

CHANGES TO TAX

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the school minimum basic tax rate, amends provisions of the individual income tax code, and increases the state sales and use tax on food and food ingredients.

Highlighted Provisions:

This bill:

- ▶ amends the calculation of the school minimum basic tax rate;
- ▶ exempts the school minimum basic tax rate from certain public notice requirements;
- ▶ modifies the number of personal exemptions an individual taxpayer may claim;
- ▶ amends the calculation of the individual taxpayer credit;
- ▶ enacts a refundable state earned income tax credit, to be funded by the General

Fund; and

- ▶ increases the state sales and use tax rate on food and food ingredients to the general state sales and use tax rate.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



28 **53A-17a-135**, as last amended by Laws of Utah 2016, Chapter 2
 29 **59-2-926**, as last amended by Laws of Utah 2016, Chapter 367
 30 **59-10-104.1**, as last amended by Laws of Utah 2008, Chapter 389
 31 **59-10-1018**, as last amended by Laws of Utah 2012, Chapter 295
 32 **59-12-103**, as last amended by Laws of Utah 2016, Chapters 184, 291, 348 and last
 33 amended by Coordination Clause, Laws of Utah 2016, Chapter 291

34 ENACTS:

35 **59-10-1102.1**, Utah Code Annotated 1953
 36 **59-10-1112**, Utah Code Annotated 1953

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

39 Section 1. Section **53A-17a-135** is amended to read:

40 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

41 (1) As used in this section, "basic levy increment rate" means a tax rate that will
42 generate an amount of revenue equal to \$75,000,000.

43 (2) (a) In order to qualify for receipt of the state contribution toward the basic program
44 and as ~~[its]~~ the school district's contribution toward ~~[its]~~ the costs of the basic program, each
45 school district shall impose a minimum basic tax rate per dollar of taxable value ~~[that generates~~
46 ~~\$392,266,800 in revenues statewide]~~ in accordance with this section.

47 ~~[(b) The preliminary estimate for the 2016-17 minimum basic tax rate is .001695.]~~

48 ~~[(c) The State Tax Commission shall certify on or before June 22 the rate that~~
49 ~~generates \$392,266,800 in revenues statewide.]~~

50 ~~[(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in~~
51 ~~Section **53A-17a-103**, the state is subject to the notice requirements of Section **59-2-926**.]~~

52 (b) The minimum basic tax rate is the greater of:

53 (i) the certified revenue levy; or

54 (ii) a tax rate of .001675.

55 (c) On or before June 22, the State Tax Commission shall certify:

56 (i) the minimum basic tax rate to be imposed under Subsection (2)(b); and

57 (ii) the basic levy increment rate.

58 (3) (a) The state shall contribute to each school district toward the cost of the basic

59 program in the school district [~~that portion which~~] the portion that exceeds the proceeds of the
60 difference between:

61 (i) the minimum basic tax rate to be imposed under Subsection (2); and

62 (ii) the basic levy increment rate.

63 (b) In accordance with the state strategic plan for public education and to fulfill its
64 responsibility for the development and implementation of that plan, the Legislature instructs
65 the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each
66 of the coming five years to develop budgets that will fully fund student enrollment growth.

67 (4) (a) If the difference described in Subsection (3)(a) equals or exceeds the cost of the
68 basic program in a school district, no state contribution shall be made to the basic program.

69 (b) The proceeds of the difference described in Subsection (3)(a) that exceed the cost
70 of the basic program shall be paid into the Uniform School Fund as provided by law.

71 (5) The State Board of Education shall:

72 (a) deduct from state funds that a school district is authorized to receive under this
73 chapter an amount equal to the proceeds generated within the school district by the basic levy
74 increment rate; and

75 (b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth
76 Account created in Section [53A-17a-135.1](#).

77 Section 2. Section **59-2-926** is amended to read:

78 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

79 If the state [~~authorizes a levy pursuant to Section [53A-17a-135](#) that exceeds the~~
80 ~~certified revenue levy as defined in Section [53A-17a-103](#) or~~] authorizes a levy pursuant to
81 Section [59-2-1602](#) that exceeds the certified revenue levy as defined in Section [59-2-102](#), the
82 state shall publish a notice no later than 10 days after the last day of the annual legislative
83 general session that meets the following requirements:

84 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state
85 authorized a levy that generates revenue in excess of the previous year's ad valorem tax
86 revenue, plus eligible new growth as defined in Section [59-2-924](#), but exclusive of revenue
87 from collections from redemptions, interest, and penalties:

88 (i) in a newspaper of general circulation in the state; and

89 (ii) as required in Section [45-1-101](#).

