt; or  
2606 (E) touched; or  
2607 (ii) is in any manner perceptible to the senses.  
2608 (b) "Tangible personal property" includes:  
2609 (i) electricity;  
2610 (ii) water;  
2611 (iii) gas;  
2612 (iv) steam; or  
2613 (v) prewritten computer software, regardless of the manner in which the prewritten  
2614 computer software is transferred.  
2615 (c) "Tangible personal property" includes the following regardless of whether the item  
2616 is attached to real property:  
2617 (i) a dishwasher;  
2618 (ii) a dryer;  
2619 (iii) a freezer;  
2620 (iv) a microwave;  
2621 (v) a refrigerator;  
2622 (vi) a stove;  
2623 (vii) a washer; or  
2624 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the  
2625 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
2626 Rulemaking Act.  
2627 (d) "Tangible personal property" does not include a product that is transferred  
2628 electronically.  
2629 (e) "Tangible personal property" does not include the following if attached to real

2630 property, regardless of whether the attachment to real property is only through a line that  
2631 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
2632 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
2633 Rulemaking Act:

- 2634 (i) a hot water heater;
- 2635 (ii) a water filtration system; or
- 2636 (iii) a water softener system.

2637 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
2638 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
2639 primarily to enable or facilitate one or more of the following to function:

- 2640 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2641 (ii) telecommunications transmission equipment, machinery, or software.

2642 (b) The following apply to Subsection (131)(a):

- 2643 (i) a pole;
- 2644 (ii) software;
- 2645 (iii) a supplementary power supply;
- 2646 (iv) temperature or environmental equipment or machinery;
- 2647 (v) test equipment;
- 2648 (vi) a tower; or
- 2649 (vii) equipment, machinery, or software that functions similarly to an item listed in

2650 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in  
2651 accordance with Subsection (131)(c).

2652 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2653 commission may by rule define what constitutes equipment, machinery, or software that  
2654 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

2655 (132) "Telecommunications equipment, machinery, or software required for 911  
2656 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
2657 Sec. 20.18.

2658 (133) "Telecommunications maintenance or repair equipment, machinery, or software"  
2659 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
2660 one or more of the following, regardless of whether the equipment, machinery, or software is

2661 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
2662 following:

2663 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2664 (b) telecommunications switching or routing equipment, machinery, or software; or

2665 (c) telecommunications transmission equipment, machinery, or software.

2666 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or  
2667 transmission of audio, data, video, voice, or any other information or signal to a point, or  
2668 among or between points.

2669 (b) "Telecommunications service" includes:

2670 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
2671 processing application is used to act:

2672 (A) on the code, form, or protocol of the content;

2673 (B) for the purpose of electronic conveyance, routing, or transmission; and

2674 (C) regardless of whether the service:

2675 (I) is referred to as voice over Internet protocol service; or

2676 (II) is classified by the Federal Communications Commission as enhanced or value  
2677 added;

2678 (ii) an 800 service;

2679 (iii) a 900 service;

2680 (iv) a fixed wireless service;

2681 (v) a mobile wireless service;

2682 (vi) a postpaid calling service;

2683 (vii) a prepaid calling service;

2684 (viii) a prepaid wireless calling service; or

2685 (ix) a private communications service.

2686 (c) "Telecommunications service" does not include:

2687 (i) advertising, including directory advertising;

2688 (ii) an ancillary service;

2689 (iii) a billing and collection service provided to a third party;

2690 (iv) a data processing and information service if:

2691 (A) the data processing and information service allows data to be:

- 2692 (I) (Aa) acquired;
- 2693 (Bb) generated;
- 2694 (Cc) processed;
- 2695 (Dd) retrieved; or
- 2696 (Ee) stored; and
- 2697 (II) delivered by an electronic transmission to a purchaser; and
- 2698 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2699 or information;
- 2700 (v) installation or maintenance of the following on a customer's premises:
- 2701 (A) equipment; or
- 2702 (B) wiring;
- 2703 (vi) Internet access service;
- 2704 (vii) a paging service;
- 2705 (viii) a product transferred electronically, including:
- 2706 (A) music;
- 2707 (B) reading material;
- 2708 (C) a ring tone;
- 2709 (D) software; or
- 2710 (E) video;
- 2711 (ix) a radio and television audio and video programming service:
- 2712 (A) regardless of the medium; and
- 2713 (B) including:
- 2714 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2715 programming service by a programming service provider;
- 2716 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2717 (III) audio and video programming services delivered by a commercial mobile radio
- 2718 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2719 (x) a value-added nonvoice data service; or
- 2720 (xi) tangible personal property.
- 2721 (135) (a) "Telecommunications service provider" means a person that:
- 2722 (i) owns, controls, operates, or manages a telecommunications service; and



2723 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or  
2724 resale to any person of the telecommunications service.