90 (b) Except an advertisement published on a website, the advertisement described in
91 Subsection (1)(a):

92 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
93 point, and surrounded by a 1/4-inch border:

94 (ii) may not be placed in that portion of the newspaper where legal notices and
95 classified advertisements appear; and

96 (iii) shall be run once.

97 (2) The form and content of the notice shall be substantially as follows:

98 "NOTICE OF TAX INCREASE

99 The state has budgeted an increase in its property tax revenue from \$_____ to
100 \$_____ or ____%. The increase in property tax revenues will come from the following
101 sources (include all of the following provisions):

102 (a) \$_____ of the increase will come from (provide an explanation of the cause
103 of adjustment or increased revenues, such as reappraisals or factoring orders);

104 (b) \$_____ of the increase will come from natural increases in the value of the
105 tax base due to (explain cause of eligible new growth, such as new building activity,
106 annexation, etc.);

107 (c) a home valued at \$100,000 in the state of Utah which based on last year's [~~levy for~~
108 ~~the basic state-supported school program;~~] levy for the Property Tax Valuation Agency Fund[;
109 ~~or both~~] paid \$_____ in property taxes would pay the following:

110 (i) \$_____ if the state of Utah did not budget an increase in property tax revenue
111 exclusive of eligible new growth; and

112 (ii) \$_____ under the increased property tax revenues exclusive of eligible new
113 growth budgeted by the state of Utah."

114 Section 3. Section **59-10-104.1** is amended to read:

115 **59-10-104.1. Exemption from taxation.**

116 (1) [~~For purposes of~~] As used in this section:

117 (a) "Personal [~~exemptions~~] exemption" means the [~~total~~] exemption amount an
118 individual is allowed to claim for the taxable year under Section 151, Internal Revenue Code,
119 for:

120 (i) the individual;

121 (ii) the individual's spouse; and

122 (iii) the individual's dependents.

123 (b) "Qualifying personal exemption" means the amount of personal exemption that an
 124 individual is allowed to claim for the taxable year:

125 (i) for the individual;

126 (ii) for an individual whose filing status is married filing jointly, the individual's
 127 spouse; and

128 (iii) the individual's qualifying relatives.

129 (c) "Qualifying relative" means the same as that term is defined in Section 152, Internal
 130 Revenue Code, except that the qualifying relative must be 19 years of age or older.

131 ~~[(b)]~~ (d) "Standard deduction":

132 (i) means the standard deduction an individual is allowed to claim for the taxable year
 133 under Section 63, Internal Revenue Code; and

134 (ii) notwithstanding Subsection (1)(b)(i), does not include an additional amount
 135 allowed under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse
 136 who is:

137 (A) blind; or

138 (B) 65 years of age or older.

139 (2) ~~[For taxable years beginning on or after January 1, 2002, an]~~ An individual is
 140 exempt from a tax imposed by Section 59-10-104 or 59-10-116 if the individual's adjusted
 141 gross income on the individual's federal individual income tax return for the taxable year is less
 142 than or equal to the sum of the individual's:

143 (a) qualifying personal exemptions for that taxable year; and

144 (b) standard deduction for that taxable year.

145 Section 4. Section **59-10-1018** is amended to read:

146 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

147 (1) As used in this section:

148 (a) "Dependent adult with a disability" means an individual who:

149 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
 150 claimant's federal individual income tax return for the taxable year;

151 (ii) is not the claimant or the claimant's spouse; and

152 (iii) is:
153 (A) 18 years of age or older;
154 (B) eligible for services under Title 62A, Chapter 5, Services for People with
155 Disabilities; and
156 (C) not enrolled in an education program for students with disabilities that is
157 authorized under Section [53A-15-301](#).
158 (b) "Dependent child with a disability" means an individual 21 years of age or younger
159 who:
160 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
161 claimant's federal individual income tax return for the taxable year;
162 (ii) is not the claimant or the claimant's spouse; and
163 (iii) is:
164 (A) an eligible student with a disability; or
165 (B) identified under guidelines of the Department of Health as qualified for Early
166 Intervention or Infant Development Services.
167 (c) "Eligible student with a disability" means an individual who is:
168 (i) diagnosed by a school district representative under rules the State Board of
169 Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
170 Act, as having a disability classified as autism, deafness, preschool developmental delay, dual
171 sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic
172 impairment, other health impairment, traumatic brain injury, or visual impairment;
173 (ii) not receiving residential services from the Division of Services for People with
174 Disabilities created under Section [62A-5-102](#) or a school established under Title 53A, Chapter
175 25b, Utah Schools for the Deaf and the Blind; and
176 (iii) (A) enrolled in an education program for students with disabilities that is
177 authorized under Section [53A-15-301](#); or
178 (B) a recipient of a scholarship awarded under Title 53A, Chapter 1a, Part 7, Carson
179 Smith Scholarships for Students with Special Needs Act.
180 (d) "Head of household filing status" means a head of household, as defined in Section
181 2(b), Internal Revenue Code, who files a single federal individual income tax return for the
182 taxable year.

183 (e) "Joint filing status" means:

184 (i) [~~a husband and wife~~] spouses who file a single return jointly under this chapter for a
185 taxable year; or

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

188 (f) "Qualifying personal exemption" means the same as that term is defined in Section
189 59-10-104.1.

190 [(f)] (g) "Single filing status" means:

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

193 (ii) a married individual who:

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

195 [~~married~~] individual's spouse for the taxable year; and

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

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

200 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
201 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
202 allowed as the standard deduction on the claimant's federal individual income tax return for
203 that taxable year; or

204 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
205 tax return for the taxable year, the product of:

206 (A) the difference between:

207 (I) the amount the claimant deducts as allowed as an itemized deduction on the
208 claimant's federal individual income tax return for that taxable year; and

209 (II) any amount of state or local income taxes the claimant deducts as allowed as an
210 itemized deduction on the claimant's federal individual income tax return for that taxable year;

211 and

212 (B) 6%; and

213 (b) the product of:

214 (i) ~~[75% of the total amount the claimant deducts as allowed as a personal exemption~~
215 ~~deduction on the claimant's federal individual income tax return]~~ 80% of qualifying personal
216 exemption for that taxable year, plus an additional ~~[75%]~~ 80% of the amount the claimant
217 deducts as allowed as a personal exemption deduction on the claimant's federal individual
218 income tax return for that taxable year with respect to each dependent adult with a disability or
219 dependent child with a disability; and

220 (ii) 6%.

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

222 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
223 ~~[by which]~~ that a claimant's state taxable income exceeds:

224 (a) for a claimant who has a single filing status, \$12,000;

225 (b) for a claimant who has a head of household filing status, \$18,000; or

226 (c) for a claimant who has a joint filing status, \$24,000.

227 (5) (a) ~~[For taxable years beginning on or after January 1, 2009, the]~~ The commission
228 shall increase or decrease the following dollar amounts by a percentage equal to the percentage
229 difference between the consumer price index for the preceding calendar year and the consumer
230 price index for calendar year 2007:

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

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

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

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

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

240 (ii) two.

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

243 Section 5. Section **59-10-1102.1** is enacted to read:

244 **59-10-1102.1. Apportionment of tax credit.**

245 A nonresident individual or a part-year resident individual who claims a tax credit in
246 accordance with Section 59-10-1112 may only claim an apportioned amount of the tax credit
247 equal to the product of:

248 (1) the state income tax percentage for the nonresident individual or the state income
249 tax percentage for the part-year resident individual; and

250 (2) the amount of the tax credit that the nonresident individual or part-year resident
251 individual would have been allowed to claim but for the apportionment requirement of this
252 section.

253 Section 6. Section 59-10-1112 is enacted to read:

254 **59-10-1112. Refundable state earned income tax credit.**

255 (1) As used in this section, "federal earned income tax credit" means the federal earned
256 income tax credit described in Section 32, Internal Revenue Code.