2725 (b) A person described in Subsection (135)(a) is a telecommunications service provider  
2726 whether or not the Public Service Commission of Utah regulates:

2727 (i) that person; or

2728 (ii) the telecommunications service that the person owns, controls, operates, or  
2729 manages.

2730 (136) (a) "Telecommunications switching or routing equipment, machinery, or  
2731 software" means an item listed in Subsection (136)(b) if that item is purchased or leased  
2732 primarily for switching or routing:

2733 (i) an ancillary service;

2734 (ii) data communications;

2735 (iii) voice communications; or

2736 (iv) telecommunications service.

2737 (b) The following apply to Subsection (136)(a):

2738 (i) a bridge;

2739 (ii) a computer;

2740 (iii) a cross connect;

2741 (iv) a modem;

2742 (v) a multiplexer;

2743 (vi) plug in circuitry;

2744 (vii) a router;

2745 (viii) software;

2746 (ix) a switch; or

2747 (x) equipment, machinery, or software that functions similarly to an item listed in  
2748 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in  
2749 accordance with Subsection (136)(c).

2750 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2751 commission may by rule define what constitutes equipment, machinery, or software that  
2752 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

2753 (137) (a) "Telecommunications transmission equipment, machinery, or software"

2754 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for  
2755 sending, receiving, or transporting:

- 2756 (i) an ancillary service;
- 2757 (ii) data communications;
- 2758 (iii) voice communications; or
- 2759 (iv) telecommunications service.

2760 (b) The following apply to Subsection (137)(a):

- 2761 (i) an amplifier;
- 2762 (ii) a cable;
- 2763 (iii) a closure;
- 2764 (iv) a conduit;
- 2765 (v) a controller;
- 2766 (vi) a duplexer;
- 2767 (vii) a filter;
- 2768 (viii) an input device;
- 2769 (ix) an input/output device;
- 2770 (x) an insulator;
- 2771 (xi) microwave machinery or equipment;
- 2772 (xii) an oscillator;
- 2773 (xiii) an output device;
- 2774 (xiv) a pedestal;
- 2775 (xv) a power converter;
- 2776 (xvi) a power supply;
- 2777 (xvii) a radio channel;
- 2778 (xviii) a radio receiver;
- 2779 (xix) a radio transmitter;
- 2780 (xx) a repeater;
- 2781 (xxi) software;
- 2782 (xxii) a terminal;
- 2783 (xxiii) a timing unit;
- 2784 (xxiv) a transformer;

2785 (xxv) a wire; or  
2786 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
2787 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in  
2788 accordance with Subsection (137)(c).

2789 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2790 commission may by rule define what constitutes equipment, machinery, or software that  
2791 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

2792 (138) (a) "Textbook for a higher education course" means a textbook or other printed  
2793 material that is required for a course:

- 2794 (i) offered by an institution of higher education; and
- 2795 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2796 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2797 (139) "Tobacco" means:

- 2798 (a) a cigarette;
- 2799 (b) a cigar;
- 2800 (c) chewing tobacco;
- 2801 (d) pipe tobacco; or
- 2802 (e) any other item that contains tobacco.

2803 (140) "Unassisted amusement device" means an amusement device, skill device, or  
2804 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
2805 the amusement device, skill device, or ride device.

2806 (141) (a) "Use" means the exercise of any right or power over tangible personal  
2807 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
2808 incident to the ownership or the leasing of that tangible personal property, product transferred  
2809 electronically, or service.

2810 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
2811 property, a product transferred electronically, or a service in the regular course of business and  
2812 held for resale.

2813 (142) "Value-added nonvoice data service" means a service:

- 2814 (a) that otherwise meets the definition of a telecommunications service except that a  
2815 computer processing application is used to act primarily for a purpose other than conveyance,

2816 routing, or transmission; and

2817 (b) with respect to which a computer processing application is used to act on data or  
2818 information:

- 2819 (i) code;
- 2820 (ii) content;
- 2821 (iii) form; or
- 2822 (iv) protocol.

2823 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are  
2824 required to be titled, registered, or titled and registered:

- 2825 (i) an aircraft as defined in Section 72-10-102;
- 2826 (ii) a vehicle as defined in Section 41-1a-102;
- 2827 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2828 (iv) a vessel as defined in Section 41-1a-102.