257 (2) Except as provided in Section 59-10-1102.1, a claimant may claim a refundable
258 earned income tax credit equal to 10% of the federal earned income tax credit that a claimant
259 was entitled to claim if the claimant:

260 (a) qualifies for the federal earned income tax credit; and

261 (b) claimed the federal earned income tax credit for that taxable year.

262 (3) (a) The Division of Finance shall transfer at least annually from the General Fund
263 into the Education Fund, an amount equal to the amount of tax credit claimed under this
264 section.

265 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
266 commission may make rules for making a transfer described in Subsection (3)(a).

267 Section 7. Section 59-12-103 is amended to read:

268 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
269 **tax revenues.**

270 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
271 charged for the following transactions:

272 (a) retail sales of tangible personal property made within the state;

273 (b) amounts paid for:

274 (i) telecommunications service, other than mobile telecommunications service, that
275 originates and terminates within the boundaries of this state;

- 276 (ii) mobile telecommunications service that originates and terminates within the
- 277 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 278 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 279 (iii) an ancillary service associated with a:
 - 280 (A) telecommunications service described in Subsection (1)(b)(i); or
 - 281 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
 - 282 (c) sales of the following for commercial use:
 - 283 (i) gas;
 - 284 (ii) electricity;
 - 285 (iii) heat;
 - 286 (iv) coal;
 - 287 (v) fuel oil; or
 - 288 (vi) other fuels;
 - 289 (d) sales of the following for residential use:
 - 290 (i) gas;
 - 291 (ii) electricity;
 - 292 (iii) heat;
 - 293 (iv) coal;
 - 294 (v) fuel oil; or
 - 295 (vi) other fuels;
 - 296 (e) sales of prepared food;
 - 297 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
 - 298 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
 - 299 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
 - 300 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
 - 301 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
 - 302 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
 - 303 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
 - 304 horseback rides, sports activities, or any other amusement, entertainment, recreation,
 - 305 exhibition, cultural, or athletic activity;
 - 306 (g) amounts paid or charged for services for repairs or renovations of tangible personal

307 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

308 (i) the tangible personal property; and

309 (ii) parts used in the repairs or renovations of the tangible personal property described

310 in Subsection (1)(g)(i), regardless of whether:

311 (A) any parts are actually used in the repairs or renovations of that tangible personal

312 property; or

313 (B) the particular parts used in the repairs or renovations of that tangible personal

314 property are exempt from a tax under this chapter;

315 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for

316 assisted cleaning or washing of tangible personal property;

317 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

318 accommodations and services that are regularly rented for less than 30 consecutive days;

319 (j) amounts paid or charged for laundry or dry cleaning services;

320 (k) amounts paid or charged for leases or rentals of tangible personal property if within

321 this state the tangible personal property is:

322 (i) stored;

323 (ii) used; or

324 (iii) otherwise consumed;

325 (l) amounts paid or charged for tangible personal property if within this state the

326 tangible personal property is:

327 (i) stored;

328 (ii) used; or

329 (iii) consumed; and

330 (m) amounts paid or charged for a sale:

331 (i) (A) of a product transferred electronically; or

332 (B) of a repair or renovation of a product transferred electronically; and

333 (ii) regardless of whether the sale provides:

334 (A) a right of permanent use of the product; or

335 (B) a right to use the product that is less than a permanent use, including a right:

336 (I) for a definite or specified length of time; and

337 (II) that terminates upon the occurrence of a condition.

338 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
339 is imposed on a transaction described in Subsection (1) equal to the sum of:

340 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

341 (A) 4.70%; and

342 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
343 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
344 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
345 State Sales and Use Tax Act; and

346 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
347 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
348 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
349 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

350 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
351 transaction under this chapter other than this part.

352 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
353 on a transaction described in Subsection (1)(d) equal to the sum of:

354 (i) a state tax imposed on the transaction at a tax rate of 2%; and

355 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
356 transaction under this chapter other than this part.

357 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
358 on amounts paid or charged for food and food ingredients equal to the sum of:

359 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
360 a tax rate of [~~1.75%~~] 4.70%; and

361 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
362 amounts paid or charged for food and food ingredients under this chapter other than this part.

363 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
364 tangible personal property other than food and food ingredients, a state tax and a local tax is
365 imposed on the entire bundled transaction equal to the sum of:

366 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

367 (I) the tax rate described in Subsection (2)(a)(i)(A); and

368 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

369 Sales and Use Tax Act, if the location of the transaction as determined under Sections
370 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
371 Additional State Sales and Use Tax Act; and

372 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
373 Sales and Use Tax Act, if the location of the transaction as determined under Sections
374 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
375 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

376 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
377 described in Subsection (2)(a)(ii).

378 (ii) If an optional computer software maintenance contract is a bundled transaction that
379 consists of taxable and nontaxable products that are not separately itemized on an invoice or
380 similar billing document, the purchase of the optional computer software maintenance contract
381 is 40% taxable under this chapter and 60% nontaxable under this chapter.

382 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
383 transaction described in Subsection (2)(d)(i) or (ii):

384 (A) if the sales price of the bundled transaction is attributable to tangible personal
385 property, a product, or a service that is subject to taxation under this chapter and tangible
386 personal property, a product, or service that is not subject to taxation under this chapter, the
387 entire bundled transaction is subject to taxation under this chapter unless:

388 (I) the seller is able to identify by reasonable and verifiable standards the tangible
389 personal property, product, or service that is not subject to taxation under this chapter from the
390 books and records the seller keeps in the seller's regular course of business; or

391 (II) state or federal law provides otherwise; or

392 (B) if the sales price of a bundled transaction is attributable to two or more items of
393 tangible personal property, products, or services that are subject to taxation under this chapter
394 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
395 higher tax rate unless:

396 (I) the seller is able to identify by reasonable and verifiable standards the tangible
397 personal property, product, or service that is subject to taxation under this chapter at the lower
398 tax rate from the books and records the seller keeps in the seller's regular course of business; or

399 (II) state or federal law provides otherwise.

400 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
401 seller's regular course of business includes books and records the seller keeps in the regular
402 course of business for nontax purposes.

403 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
404 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
405 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
406 of tangible personal property, other property, a product, or a service that is not subject to
407 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
408 the seller, at the time of the transaction:

409 (A) separately states the portion of the transaction that is not subject to taxation under
410 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

411 (B) is able to identify by reasonable and verifiable standards, from the books and
412 records the seller keeps in the seller's regular course of business, the portion of the transaction
413 that is not subject to taxation under this chapter.

414 (ii) A purchaser and a seller may correct the taxability of a transaction if:

415 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
416 the transaction that is not subject to taxation under this chapter was not separately stated on an
417 invoice, bill of sale, or similar document provided to the purchaser because of an error or
418 ignorance of the law; and

419 (B) the seller is able to identify by reasonable and verifiable standards, from the books
420 and records the seller keeps in the seller's regular course of business, the portion of the
421 transaction that is not subject to taxation under this chapter.

422 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
423 in the seller's regular course of business includes books and records the seller keeps in the
424 regular course of business for nontax purposes.

425 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
426 personal property, products, or services that are subject to taxation under this chapter at
427 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
428 unless the seller, at the time of the transaction:

429 (A) separately states the items subject to taxation under this chapter at each of the
430 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

431 (B) is able to identify by reasonable and verifiable standards the tangible personal
432 property, product, or service that is subject to taxation under this chapter at the lower tax rate
433 from the books and records the seller keeps in the seller's regular course of business.

434 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
435 seller's regular course of business includes books and records the seller keeps in the regular
436 course of business for nontax purposes.

437 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
438 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 439 (i) Subsection (2)(a)(i)(A);
- 440 (ii) Subsection (2)(b)(i);
- 441 (iii) Subsection (2)(c)(i); or
- 442 (iv) Subsection (2)(d)(i)(A)(I).

443 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
444 begins on or after the effective date of the tax rate increase if the billing period for the
445 transaction begins before the effective date of a tax rate increase imposed under:

- 446 (A) Subsection (2)(a)(i)(A);
- 447 (B) Subsection (2)(b)(i);
- 448 (C) Subsection (2)(c)(i); or
- 449 (D) Subsection (2)(d)(i)(A)(I).

450 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
451 statement for the billing period is rendered on or after the effective date of the repeal of the tax
452 or the tax rate decrease imposed under:

- 453 (A) Subsection (2)(a)(i)(A);
- 454 (B) Subsection (2)(b)(i);
- 455 (C) Subsection (2)(c)(i); or
- 456 (D) Subsection (2)(d)(i)(A)(I).