2829 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2830 (i) a vehicle described in Subsection (143)(a); or
- 2831 (ii) (A) a locomotive;
- 2832 (B) a freight car;
- 2833 (C) railroad work equipment; or
- 2834 (D) other railroad rolling stock.

2835 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
2836 exchanging a vehicle as defined in Subsection (143).

2837 (145) (a) "Vertical service" means an ancillary service that:

- 2838 (i) is offered in connection with one or more telecommunications services; and
- 2839 (ii) offers an advanced calling feature that allows a customer to:
  - 2840 (A) identify a caller; and
  - 2841 (B) manage multiple calls and call connections.

2842 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
2843 conference bridging service.

2844 (146) (a) "Voice mail service" means an ancillary service that enables a customer to  
2845 receive, send, or store a recorded message.

2846 (b) "Voice mail service" does not include a vertical service that a customer is required

2847 to have in order to utilize a voice mail service.

2848 (147) (a) [~~Except as provided in Subsection (147)(b), "waste]~~ "Waste energy facility"

2849 means a facility that generates electricity:

2850 (i) using as the primary source of energy waste materials that would be placed in a

2851 landfill or refuse pit if it were not used to generate electricity, including:

2852 (A) tires;

2853 (B) waste coal;

2854 (C) oil shale; or

2855 (D) municipal solid waste; and

2856 (ii) in amounts greater than actually required for the operation of the facility.

2857 (b) "Waste energy facility" does not include a facility that incinerates:

2858 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2859 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2860 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

2861 (149) "Wind energy" means wind used as the sole source of energy to produce

2862 electricity.

2863 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
2864 location by the United States Postal Service.

2865 Section 11. Section **59-12-103** is amended to read:

2866 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
2867 **tax revenue.**

2868 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
2869 sales price for amounts paid or charged for the following transactions:

2870 (a) retail sales of tangible personal property made within the state;

2871 (b) amounts paid for:

2872 (i) telecommunications service, other than mobile telecommunications service, that

2873 originates and terminates within the boundaries of this state;

2874 (ii) mobile telecommunications service that originates and terminates within the

2875 boundaries of one state only to the extent permitted by the Mobile Telecommunications

2876 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2877 (iii) an ancillary service associated with a:

- 2878 (A) telecommunications service described in Subsection (1)(b)(i); or
- 2879 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 2880 (c) sales of the following for commercial use:
- 2881 (i) gas;
- 2882 (ii) electricity;
- 2883 (iii) heat;
- 2884 (iv) coal;
- 2885 (v) fuel oil; [or]
- 2886 (vi) hydrogen; or
- 2887 [~~(vi)~~] (vii) other fuels;
- 2888 (d) sales of the following for residential use:
- 2889 (i) gas;
- 2890 (ii) electricity;
- 2891 (iii) heat;
- 2892 (iv) coal;
- 2893 (v) fuel oil; [or]
- 2894 (vi) hydrogen; or
- 2895 [~~(vi)~~] (vii) other fuels;
- 2896 (e) sales of prepared food;
- 2897 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2898 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2899 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2900 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2901 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2902 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2903 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2904 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2905 exhibition, cultural, or athletic activity;
- 2906 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2907 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2908 (i) the tangible personal property; and

2909 (ii) parts used in the repairs or renovations of the tangible personal property described  
2910 in Subsection (1)(g)(i), regardless of whether:

2911 (A) any parts are actually used in the repairs or renovations of that tangible personal  
2912 property; or

2913 (B) the particular parts used in the repairs or renovations of that tangible personal  
2914 property are exempt from a tax under this chapter;

2915 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
2916 assisted cleaning or washing of tangible personal property;

2917 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
2918 accommodations and services that are regularly rented for less than 30 consecutive days;

2919 (j) amounts paid or charged for laundry or dry cleaning services;

2920 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
2921 this state the tangible personal property is:

2922 (i) stored;

2923 (ii) used; or

2924 (iii) otherwise consumed;

2925 (l) amounts paid or charged for tangible personal property if within this state the  
2926 tangible personal property is:

2927 (i) stored;

2928 (ii) used; or

2929 (iii) consumed; and

2930 (m) amounts paid or charged for a sale:

2931 (i) (A) of a product transferred electronically; or

2932 (B) of a repair or renovation of a product transferred electronically; and

2933 (ii) regardless of whether the sale provides:

2934 (A) a right of permanent use of the product; or

2935 (B) a right to use the product that is less than a permanent use, including a right:

2936 (I) for a definite or specified length of time; and

2937 (II) that terminates upon the occurrence of a condition.

2938 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
2939 are imposed on a transaction described in Subsection (1) equal to the sum of:

2940 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:  
2941 (A) (I) through March 31, 2019, 4.70%; and  
2942 (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a);  
2943 and  
2944 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
2945 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2946 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
2947 State Sales and Use Tax Act; and  
2948 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
2949 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
2950 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
2951 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and  
2952 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2953 transaction under this chapter other than this part.  
2954 (b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a  
2955 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
2956 the sum of:  
2957 (i) a state tax imposed on the transaction at a tax rate of 2%; and  
2958 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2959 transaction under this chapter other than this part.  
2960 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are  
2961 imposed on amounts paid or charged for food and food ingredients equal to the sum of:  
2962 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
2963 a tax rate of 1.75%; and  
2964 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
2965 amounts paid or charged for food and food ingredients under this chapter other than this part.  
2966 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
2967 tangible personal property other than food and food ingredients, a state tax and a local tax is  
2968 imposed on the entire bundled transaction equal to the sum of:  
2969 (A) a state tax imposed on the entire bundled transaction equal to the sum of:  
2970 (I) the tax rate described in Subsection (2)(a)(i)(A); and



2971 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
2972 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2973 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
2974 Additional State Sales and Use Tax Act; and

2975 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
2976 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
2977 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
2978 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2979 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
2980 described in Subsection (2)(a)(ii).

2981 (ii) If an optional computer software maintenance contract is a bundled transaction that  
2982 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
2983 similar billing document, the purchase of the optional computer software maintenance contract  
2984 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2985 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled  
2986 transaction described in Subsection (2)(d)(i) or (ii):

2987 (A) if the sales price of the bundled transaction is attributable to tangible personal  
2988 property, a product, or a service that is subject to taxation under this chapter and tangible  
2989 personal property, a product, or service that is not subject to taxation under this chapter, the  
2990 entire bundled transaction is subject to taxation under this chapter unless:

2991 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
2992 personal property, product, or service that is not subject to taxation under this chapter from the  
2993 books and records the seller keeps in the seller's regular course of business; or

2994 (II) state or federal law provides otherwise; or

2995 (B) if the sales price of a bundled transaction is attributable to two or more items of  
2996 tangible personal property, products, or services that are subject to taxation under this chapter  
2997 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
2998 higher tax rate unless:

2999 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
3000 personal property, product, or service that is subject to taxation under this chapter at the lower  
3001 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3002 (II) state or federal law provides otherwise.

3003 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the  
3004 seller's regular course of business includes books and records the seller keeps in the regular  
3005 course of business for nontax purposes.

3006 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)  
3007 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
3008 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
3009 of tangible personal property, other property, a product, or a service that is not subject to  
3010 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
3011 the seller, at the time of the transaction:

3012 (A) separately states the portion of the transaction that is not subject to taxation under  
3013 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3014 (B) is able to identify by reasonable and verifiable standards, from the books and  
3015 records the seller keeps in the seller's regular course of business, the portion of the transaction  
3016 that is not subject to taxation under this chapter.

3017 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3018 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
3019 the transaction that is not subject to taxation under this chapter was not separately stated on an  
3020 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
3021 ignorance of the law; and

3022 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
3023 and records the seller keeps in the seller's regular course of business, the portion of the  
3024 transaction that is not subject to taxation under this chapter.

3025 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps  
3026 in the seller's regular course of business includes books and records the seller keeps in the  
3027 regular course of business for nontax purposes.

3028 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible  
3029 personal property, products, or services that are subject to taxation under this chapter at  
3030 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
3031 unless the seller, at the time of the transaction:

3032 (A) separately states the items subject to taxation under this chapter at each of the

3033 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3034 (B) is able to identify by reasonable and verifiable standards the tangible personal  
3035 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
3036 from the books and records the seller keeps in the seller's regular course of business.

3037 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the  
3038 seller's regular course of business includes books and records the seller keeps in the regular  
3039 course of business for nontax purposes.

3040 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax  
3041 rate imposed under the following shall take effect on the first day of a calendar quarter:

3042 (i) Subsection (2)(a)(i)(A);

3043 (ii) Subsection (2)(b)(i);

3044 (iii) Subsection (2)(c)(i); or

3045 (iv) Subsection (2)(d)(i)(A)(I).

3046 (h) (i) A tax rate increase takes effect on the first day of the first billing period that  
3047 begins on or after the effective date of the tax rate increase if the billing period for the  
3048 transaction begins before the effective date of a tax rate increase imposed under:

3049 (A) Subsection (2)(a)(i)(A);

3050 (B) Subsection (2)(b)(i);

3051 (C) Subsection (2)(c)(i); or

3052 (D) Subsection (2)(d)(i)(A)(I).

3053 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
3054 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
3055 or the tax rate decrease imposed under:

3056 (A) Subsection (2)(a)(i)(A);

3057 (B) Subsection (2)(b)(i);

3058 (C) Subsection (2)(c)(i); or

3059 (D) Subsection (2)(d)(i)(A)(I).

3060 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is  
3061 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
3062 change in a tax rate takes effect:

3063 (A) on the first day of a calendar quarter; and

3064 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3065 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

3066 (A) Subsection (2)(a)(i)(A);

3067 (B) Subsection (2)(b)(i);

3068 (C) Subsection (2)(c)(i); or

3069 (D) Subsection (2)(d)(i)(A)(I).

3070 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3071 the commission may by rule define the term "catalogue sale."

3072 (j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine  
3073 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, hydrogen, or other fuel based  
3074 on the predominant use of the gas, electricity, heat, coal, fuel oil, hydrogen, or other fuel at the  
3075 location.

3076 (ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil,  
3077 hydrogen, or other fuel is furnished through a single meter for two or more of the following  
3078 uses:

3079 (A) a commercial use;

3080 (B) an industrial use; or

3081 (C) a residential use.

3082 (3) (a) The following state taxes shall be deposited into the General Fund:

3083 (i) the tax imposed by Subsection (2)(a)(i)(A);

3084 (ii) the tax imposed by Subsection (2)(b)(i);

3085 (iii) the tax imposed by Subsection (2)(c)(i); or

3086 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3087 (b) The following local taxes shall be distributed to a county, city, or town as provided  
3088 in this chapter:

3089 (i) the tax imposed by Subsection (2)(a)(ii);

3090 (ii) the tax imposed by Subsection (2)(b)(ii);

3091 (iii) the tax imposed by Subsection (2)(c)(ii); and

3092 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3093 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
3094 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

3095 through (g):

3096 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3097 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3098 (B) for the fiscal year; or

3099 (ii) \$17,500,000.

3100 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

3101 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

3102 Department of Natural Resources to:

3103 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
3104 protect sensitive plant and animal species; or

3105 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
3106 act, to political subdivisions of the state to implement the measures described in Subsections  
3107 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3108 (ii) Money transferred to the Department of Natural Resources under Subsection  
3109 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
3110 person to list or attempt to have listed a species as threatened or endangered under the  
3111 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3112 (iii) At the end of each fiscal year:

3113 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
3114 Conservation and Development Fund created in Section 73-10-24;

3115 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
3116 Program Subaccount created in Section 73-10c-5; and

3117 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
3118 Program Subaccount created in Section 73-10c-5.

3119 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
3120 Subsection (4)(a) shall be deposited each year [in] into the Agriculture Resource Development  
3121 Fund created in Section 4-18-106.

3122 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
3123 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
3124 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
3125 water rights.

- 3126 (ii) At the end of each fiscal year:
- 3127 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
- 3128 Conservation and Development Fund created in Section 73-10-24;
- 3129 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
- 3130 Program Subaccount created in Section 73-10c-5; and
- 3131 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
- 3132 Program Subaccount created in Section 73-10c-5.
- 3133 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
- 3134 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
- 3135 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 3136 (ii) In addition to the uses allowed of the Water Resources Conservation and
- 3137 Development Fund under Section 73-10-24, the Water Resources Conservation and
- 3138 Development Fund may also be used to:
- 3139 (A) conduct hydrologic and geotechnical investigations by the Division of Water
- 3140 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
- 3141 quantifying surface and ground water resources and describing the hydrologic systems of an
- 3142 area in sufficient detail so as to enable local and state resource managers to plan for and
- 3143 accommodate growth in water use without jeopardizing the resource;
- 3144 (B) fund state required dam safety improvements; and
- 3145 (C) protect the state's interest in interstate water compact allocations, including the
- 3146 hiring of technical and legal staff.
- 3147 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 3148 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
- 3149 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 3150 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
- 3151 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
- 3152 created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 3153 (i) provide for the installation and repair of collection, treatment, storage, and
- 3154 distribution facilities for any public water system, as defined in Section 19-4-102;
- 3155 (ii) develop underground sources of water, including springs and wells; and
- 3156 (iii) develop surface water sources.

3157 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
3158 2006, the difference between the following amounts shall be expended as provided in this  
3159 Subsection (5), if that difference is greater than \$1:

3160 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
3161 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3162 (ii) \$17,500,000.

3163 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3164 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
3165 credits; and

3166 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
3167 restoration.

3168 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
3169 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
3170 created in Section [73-10-24](#).

3171 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
3172 remaining difference described in Subsection (5)(a) shall be:

3173 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
3174 credits; and

3175 (B) expended by the Division of Water Resources for cloud-seeding projects  
3176 authorized by Title 73, Chapter 15, Modification of Weather.

3177 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
3178 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
3179 created in Section [73-10-24](#).

3180 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
3181 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
3182 Resources Conservation and Development Fund created in Section [73-10-24](#) for use by the  
3183 Division of Water Resources for:

3184 (i) preconstruction costs:

3185 (A) as defined in Subsection [73-26-103](#)(6) for projects authorized by Title 73, Chapter  
3186 26, Bear River Development Act; and

3187 (B) as defined in Subsection [73-28-103](#)(8) for the Lake Powell Pipeline project

3188 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3189 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

3190 Chapter 26, Bear River Development Act;

3191 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

3192 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3193 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

3194 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3195 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to

3196 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be

3197 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

3198 incurred for employing additional technical staff for the administration of water rights.

3199 (f) At the end of each fiscal year, any unexpended dedicated credits described in

3200 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development

3201 Fund created in Section 73-10-24.

3202 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the

3203 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection

3204 (1) for the fiscal year shall be deposited as follows:

3205 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)

3206 shall be deposited into the Transportation Investment Fund of 2005 created by Section

3207 72-2-124;

3208 (b) for fiscal year 2017-18 only:

3209 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the

3210 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3211 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the

3212 Water Infrastructure Restricted Account created by Section 73-10g-103;

3213 (c) for fiscal year 2018-19 only:

3214 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the

3215 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3216 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the

3217 Water Infrastructure Restricted Account created by Section 73-10g-103;

3218 (d) for fiscal year 2019-20 only:



3219 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the  
3220 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3221 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the  
3222 Water Infrastructure Restricted Account created by Section 73-10g-103;

3223 (e) for fiscal year 2020-21 only:

3224 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
3225 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3226 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
3227 Water Infrastructure Restricted Account created by Section 73-10g-103; and

3228 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described  
3229 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
3230 created by Section 73-10g-103.

3231 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
3232 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
3233 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
3234 created by Section 72-2-124:

3235 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
3236 the [revenues] revenue collected from the following taxes, which represents a portion of the  
3237 approximately 17% of sales and use tax [revenues] revenue generated annually by the sales and  
3238 use tax on vehicles and vehicle-related products:

3239 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

3240 (B) the tax imposed by Subsection (2)(b)(i);

3241 (C) the tax imposed by Subsection (2)(c)(i); and

3242 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3243 (ii) an amount equal to 30% of the growth in the amount of [revenues] revenue  
3244 collected in the current fiscal year from the sales and use taxes described in Subsections  
3245 (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes  
3246 described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3247 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
3248 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
3249 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)

3250 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
3251 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
3252 (7)(a) equal to the product of:

3253 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
3254 previous fiscal year; and

3255 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
3256 (7)(a)(i)(A) through (D) in the current fiscal year.

3257 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
3258 Subsection (7)(a) would exceed 17% of the [revenues] revenue collected from the sales and use  
3259 taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division  
3260 of Finance shall deposit 17% of the [revenues] revenue collected from the sales and use taxes  
3261 described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection  
3262 (7)(a).

3263 (iii) In all subsequent fiscal years after a year in which 17% of the [revenues] revenue  
3264 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was  
3265 deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the  
3266 [revenues] revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A)  
3267 through (D) in the current fiscal year under Subsection (7)(a).

3268 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited  
3269 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall  
3270 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into  
3271 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3272 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under  
3273 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit  
3274 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
3275 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3276 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
3277 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or  
3278 after July 1, 2018, the commission shall annually deposit into the Transportation Investment  
3279 Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a)  
3280 in an amount equal to 3.68% of the [revenues] revenue collected from the following taxes:

- 3281 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 3282 (B) the tax imposed by Subsection (2)(b)(i);
- 3283 (C) the tax imposed by Subsection (2)(c)(i); and
- 3284 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 3285 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
- 3286 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
- 3287 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
- 3288 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
- 3289 sale or use in this state that exceeds 29.4 cents per gallon.
- 3290 (iii) The commission shall annually deposit the amount described in Subsection
- 3291 (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section [72-2-124](#).
- 3292 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
- 3293 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
- 3294 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).
- 3295 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
- 3296 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
- 3297 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
- 3298 of 2005 created by Section [72-2-124](#) the amount of tax revenue generated by a .05% tax rate on
- 3299 the transactions described in Subsection (1).
- 3300 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
- 3301 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
- 3302 shall deposit into the Transportation Investment Fund of 2005 created by Section [72-2-124](#) the
- 3303 amount of revenue described as follows:
- 3304 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
- 3305 tax rate on the transactions described in Subsection (1);
- 3306 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
- 3307 tax rate on the transactions described in Subsection (1);
- 3308 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
- 3309 tax rate on the transactions described in Subsection (1);
- 3310 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
- 3311 .05% tax rate on the transactions described in Subsection (1); and

3312 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
3313 tax rate on the transactions described in Subsection (1).

3314 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not  
3315 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts  
3316 paid or charged for food and food ingredients, except for tax revenue generated by a bundled  
3317 transaction attributable to food and food ingredients and tangible personal property other than  
3318 food and food ingredients described in Subsection (2)(d).

3319 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
3320 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
3321 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
3322 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
3323 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
3324 created in Section 63N-2-512.

3325 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the  
3326 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed  
3327 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

3328 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of  
3329 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under  
3330 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

3331 (13) (a) The rate specified in this subsection is 0.15%.

3332 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[-(i) on or before~~  
3333 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~  
3334 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~  
3335 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~  
3336 ~~Medicaid Expansion Fund created in Section 26-36b-208, and (ii)],~~ for a fiscal year beginning  
3337 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate  
3338 described in Subsection (13)(a) on the transactions that are subject to the sales and use tax  
3339 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
3340 26-36b-208.

3341 (14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
3342 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated

3343 credit solely for use of the Search and Rescue Financial Assistance Program created in, and  
3344 expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

3345 (15) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
3346 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
3347 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

3348 (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
3349 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
3350 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of  
3351 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

3352 Section 12. Section **63M-4-401** is amended to read:

3353 **63M-4-401. Office of Energy Development -- Creation -- Director -- Purpose --**  
3354 **Rulemaking regarding confidential information -- Fees.**

3355 (1) There is created an Office of Energy Development.

3356 (2) (a) The governor's energy advisor shall serve as the director of the office or appoint  
3357 a director of the office.

3358 (b) The director:

3359 (i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a),  
3360 report to the governor's energy advisor; and

3361 (ii) may appoint staff as funding within existing budgets allows.

3362 (c) The office may consolidate energy staff and functions existing in the state energy  
3363 program.

3364 (3) The purposes of the office are to:

3365 (a) serve as the primary resource for advancing energy and mineral development in the  
3366 state;

3367 (b) implement:

3368 (i) the state energy policy under Section [63M-4-301](#); and

3369 (ii) the governor's energy and mineral development goals and objectives;

3370 (c) advance energy education, outreach, and research, including the creation of  
3371 elementary, higher education, and technical college energy education programs;

3372 (d) promote energy and mineral development workforce initiatives; and

3373 (e) support collaborative research initiatives targeted at Utah-specific energy and

3374 mineral development.

3375 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal  
3376 Funds Procedures Act, the office may:

3377 (a) seek federal grants or loans;

3378 (b) seek to participate in federal programs; and

3379 (c) in accordance with applicable federal program guidelines, administer federally  
3380 funded state energy programs.

3381 (5) The office shall perform the duties required by Sections [11-42a-106](#)[;] and  
3382 [59-5-102](#)[, ~~[59-7-614.7](#), [59-10-1029](#)~~, Part 5, Alternative Energy Development Tax Credit Act,]  
3383 and Part 6, High Cost Infrastructure Development Tax Credit Act.

3384 (6) (a) For purposes of administering this section, the office may make rules, by  
3385 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative  
3386 Rulemaking Act, to maintain as confidential, and not as a public record, information that the  
3387 office receives from any source.

3388 (b) The office shall maintain information the office receives from any source at the  
3389 level of confidentiality assigned by the source.

3390 (7) The office may charge application, filing, and processing fees in amounts  
3391 determined by the office in accordance with Section [63J-1-504](#) as dedicated credits for  
3392 performing office duties described in this part.

3393 Section 13. Section **63M-4-602** is amended to read:

3394 **63M-4-602. Definitions.**

3395 As used in this part:

3396 (1) "Applicant" means a person that conducts business in the state and that applies for a  
3397 tax credit under this part.

3398 (2) "Fuel standard compliance project" means a project designed to retrofit a fuel  
3399 refinery in order to make the refinery capable of producing fuel that complies with the United  
3400 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40  
3401 C.F.R. Sec. 79.54.

3402 (3) "High cost infrastructure project" means a project:

3403 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture  
3404 activity in the state, not including a retail business;

3405 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,  
3406 mining, manufacturing, or agriculture entity, by the entity; or

3407 (iii) for the construction of a plant or other facility, including a fueling station, for the  
3408 storage, production, or distribution of hydrogen fuel used for transportation, electricity  
3409 generation, or industrial use;

3410 (b) that requires or is directly facilitated by infrastructure construction; and

3411 (c) for which the cost of infrastructure construction to the entity creating the project is  
3412 greater than:

3413 (i) 10% of the total cost of the project; or

3414 (ii) \$10,000,000.

3415 (4) "Infrastructure" means:

3416 (a) an energy delivery project as defined in Section [63H-2-102](#);

3417 (b) a railroad as defined in Section [54-2-1](#);

3418 (c) a fuel standard compliance project;

3419 (d) a road improvement project;

3420 (e) a water self-supply project;

3421 (f) a water removal system project;

3422 (g) a solution-mined subsurface salt cavern; or

3423 (h) a project that is designed to:

3424 (i) increase the capacity for water delivery to a water user in the state; ~~or~~

3425 (ii) increase the capability of an existing water delivery system or related facility to  
3426 deliver water to a water user in the state~~[-];~~ or

3427 (i) a hydrogen fuel production or distribution project.

3428 (5) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an  
3429 agreement with the office that qualifies the applicant to receive a tax credit as provided in this  
3430 part.

3431 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as  
3432 defined in Section [59-10-1402](#), of a person described in Subsection (5)(a).

3433 (6) "Infrastructure-related revenue" means an amount of tax revenue, for an entity  
3434 creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high  
3435 cost infrastructure project, under:

- 3436 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 3437 (b) Title 59, Chapter 10, Individual Income Tax Act; and
- 3438 (c) Title 59, Chapter 12, Sales and Use Tax Act.
- 3439 (7) "Office" means the Office of Energy Development created in Section [63M-4-401](#).
- 3440 (8) "Tax credit" means a tax credit under Section [59-7-619](#) or [59-10-1034](#).
- 3441 (9) "Tax credit certificate" means a certificate issued by the office to an infrastructure

3442 cost-burdened entity that:

- 3443 (a) lists the name of the infrastructure cost-burdened entity;
- 3444 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
- 3445 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
- 3446 cost-burdened entity under this part; and
- 3447 (d) includes other information as determined by the office.

3448 Section 14. **Repealer.**

3449 This bill repeals:

3450 Section [59-7-614.7](#), **Nonrefundable alternative energy development tax credit.**

3451 Section [59-10-1029](#), **Nonrefundable alternative energy development tax credit.**

3452 Section [63M-4-501](#), **Title.**

3453 Section [63M-4-502](#), **Definitions.**

3454 Section [63M-4-503](#), **Tax credits.**

3455 Section [63M-4-504](#), **Qualifications for tax credit -- Procedure.**

3456 Section [63M-4-505](#), **Report to the Legislature.**

3457 Section 15. **Effective date.**

3458 (1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2021.

3459 (2) The changes to the following sections take effect on January 1, 2022:

3460 (a) Section [59-7-159](#);

3461 (b) Section [59-10-137](#);

3462 (c) Section [59-12-102](#); and

3463 (d) Section [59-12-103](#).

3464 (3) The changes to the following sections take effect for a taxable year beginning on or  
3465 after January 1, 2022:

3466 (a) Section [59-7-614](#);



- 3467            (b) Section 59-7-614.7;
- 3468            (c) Section 59-7-626;
- 3469            (d) Section 59-10-1014;
- 3470            (e) Section 59-10-1029;
- 3471            (f) Section 59-10-1106;
- 3472            (g) Section 59-10-1113;
- 3473            (h) Section 63M-4-401;
- 3474            (i) Section 63M-4-501;
- 3475            (j) Section 63M-4-502;
- 3476            (k) Section 63M-4-503;
- 3477            (l) Section 63M-4-504;
- 3478            (m) Section 63M-4-505; and
- 3479            (n) Section 63M-4-602.