457 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
458 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
459 change in a tax rate takes effect:

- 460 (A) on the first day of a calendar quarter; and
- 461 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

- 462 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 463 (A) Subsection (2)(a)(i)(A);
- 464 (B) Subsection (2)(b)(i);
- 465 (C) Subsection (2)(c)(i); or
- 466 (D) Subsection (2)(d)(i)(A)(I).
- 467 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 468 the commission may by rule define the term "catalogue sale."
- 469 (3) (a) The following state taxes shall be deposited into the General Fund:
- 470 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 471 (ii) the tax imposed by Subsection (2)(b)(i);
- 472 (iii) the tax imposed by Subsection (2)(c)(i); or
- 473 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 474 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 475 in this chapter:
- 476 (i) the tax imposed by Subsection (2)(a)(ii);
- 477 (ii) the tax imposed by Subsection (2)(b)(ii);
- 478 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 479 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 480 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 481 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 482 through (g):
- 483 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 484 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 485 (B) for the fiscal year; or
- 486 (ii) \$17,500,000.
- 487 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 488 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 489 Department of Natural Resources to:
- 490 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 491 protect sensitive plant and animal species; or
- 492 (B) award grants, up to the amount authorized by the Legislature in an appropriations

493 act, to political subdivisions of the state to implement the measures described in Subsections
494 [79-2-303\(3\)\(a\)](#) through (d) to protect sensitive plant and animal species.

495 (ii) Money transferred to the Department of Natural Resources under Subsection
496 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
497 person to list or attempt to have listed a species as threatened or endangered under the
498 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

499 (iii) At the end of each fiscal year:

500 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
501 Conservation and Development Fund created in Section [73-10-24](#);

502 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
503 Program Subaccount created in Section [73-10c-5](#); and

504 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
505 Program Subaccount created in Section [73-10c-5](#).

506 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
507 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
508 created in Section [4-18-106](#).

509 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
510 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
511 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
512 water rights.

513 (ii) At the end of each fiscal year:

514 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
515 Conservation and Development Fund created in Section [73-10-24](#);

516 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
517 Program Subaccount created in Section [73-10c-5](#); and

518 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
519 Program Subaccount created in Section [73-10c-5](#).

520 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
521 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
522 Development Fund created in Section [73-10-24](#) for use by the Division of Water Resources.

523 (ii) In addition to the uses allowed of the Water Resources Conservation and

524 Development Fund under Section 73-10-24, the Water Resources Conservation and
525 Development Fund may also be used to:

526 (A) conduct hydrologic and geotechnical investigations by the Division of Water
527 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
528 quantifying surface and ground water resources and describing the hydrologic systems of an
529 area in sufficient detail so as to enable local and state resource managers to plan for and
530 accommodate growth in water use without jeopardizing the resource;

531 (B) fund state required dam safety improvements; and

532 (C) protect the state's interest in interstate water compact allocations, including the
533 hiring of technical and legal staff.

534 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
535 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
536 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

537 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
538 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
539 created in Section 73-10c-5 for use by the Division of Drinking Water to:

540 (i) provide for the installation and repair of collection, treatment, storage, and
541 distribution facilities for any public water system, as defined in Section 19-4-102;

542 (ii) develop underground sources of water, including springs and wells; and

543 (iii) develop surface water sources.

544 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
545 2006, the difference between the following amounts shall be expended as provided in this
546 Subsection (5), if that difference is greater than \$1:

547 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
548 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

549 (ii) \$17,500,000.

550 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

551 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
552 credits; and

553 (B) expended by the Department of Natural Resources for watershed rehabilitation or
554 restoration.

555 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
556 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
557 created in Section 73-10-24.

558 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
559 remaining difference described in Subsection (5)(a) shall be:

560 (A) transferred each fiscal year to the Division of Water Resources as dedicated
561 credits; and

562 (B) expended by the Division of Water Resources for cloud-seeding projects
563 authorized by Title 73, Chapter 15, Modification of Weather.

564 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
565 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
566 created in Section 73-10-24.

567 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
568 remaining difference described in Subsection (5)(a) shall be deposited into the Water
569 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
570 Division of Water Resources for:

571 (i) preconstruction costs:

572 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
573 26, Bear River Development Act; and

574 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
575 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

576 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
577 Chapter 26, Bear River Development Act;

578 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
579 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

580 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
581 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

582 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
583 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
584 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
585 incurred for employing additional technical staff for the administration of water rights.

586 (f) At the end of each fiscal year, any unexpended dedicated credits described in
587 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
588 Fund created in Section 73-10-24.

589 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
590 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
591 (1) for the fiscal year shall be deposited as follows:

592 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
593 shall be deposited into the Transportation Investment Fund of 2005 created by Section
594 72-2-124;

595 (b) for fiscal year 2017-18 only:

596 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
597 Transportation Investment Fund of 2005 created by Section 72-2-124; and

598 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
599 Water Infrastructure Restricted Account created by Section 73-10g-103;

600 (c) for fiscal year 2018-19 only:

601 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
602 Transportation Investment Fund of 2005 created by Section 72-2-124; and

603 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
604 Water Infrastructure Restricted Account created by Section 73-10g-103;

605 (d) for fiscal year 2019-20 only:

606 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
607 Transportation Investment Fund of 2005 created by Section 72-2-124; and

608 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
609 Water Infrastructure Restricted Account created by Section 73-10g-103;

610 (e) for fiscal year 2020-21 only:

611 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
612 Transportation Investment Fund of 2005 created by Section 72-2-124; and

613 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
614 Water Infrastructure Restricted Account created by Section 73-10g-103; and

615 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
616 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account

617 created by Section 73-10g-103.

618 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
619 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
620 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
621 created by Section 72-2-124:

622 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
623 the revenues collected from the following taxes, which represents a portion of the
624 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
625 on vehicles and vehicle-related products:

626 (A) the tax imposed by Subsection (2)(a)(i)(A);

627 (B) the tax imposed by Subsection (2)(b)(i);

628 (C) the tax imposed by Subsection (2)(c)(i); and

629 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

630 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
631 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
632 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
633 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

634 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
635 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
636 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
637 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
638 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
639 (7)(a) equal to the product of:

640 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
641 previous fiscal year; and

642 (B) the total sales and use tax revenue generated by the taxes described in Subsections
643 (7)(a)(i)(A) through (D) in the current fiscal year.

644 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
645 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
646 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
647 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in

648 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

649 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
650 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
651 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
652 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
653 current fiscal year under Subsection (7)(a).

654 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
655 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
656 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
657 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

658 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
659 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
660 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
661 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

662 (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
663 Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of
664 Finance shall annually deposit into the Transportation Investment Fund of 2005 created by
665 Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a) in an amount equal to
666 3.68% of the revenues collected from the following taxes:

- 667 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 668 (ii) the tax imposed by Subsection (2)(b)(i);
- 669 (iii) the tax imposed by Subsection (2)(c)(i); and
- 670 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

671 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
672 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
673 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

674 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
675 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
676 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
677 of 2005 created by Section [72-2-124](#) the amount of tax revenue generated by a .05% tax rate on
678 the transactions described in Subsection (1).

679 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
680 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
681 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
682 amount of revenue described as follows:

683 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
684 tax rate on the transactions described in Subsection (1);

685 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
686 tax rate on the transactions described in Subsection (1);

687 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
688 tax rate on the transactions described in Subsection (1);

689 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
690 .05% tax rate on the transactions described in Subsection (1); and

691 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
692 tax rate on the transactions described in Subsection (1).

693 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
694 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
695 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
696 transaction attributable to food and food ingredients and tangible personal property other than
697 food and food ingredients described in Subsection (2)(d).

698 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
699 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
700 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
701 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
702 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
703 created in Section 63N-2-512.

704 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
705 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
706 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

707 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
708 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
709 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

710 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
711 or deposited in accordance with Subsections (4) through (12) may not include an amount the
712 Division of Finance deposits in accordance with Section [59-12-103.2](#).

713 Section 8. **Effective date.**

714 (1) The amendments to Section [59-12-103](#) take effect on July 1, 2017.

715 (2) The amendments to Sections [53A-17a-135](#) and [59-2-926](#) take effect on January 1,
716 2018.

717 (3) The amendments to Sections [59-10-104.1](#), [59-10-1018](#), and [59-10-1102.1](#) take
718 effect for a taxable year beginning on or after January 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel