

1 **AGRICULTURE ENVIRONMENTAL STEWARD AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ralph Okerlund**

5 House Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill creates the Utah Environmental Stewardship Certification Program.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ creates the Utah Environmental Stewardship Certification Program;
- 14 ▶ allows a farm, ranch, or animal feeding operation to qualify under the Utah

15 Environmental Stewardship Certification program;

16 ▶ requires the Conservation Commission to make rules to establish standards and
17 procedures for administering the Utah Environmental Stewardship Certification

18 Program; and

- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides an effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **4-20-1.5**, as last amended by Laws of Utah 2010, Chapters 278 and 286

27 **17D-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 360



28 **19-5-102**, as last amended by Laws of Utah 2012, Chapter 360

29 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
30 207, 212, 254, and 255

31 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,
32 212, 254, 255, and 424

33 **63A-3-205**, as last amended by Laws of Utah 2012, Chapter 212

34 **63B-1b-102**, as last amended by Laws of Utah 2012, Chapter 212

35 **63B-1b-202**, as last amended by Laws of Utah 2012, Chapter 212

36 **63G-2-305**, as last amended by Laws of Utah 2012, Chapters 331 and 377

37 ENACTS:

38 **4-18-107**, Utah Code Annotated 1953

39 RENUMBERS AND AMENDS:

40 **4-18-101**, (Renumbered from 4-18-1, as last amended by Laws of Utah 2007, Chapter
41 179)

42 **4-18-102**, (Renumbered from 4-18-2, as last amended by Laws of Utah 2011, Chapter
43 383)

44 **4-18-103**, (Renumbered from 4-18-3, as last amended by Laws of Utah 2011, Chapter
45 383)

46 **4-18-104**, (Renumbered from 4-18-4, as last amended by Laws of Utah 2010, Chapter
47 286)

48 **4-18-105**, (Renumbered from 4-18-5, as last amended by Laws of Utah 2012, Chapter
49 331)

50 **4-18-106**, (Renumbered from 4-18-6, as last amended by Laws of Utah 2007, Chapter
51 179)



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

54 Section 1. Section **4-18-101**, which is renumbered from Section 4-18-1 is renumbered
55 and amended to read:

CHAPTER 18. CONSERVATION COMMISSION ACT

57 ~~[4-18-1]~~. **4-18-101. Title.**

58 This chapter is known as the "Conservation Commission Act."

59 Section 2. Section **4-18-102**, which is renumbered from Section 4-18-2 is renumbered
60 and amended to read:

61 ~~[4-18-2]~~. **4-18-102. Purpose declaration.**

62 (1) The Legislature finds and declares that the soil and water resources of this state
63 constitute one of its basic assets and that the preservation of these resources requires planning
64 and programs to ensure the development and utilization of these resources and to protect them
65 from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

66 (2) The Legislature finds that local production of food is essential for:

- 67 (a) the security of the state's food supply; and
- 68 (b) the self-sufficiency of the state's citizens.

69 (3) The Legislature finds that sustainable agriculture is critical to:

- 70 (a) the success of rural communities;
- 71 (b) the historical culture of the state;
- 72 (c) maintaining healthy farmland;
- 73 (d) maintaining high water quality;
- 74 (e) maintaining abundant wildlife; and
- 75 (f) high-quality recreation for citizens of the state.

76 (4) The Legislature finds that livestock grazing on public lands is important for the
77 proper management, maintenance, and health of public lands in the state.

78 (5) The Legislature encourages each agricultural producer in the state to operate in a
79 reasonable and responsible manner to maintain the integrity of land, soil, water, and air.

80 (6) To encourage each agricultural producer in this state to operate in a reasonable and
81 responsible manner to maintain the integrity of the state's resources, the state shall ~~[offer a~~
82 ~~certification of environmental stewardship as defined in Section 4-18-3]~~ administer the Utah
83 Environmental Stewardship Certification Program, created in Section 4-18-107.

84 Section 3. Section **4-18-103**, which is renumbered from Section 4-18-3 is renumbered
85 and amended to read:

86 ~~[4-18-3]~~. **4-18-103. Definitions.**

87 As used in this chapter:

88 (1) (a) "Agricultural discharge" means the release of agriculture water from the
89 property of a farm, ranch, or feedlot that:

- 90 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,
- 91 watercourse, waterway, river, ditch, or other water conveyance system;
- 92 (ii) pollutes ground water; or
- 93 (iii) constitutes a significant nuisance to urban land.
- 94 (b) "Agricultural discharge" does not include:
- 95 (i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated
- 96 field onto land that is not part of a body of water; or
- 97 (ii) a release of water from a farm, ranch, or feedlot into a normally dry water
- 98 conveyance leading to an active body of water, if the release does not reach the water of a lake,
- 99 pond, stream, marshland, river, or other active body of water.

100 (2) "Agricultural operation" means a farm, ranch, or animal feeding operation.

101 [~~2~~] (3) "Agriculture water" means:

- 102 (a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;
- 103 (b) the return flow of water from irrigated agriculture; or
- 104 (c) agricultural storm water runoff.

105 [~~3~~] (4) "Alternate" means a substitute for a district supervisor if the district supervisor

106 cannot attend a meeting.

107 [~~4~~] (5) (a) "Animal feeding operation" means a facility where animals, other than

108 aquatic animals, are stabled or confined and fed or maintained for a total of 45 days or more in

109 any 12-month period.

110 (b) "Animal feeding operation" does not include an operation where animals are in

111 areas such as pastures or rangeland that sustain crops or forage growth during the entire time

112 the animals are present.

113 [~~5~~] (6) "Best management practices" means practices, including management policies

114 and the use of technology, used by each sector of agriculture in the production of food and fiber

115 that are commonly accepted practices, or that are at least as effective as commonly accepted

116 practices, and that:

- 117 (a) protect the environment;
- 118 (b) protect human health;
- 119 (c) ensure the humane treatment of animals; and
- 120 (d) promote the financial viability of agricultural production.

121 (7) "Certified agricultural operation" means an agricultural operation that is certified
 122 under the Utah Environmental Stewardship Certification Program in accordance with Section
 123 4-18-107.

124 ~~[(6)]~~ (8) "Certified conservation planner" means a planner of a state conservation
 125 district, or other qualified planner, that is approved by the commission to [issue a certification
 126 of environmental stewardship] certify an agricultural operation under the Utah Environmental
 127 Stewardship Certification Program, created in Section 4-18-107.

128 ~~[(7) "Certification of environmental stewardship" means an official recognition by the~~
 129 ~~state that an owner or operator of a farm, ranch, or feedlot meets the requirements established~~
 130 ~~by the commission:]~~

131 ~~[(a) to prevent harm to the environment, including the prevention of an agricultural~~
 132 ~~discharge;]~~

133 ~~[(b) for following best management practices; and]~~

134 ~~[(c) for following nutrient management plans that meet the state technical standards~~
 135 ~~appropriate for the given type of agricultural operation.]~~

136 ~~[(8)]~~ (9) "Commission" means the Conservation Commission created in Section
 137 [4-18-4] 4-18-104.

138 ~~[(9)]~~ (10) "Comprehensive nutrient management plan" or "nutrient management plan"
 139 means a plan to properly store, handle, and spread manure and other agricultural byproducts to:

140 (a) protect the environment; and

141 (b) provide nutrients for the production of crops.

142 ~~[(10)]~~ (11) "District" or "conservation district" has the same meaning as "conservation
 143 district" as defined in Section 17D-3-102.

144 ~~[(11)]~~ (12) "Pollution" means a harmful human-made or human-induced alteration to
 145 the water of the state, including an alteration to the chemical, physical, biological, or
 146 radiological integrity of water that harms the water of the state.

147 ~~[(12)]~~ (13) "State technical standards" means a collection of best management practices
 148 that will protect the environment in a reasonable and economical manner for each sector of
 149 agriculture as required by this chapter.

150 ~~[(13)]~~ (14) "Sustainable agriculture" means agriculture production and practices that
 151 promote:

152 (a) the environmental responsibility of owners and operators of farms, ranches, and
153 feedlots; and

154 (b) the profitability of owners and operators of farms, ranches, and feedlots.

155 Section 4. Section **4-18-104**, which is renumbered from Section 4-18-4 is renumbered
156 and amended to read:

157 ~~[4-18-4]~~. **4-18-104. Conservation Commission created -- Composition --**
158 **Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.**

159 (1) There is created within the department the Conservation Commission to perform
160 the functions specified in this chapter.

161 (2) The Conservation Commission shall be comprised of 16 members, including:

162 (a) the director of the Extension Service at Utah State University or the director's
163 designee;

164 (b) the president of the Utah Association of Conservation Districts or the president's
165 designee;

166 (c) the commissioner or the commissioner's designee;

167 (d) the executive director of the Department of Natural Resources or the executive
168 director's designee;

169 (e) the executive director of the Department of Environmental Quality or the executive
170 director's designee;

171 (f) the chair and the vice chair of the State Grazing Advisory Board₁ created in Section
172 4-20-1.5;

173 (g) the president of the County Weed Supervisors Association;

174 (h) seven district supervisors who provide district representation on the commission on
175 a multicounty basis; and

176 (i) the director of the School and Institutional Trust Lands Administration or the
177 director's designee.

178 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in the
179 place of the district supervisor for that meeting.

180 (4) The members of the commission specified in Subsection (2)(h) shall:

181 (a) be recommended by the commission to the governor; and

182 (b) be appointed by the governor with the consent of the Senate.

183 (5) (a) Except as required by Subsection (5)(b), as terms of current commission
184 members expire, the governor shall appoint each new member or reappointed member to a
185 four-year term.

186 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
187 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
188 commission members are staggered so that approximately half of the commission is appointed
189 every two years.

190 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
191 appointed for the unexpired term.

192 (7) The commissioner is chair of the commission.

193 (8) Attendance of a majority of the commission members at a meeting constitutes a
194 quorum.

195 (9) A member may not receive compensation or benefits for the member's service, but
196 may receive per diem and travel expenses in accordance with:

197 (a) Section 63A-3-106;

198 (b) Section 63A-3-107; and

199 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
200 63A-3-107.

201 (10) The commission shall keep a record of its actions.

202 (11) The attorney general shall provide legal services to the commission upon request.

203 Section 5. Section **4-18-105**, which is renumbered from Section 4-18-5 is renumbered
204 and amended to read:

205 **[4-18-5]. 4-18-105. Conservation commission -- Functions and duties.**

206 (1) The commission shall:

207 (a) facilitate the development and implementation of the strategies and programs
208 necessary to:

209 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;
210 and

211 (ii) promote the protection, integrity, and restoration of land for agricultural and other
212 beneficial purposes;

213 (b) disseminate information regarding districts' activities and programs;

214 (c) supervise the formation, reorganization, or dissolution of districts according to the
215 requirements of Title 17D, Chapter 3, Conservation District Act;

216 (d) prescribe uniform accounting and recordkeeping procedures for districts and
217 require each district to submit annually an audit of its funds to the commission;

218 (e) approve and make loans for agricultural purposes, from the Agriculture Resource
219 Development Fund, for:

220 (i) rangeland improvement and management projects;

221 (ii) watershed protection and flood prevention projects;

222 (iii) agricultural cropland soil and water conservation projects; and

223 (iv) programs designed to promote energy efficient farming practices;

224 (f) administer federal or state funds, including loan funds under this chapter, in
225 accordance with applicable federal or state guidelines and make loans or grants from those
226 funds to land occupiers for:

227 (i) the conservation of soil or water resources;

228 (ii) maintenance of rangeland improvement projects; and

229 (iii) the control or eradication of noxious weeds and invasive plant species:

230 (A) in cooperation and coordination with local weed boards; and

231 (B) in accordance with Section 4-2-8.7;

232 (g) seek to coordinate soil and water protection, conservation, and development
233 activities and programs of state agencies, local governmental units, other states, special interest
234 groups, and federal agencies;

235 (h) plan watershed and flood control projects in cooperation with appropriate local,
236 state, and federal authorities, and coordinate flood control projects in the state;

237 [~~(i) develop the requirements for:~~]

238 [~~(i) a certification of environmental stewardship, including best management practices,
239 technical standards, and nutrient management plans, as applicable to each agricultural sector;
240 and]~~]

241 [~~(ii) providing the certification to each owner or operator of a farm, ranch, or feedlot
242 that:]~~]

243 [~~(A) requests certification; and]~~]

244 [~~(B) qualifies for certification;]~~]

245 ~~[(j) develop best management practices and state technical standards when requested~~
246 ~~by governmental agencies or agricultural producer groups;]~~
247 ~~[(k) develop the requirements and certification process for an individual to be a~~
248 ~~certified conservation planner as defined in Section 4-18-3;]~~
249 ~~[(H)]~~ (i) assist other state agencies with conservation standards for agriculture when
250 requested; and
251 ~~[(m)]~~ (j) when assigned by the governor, when required by contract with the
252 Department of Environmental Quality, or when required by contract with the United States
253 Environmental Protection Agency:
254 (i) develop programs for the prevention, control, or abatement of new or existing
255 pollution to the soil, water, or air of the state;
256 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
257 chapter;
258 (iii) conduct studies, investigations, research, and demonstrations relating to
259 agricultural pollution issues;
260 (iv) give reasonable consideration in the exercise of its powers and duties to the
261 economic impact on sustainable agriculture;
262 (v) meet the requirements of federal law related to water and air pollution in the
263 exercise of its powers and duties; and
264 (vi) establish administrative penalties relating to agricultural discharges as defined in
265 Section ~~[4-18-3]~~ 4-18-103 that are proportional to the seriousness of the resulting
266 environmental harm.
267 (2) The commission may:
268 (a) employ, with the approval of the department, an administrator and necessary
269 technical experts and employees;
270 (b) execute contracts or other instruments necessary to exercise its powers;
271 (c) take necessary action to promote and enforce the purpose and findings of Section
272 ~~[4-18-2]~~ 4-18-102;
273 (d) sue and be sued; and
274 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
275 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and

276 Subsections (2)(b) and (c).

277 Section 6. Section **4-18-106**, which is renumbered from Section 4-18-6 is renumbered
278 and amended to read:

279 ~~[4-18-6]~~. **4-18-106. Agriculture Resource Development Fund -- Contents --**
280 **Use of fund money.**

281 (1) There is created a revolving loan fund known as the Agriculture Resource
282 Development Fund.

283 (2) The Agriculture Resource Development Fund shall consist of:

284 (a) money appropriated to it by the Legislature;

285 (b) sales and use tax receipts transferred to the fund ~~[pursuant to]~~ in accordance with
286 Section 59-12-103;

287 (c) money received for the repayment of loans made from the fund;

288 (d) money made available to the state for agriculture resource development from any
289 source; and

290 (e) interest earned on the fund.

291 (3) The commission shall make loans from the Agriculture Resource Development
292 Fund as provided by Section ~~[4-18-5]~~ 4-18-105.

293 Section 7. Section **4-18-107** is enacted to read:

294 **4-18-107. Utah Environmental Stewardship Certification Program.**

295 (1) There is created the Utah Environmental Stewardship Certification Program.

296 (2) The commission, with the assistance of the department and with the advice of the
297 Water Quality Board, created in Section 19-1-106, shall make rules in accordance with Title
298 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:

299 (a) (i) best management practices;

300 (ii) state technical standards; and

301 (iii) guidelines for nutrient management plans;

302 (b) requirements for qualification under the Utah Environmental Stewardship
303 Certification Program that:

304 (i) are consistent with sustainable agriculture;

305 (ii) help prevent harm to the environment, including prevention of an agricultural
306 discharge; and

307 (iii) encourage agricultural operations in the state to follow:
308 (A) best management practices; and
309 (B) nutrient management plans that meet the state technical standards appropriate for
310 each type of agricultural operation;

311 (c) the procedure for qualification under the Utah Environmental Stewardship
312 Certification Program;

313 (d) the requirements and certification process for an individual to become a certified
314 conservation planner; and

315 (e) standards and procedures for administering the Utah Environmental Stewardship
316 Certification Program, including:

317 (i) renewal of a certification under Subsection (4)(b);

318 (ii) investigation and revocation of a certification under Subsection (6); and

319 (iii) revocation of a certification under Subsection (7)(b).

320 (3) An owner or operator of an agricultural operation may apply to certify the
321 agricultural operation under the Utah Environmental Stewardship Certification Program in
322 accordance with this section.

323 (4) (a) Except as provided in Subsection (6) or (7), a certified agricultural operation
324 remains certified for a period of five years after the day on which the agricultural operation
325 becomes certified.

326 (b) A certified agricultural operation may, in accordance with commission rule, renew
327 the certification for an additional five years to keep the certification for a total period of 10
328 years after the day on which the agricultural operation becomes certified.

329 (5) Subject to review by the commissioner or the commissioner's designee, a certified
330 conservation planner shall certify each qualifying agricultural operation that applies to the Utah
331 Environmental Stewardship Certification Program.

332 (6) (a) Upon request of the Department of Environmental Quality or upon receipt by
333 the department of a citizen environmental complaint, the department shall, with the assistance
334 of certified conservation planners as necessary, investigate a certified agricultural operation to
335 determine whether the agricultural operation has committed a significant violation of the
336 requirements of the Utah Environmental Stewardship Certification Program.

337 (b) If, after completing an investigation described in Subsection (6)(a), the department

338 determines that a certified agricultural operation has committed a significant violation of the
339 requirements for the Utah Environmental Stewardship Certification Program, the department
340 shall report the violation to the commission.

341 (c) Upon receipt of a report described in Subsection (6)(b), the commission shall
342 review the report and:

343 (i) revoke the agricultural operation's certification; or

344 (ii) set terms and conditions for the agricultural operation to maintain its certification.

345 (7) (a) A certified agricultural operation shall, upon request of the department, provide
346 records to the department relevant to:

347 (i) a certification renewal under Subsection (4)(b); or

348 (ii) an investigation described in Subsection (6)(a).

349 (b) If an agricultural operation fails to provide records requested by the department
350 under Subsection (7)(a), the commission may revoke the agricultural operation's certification.

351 (8) A record provided by, obtained from, or containing information provided by or
352 obtained from, an owner or operator of an agricultural operation under this section in relation
353 to an application to become a certified agricultural operation, an application for renewal of
354 certification as a certified agricultural operation, or an investigation of a certified agricultural
355 operation is a protected record under Section 63G-2-305.

356 (9) If the commission changes a requirement of the Utah Environmental Stewardship
357 Certification Program after an agricultural operation is certified in accordance with former
358 requirements, during the certification and renewal periods described in Subsections (4)(a) and
359 (b) the agricultural operation may choose whether to abide by a new requirement, but the
360 agricultural operation is not subject to the new requirement until the agricultural operation
361 reapplies for certification.

362 (10) Nothing in this section exempts an agricultural discharge made by a certified
363 agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).

364 Section 8. Section **4-20-1.5** is amended to read:

365 **4-20-1.5. State Grazing Advisory Board -- Duties.**

366 (1) (a) There is created within the department the State Grazing Advisory Board.

367 (b) The commissioner shall appoint the following members:

368 (i) one member from each regional board;

- 369 (ii) one member from the Conservation Commission, created in Section [4-18-4]
370 4-18-104;
- 371 (iii) one representative of the Department of Natural Resources;
372 (iv) two livestock producers at-large; and
373 (v) one representative of the oil, gas, or mining industry.
- 374 (2) The term of office for a state board member is four years.
375 (3) Members of the state board shall elect a chair, who shall serve for two years.
376 (4) A member may not receive compensation or benefits for the member's service[;]
377 but may receive per diem and travel expenses in accordance with:
- 378 (a) Section 63A-3-106;
379 (b) Section 63A-3-107; and
380 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
381 63A-3-107.
- 382 (5) The state board shall:
- 383 (a) receive:
- 384 (i) advice and recommendations from a regional board concerning:
385 (A) management plans for public lands, state lands, and school and institutional trust
386 lands as defined in Section 53C-1-103, within the regional board's region; and
387 (B) any issue that impacts grazing on private lands, public lands, state lands, or school
388 and institutional trust lands as defined in Section 53C-1-103, in its region; and
389 (ii) requests for restricted account money from the entities described in Subsections
390 (5)(c)(i) through (iv);
- 391 (b) recommend state policy positions and cooperative agency participation in federal
392 and state land management plans to the department and to the Public Lands Policy
393 Coordinating Office, created under Section 63J-4-602; and
- 394 (c) advise the department on the requests and recommendations of:
- 395 (i) regional boards;
396 (ii) county weed control boards, created [~~under~~] in Section 4-17-4;
397 (iii) cooperative weed management associations; and
398 (iv) conservation districts created under the authority of Title 17D, Chapter 3,
399 Conservation District Act.

400 Section 9. Section **17D-3-102** is amended to read:

401 **17D-3-102. Definitions.**

402 As used in this chapter:

403 (1) "Commission" means the Conservation Commission, created ~~[under]~~ in Section
404 ~~[4-18-4]~~ 4-18-104.

405 (2) "Conservation district" means a limited purpose local government entity, as
406 described in Section 17D-3-103, that operates under, is subject to, and has the powers set forth
407 in this chapter.

408 (3) "Department" means the Department of Agriculture and Food, created ~~[under]~~ in
409 Section 4-2-1.

410 Section 10. Section **19-5-102** is amended to read:

411 **19-5-102. Definitions.**

412 As used in this chapter:

413 (1) "Agriculture discharge":

414 (a) means the release of agriculture water from the property of a farm, ranch, or feed lot
415 that:

416 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,
417 watercourse, waterway, river, ditch, and other water conveyance system of the state;

418 (ii) pollutes the ground water of the state; or

419 (iii) constitutes a significant nuisance on urban land; and

420 (b) does not include:

421 (i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land
422 that is not part of a body of water; or

423 (ii) a release into a normally dry water conveyance to an active body of water, unless
424 the release reaches the water of a lake, pond, stream, marshland, river, or other active body of
425 water.

426 (2) "Agriculture water" means:

427 (a) water used by a farmer, rancher, or feed lot for the production of food, fiber, or fuel;

428 (b) return flows from irrigated agriculture; and

429 (c) agricultural storm water runoff.

430 (3) "Board" means the Water Quality Board created in Section 19-1-106.

431 (4) "Commission" means the Conservation Commission, created in Section [4-18-4]
432 4-18-104.

433 (5) "Contaminant" means any physical, chemical, biological, or radiological substance
434 or matter in water.

435 (6) "Director" means the director of the Division of Water Quality or, for purposes of
436 groundwater quality at a facility licensed by and under the jurisdiction of the Division of
437 Radiation Control, the director of the Division of Radiation Control.

438 (7) "Discharge" means the addition of any pollutant to any waters of the state.

439 (8) "Discharge permit" means a permit issued to a person who:

440 (a) discharges or whose activities would probably result in a discharge of pollutants
441 into the waters of the state; or

442 (b) generates or manages sewage sludge.

443 (9) "Disposal system" means a system for disposing of wastes[;] and includes sewerage
444 systems and treatment works.

445 (10) "Division" means the Division of Water Quality, created in Subsection
446 19-1-105(1)(f).

447 (11) "Effluent limitations" means any restrictions, requirements, or prohibitions,
448 including schedules of compliance established under this chapter, which apply to discharges.

449 (12) "Point source":

450 (a) means any discernible, confined, and discrete conveyance, including any pipe,
451 ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated
452 animal feeding operation, or vessel or other floating craft, from which pollutants are or may be
453 discharged; and

454 (b) does not include return flows from irrigated agriculture.

455 (13) "Pollution" means any man-made or man-induced alteration of the chemical,
456 physical, biological, or radiological integrity of any waters of the state, unless the alteration is
457 necessary for the public health and safety.

458 (14) "Publicly owned treatment works" means any facility for the treatment of
459 pollutants owned by the state, its political subdivisions, or other public entity.

460 (15) "Schedule of compliance" means a schedule of remedial measures, including an
461 enforceable sequence of actions or operations leading to compliance with this chapter.

462 (16) "Sewage sludge" means any solid, semisolid, or liquid residue removed during the
463 treatment of municipal wastewater or domestic sewage.

464 (17) "Sewerage system" means pipelines or conduits, pumping stations, and all other
465 constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to
466 a point of ultimate disposal.

467 (18) "Total maximum daily load" means a calculation of the maximum amount of a
468 pollutant that a body of water can receive and still meet water quality standards.

469 (19) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station,
470 incinerator, or other works used for the purpose of treating, stabilizing, or holding wastes.

471 (20) "Underground injection" means the subsurface emplacement of fluids by well
472 injection.

473 (21) "Underground wastewater disposal system" means a system for disposing of
474 domestic wastewater discharges as defined by the board and the executive director.

475 (22) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator residue,
476 sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive
477 materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial,
478 municipal, and agricultural waste discharged into water.

479 (23) "Waters of the state":

480 (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs,
481 irrigation systems, drainage systems, and all other bodies or accumulations of water, surface
482 and underground, natural or artificial, public or private, which are contained within, flow
483 through, or border upon this state or any portion of the state; and

484 (b) does not include bodies of water confined to and retained within the limits of
485 private property, and which do not develop into or constitute a nuisance, a public health hazard,
486 or a menace to fish or wildlife.

487 Section 11. Section **59-12-103 (Superseded 07/01/14)** is amended to read:

488 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**
489 **-- Use of sales and use tax revenues.**

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

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

- 493 (b) amounts paid for:
- 494 (i) telecommunications service, other than mobile telecommunications service, that
- 495 originates and terminates within the boundaries of this state;
- 496 (ii) mobile telecommunications service that originates and terminates within the
- 497 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 498 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 499 (iii) an ancillary service associated with a:
- 500 (A) telecommunications service described in Subsection (1)(b)(i); or
- 501 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 502 (c) sales of the following for commercial use:
- 503 (i) gas;
- 504 (ii) electricity;
- 505 (iii) heat;
- 506 (iv) coal;
- 507 (v) fuel oil; or
- 508 (vi) other fuels;
- 509 (d) sales of the following for residential use:
- 510 (i) gas;
- 511 (ii) electricity;
- 512 (iii) heat;
- 513 (iv) coal;
- 514 (v) fuel oil; or
- 515 (vi) other fuels;
- 516 (e) sales of prepared food;
- 517 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 518 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 519 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 520 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 521 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 522 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 523 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

524 horseback rides, sports activities, or any other amusement, entertainment, recreation,
525 exhibition, cultural, or athletic activity;

526 (g) amounts paid or charged for services for repairs or renovations of tangible personal
527 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

528 (i) the tangible personal property; and

529 (ii) parts used in the repairs or renovations of the tangible personal property described
530 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
531 of that tangible personal property;

532 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
533 assisted cleaning or washing of tangible personal property;

534 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
535 accommodations and services that are regularly rented for less than 30 consecutive days;

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

537 (k) amounts paid or charged for leases or rentals of tangible personal property if within
538 this state the tangible personal property is:

539 (i) stored;

540 (ii) used; or

541 (iii) otherwise consumed;

542 (l) amounts paid or charged for tangible personal property if within this state the
543 tangible personal property is:

544 (i) stored;

545 (ii) used; or

546 (iii) consumed; and

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

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

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

550 (ii) regardless of whether the sale provides:

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

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

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

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

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

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

558 (A) 4.70%; and

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

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

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

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

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

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

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

576 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
577 a tax rate of 1.75%; and

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

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

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

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

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

586 Sales and Use Tax Act, if the location of the transaction as determined under Sections
587 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
588 Additional State Sales and Use Tax Act; and

589 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
590 Sales and Use Tax Act, if the location of the transaction as determined under Sections
591 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
592 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

616 (II) state or federal law provides otherwise.

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

620 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
621 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 622 (i) Subsection (2)(a)(i)(A);
- 623 (ii) Subsection (2)(b)(i);
- 624 (iii) Subsection (2)(c)(i); or
- 625 (iv) Subsection (2)(d)(i)(A)(I).

626 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
627 begins on or after the effective date of the tax rate increase if the billing period for the
628 transaction begins before the effective date of a tax rate increase imposed under:

- 629 (A) Subsection (2)(a)(i)(A);
- 630 (B) Subsection (2)(b)(i);
- 631 (C) Subsection (2)(c)(i); or
- 632 (D) Subsection (2)(d)(i)(A)(I).

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

- 636 (A) Subsection (2)(a)(i)(A);
- 637 (B) Subsection (2)(b)(i);
- 638 (C) Subsection (2)(c)(i); or
- 639 (D) Subsection (2)(d)(i)(A)(I).

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

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

645 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

- 646 (A) Subsection (2)(a)(i)(A);
- 647 (B) Subsection (2)(b)(i);

648 (C) Subsection (2)(c)(i); or
649 (D) Subsection (2)(d)(i)(A)(I).
650 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
651 the commission may by rule define the term "catalogue sale."
652 (3) (a) The following state taxes shall be deposited into the General Fund:
653 (i) the tax imposed by Subsection (2)(a)(i)(A);
654 (ii) the tax imposed by Subsection (2)(b)(i);
655 (iii) the tax imposed by Subsection (2)(c)(i); or
656 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
657 (b) The following local taxes shall be distributed to a county, city, or town as provided
658 in this chapter:
659 (i) the tax imposed by Subsection (2)(a)(ii);
660 (ii) the tax imposed by Subsection (2)(b)(ii);
661 (iii) the tax imposed by Subsection (2)(c)(ii); and
662 (iv) the tax imposed by Subsection (2)(d)(i)(B).
663 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
664 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
665 through (g):
666 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
667 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
668 (B) for the fiscal year; or
669 (ii) \$17,500,000.
670 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
671 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
672 Department of Natural Resources to:
673 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
674 protect sensitive plant and animal species; or
675 (B) award grants, up to the amount authorized by the Legislature in an appropriations
676 act, to political subdivisions of the state to implement the measures described in Subsections
677 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
678 (ii) Money transferred to the Department of Natural Resources under Subsection

679 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
680 person to list or attempt to have listed a species as threatened or endangered under the
681 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

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

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

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

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

689 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
690 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
691 created in Section ~~[4-18-6]~~ 4-18-106.

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

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

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

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

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

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

706 (ii) In addition to the uses allowed of the Water Resources Conservation and
707 Development Fund under Section 73-10-24, the Water Resources Conservation and
708 Development Fund may also be used to:

709 (A) conduct hydrologic and geotechnical investigations by the Division of Water

710 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
711 quantifying surface and ground water resources and describing the hydrologic systems of an
712 area in sufficient detail so as to enable local and state resource managers to plan for and
713 accommodate growth in water use without jeopardizing the resource;

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

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

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

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

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

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

726 (iii) develop surface water sources.

727 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
728 2006, the difference between the following amounts shall be expended as provided in this
729 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

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

754 (i) preconstruction costs:

755 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
756 26, Bear River Development Act; and

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

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

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

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

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

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

772 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
773 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
774 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
775 the Transportation Fund created by Section 72-2-102.

776 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
777 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
778 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
779 by a 1/64% tax rate on the taxable transactions under Subsection (1).

780 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
781 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
782 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
783 created by Section 72-2-124:

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

- 788 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 789 (B) the tax imposed by Subsection (2)(b)(i);
- 790 (C) the tax imposed by Subsection (2)(c)(i); and
- 791 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

792 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
793 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
794 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
795 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

796 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
797 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
798 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
799 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
800 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
801 (8)(a) equal to the product of:

- 802 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the

803 previous fiscal year; and

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

806 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
807 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
808 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
809 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
810 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

811 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
812 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
813 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
814 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
815 current fiscal year under Subsection (8)(a).

816 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
817 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
818 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
819 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
820 72-2-124.

821 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
822 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
823 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

824 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
825 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
826 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
827 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
828 transactions described in Subsection (1).

829 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
830 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
831 charged for food and food ingredients, except for tax revenue generated by a bundled
832 transaction attributable to food and food ingredients and tangible personal property other than
833 food and food ingredients described in Subsection (2)(d).

834 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
835 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
836 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
837 .025% tax rate on the transactions described in Subsection (1) to be expended to address
838 chokepoints in construction management.

839 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
840 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
841 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
842 and food ingredients and tangible personal property other than food and food ingredients
843 described in Subsection (2)(d).

844 Section 12. Section **59-12-103 (Effective 07/01/14)** is amended to read:

845 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
846 **Use of sales and use tax revenues.**

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

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

850 (b) amounts paid for:

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

853 (ii) mobile telecommunications service that originates and terminates within the
854 boundaries of one state only to the extent permitted by the Mobile Telecommunications
855 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

856 (iii) an ancillary service associated with a:

857 (A) telecommunications service described in Subsection (1)(b)(i); or

858 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

859 (c) sales of the following for commercial use:

860 (i) gas;

861 (ii) electricity;

862 (iii) heat;

863 (iv) coal;

864 (v) fuel oil; or

- 865 (vi) other fuels;
- 866 (d) sales of the following for residential use:
 - 867 (i) gas;
 - 868 (ii) electricity;
 - 869 (iii) heat;
 - 870 (iv) coal;
 - 871 (v) fuel oil; or
 - 872 (vi) other fuels;
- 873 (e) sales of prepared food;
- 874 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 875 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 876 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 877 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 878 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 879 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 880 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 881 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 882 exhibition, cultural, or athletic activity;
- 883 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 884 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 885 (i) the tangible personal property; and
 - 886 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 887 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
 - 888 of that tangible personal property;
- 889 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 890 assisted cleaning or washing of tangible personal property;
 - 891 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
 - 892 accommodations and services that are regularly rented for less than 30 consecutive days;
 - 893 (j) amounts paid or charged for laundry or dry cleaning services;
 - 894 (k) amounts paid or charged for leases or rentals of tangible personal property if within
 - 895 this state the tangible personal property is:

896 (i) stored;
897 (ii) used; or
898 (iii) otherwise consumed;
899 (l) amounts paid or charged for tangible personal property if within this state the
900 tangible personal property is:
901 (i) stored;
902 (ii) used; or
903 (iii) consumed; and
904 (m) amounts paid or charged for a sale:
905 (i) (A) of a product transferred electronically; or
906 (B) of a repair or renovation of a product transferred electronically; and
907 (ii) regardless of whether the sale provides:
908 (A) a right of permanent use of the product; or
909 (B) a right to use the product that is less than a permanent use, including a right:
910 (I) for a definite or specified length of time; and
911 (II) that terminates upon the occurrence of a condition.
912 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
913 is imposed on a transaction described in Subsection (1) equal to the sum of:
914 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
915 (A) 4.70%; and
916 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
917 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
918 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
919 State Sales and Use Tax Act; and
920 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
921 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
922 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
923 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
924 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
925 transaction under this chapter other than this part.
926 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

927 on a transaction described in Subsection (1)(d) equal to the sum of:

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

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

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

933 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
934 a tax rate of 1.75%; and

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

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

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

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

942 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
943 Sales and Use Tax Act, if the location of the transaction as determined under Sections
944 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
945 Additional State Sales and Use Tax Act; and

946 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
947 Sales and Use Tax Act, if the location of the transaction as determined under Sections
948 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
949 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

973 (II) state or federal law provides otherwise.

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

977 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
978 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
979 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
980 of tangible personal property, other property, a product, or a service that is not subject to
981 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
982 the seller, at the time of the transaction:

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

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

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

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

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

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

999 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
1000 personal property, products, or services that are subject to taxation under this chapter at
1001 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1002 unless the seller, at the time of the transaction:

1003 (A) separately states the items subject to taxation under this chapter at each of the
1004 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1005 (B) is able to identify by reasonable and verifiable standards the tangible personal
1006 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1007 from the books and records the seller keeps in the seller's regular course of business.

1008 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
1009 seller's regular course of business includes books and records the seller keeps in the regular
1010 course of business for nontax purposes.

1011 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
1012 rate imposed under the following shall take effect on the first day of a calendar quarter:

1013 (i) Subsection (2)(a)(i)(A);

1014 (ii) Subsection (2)(b)(i);

1015 (iii) Subsection (2)(c)(i); or

1016 (iv) Subsection (2)(d)(i)(A)(I).

1017 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
1018 begins on or after the effective date of the tax rate increase if the billing period for the
1019 transaction begins before the effective date of a tax rate increase imposed under:

- 1020 (A) Subsection (2)(a)(i)(A);
- 1021 (B) Subsection (2)(b)(i);
- 1022 (C) Subsection (2)(c)(i); or
- 1023 (D) Subsection (2)(d)(i)(A)(I).
- 1024 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 1025 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 1026 or the tax rate decrease imposed under:
 - 1027 (A) Subsection (2)(a)(i)(A);
 - 1028 (B) Subsection (2)(b)(i);
 - 1029 (C) Subsection (2)(c)(i); or
 - 1030 (D) Subsection (2)(d)(i)(A)(I).
- 1031 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 1032 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 1033 change in a tax rate takes effect:
 - 1034 (A) on the first day of a calendar quarter; and
 - 1035 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1036 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 1037 (A) Subsection (2)(a)(i)(A);
 - 1038 (B) Subsection (2)(b)(i);
 - 1039 (C) Subsection (2)(c)(i); or
 - 1040 (D) Subsection (2)(d)(i)(A)(I).
- 1041 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1042 the commission may by rule define the term "catalogue sale."
- 1043 (3) (a) The following state taxes shall be deposited into the General Fund:
 - 1044 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 1045 (ii) the tax imposed by Subsection (2)(b)(i);
 - 1046 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 1047 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 1048 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 1049 in this chapter:
 - 1050 (i) the tax imposed by Subsection (2)(a)(ii);

1051 (ii) the tax imposed by Subsection (2)(b)(ii);
1052 (iii) the tax imposed by Subsection (2)(c)(i); and
1053 (iv) the tax imposed by Subsection (2)(d)(i)(B).
1054 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1055 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1056 through (g):
1057 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1058 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1059 (B) for the fiscal year; or
1060 (ii) \$17,500,000.
1061 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1062 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1063 Department of Natural Resources to:
1064 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1065 protect sensitive plant and animal species; or
1066 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1067 act, to political subdivisions of the state to implement the measures described in Subsections
1068 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
1069 (ii) Money transferred to the Department of Natural Resources under Subsection
1070 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1071 person to list or attempt to have listed a species as threatened or endangered under the
1072 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
1073 (iii) At the end of each fiscal year:
1074 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1075 Conservation and Development Fund created in Section 73-10-24;
1076 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1077 Program Subaccount created in Section 73-10c-5; and
1078 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1079 Program Subaccount created in Section 73-10c-5.
1080 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1081 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

1082 created in Section [~~4-18-6~~] 4-18-106.

1083 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1084 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1085 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1086 water rights.

1087 (ii) At the end of each fiscal year:

1088 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1089 Conservation and Development Fund created in Section 73-10-24;

1090 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1091 Program Subaccount created in Section 73-10c-5; and

1092 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1093 Program Subaccount created in Section 73-10c-5.

1094 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1095 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1096 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1097 (ii) In addition to the uses allowed of the Water Resources Conservation and
1098 Development Fund under Section 73-10-24, the Water Resources Conservation and
1099 Development Fund may also be used to:

1100 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1101 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1102 quantifying surface and ground water resources and describing the hydrologic systems of an
1103 area in sufficient detail so as to enable local and state resource managers to plan for and
1104 accommodate growth in water use without jeopardizing the resource;

1105 (B) fund state required dam safety improvements; and

1106 (C) protect the state's interest in interstate water compact allocations, including the
1107 hiring of technical and legal staff.

1108 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1109 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1110 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1111 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1112 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount

1113 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1114 (i) provide for the installation and repair of collection, treatment, storage, and
1115 distribution facilities for any public water system, as defined in Section 19-4-102;

1116 (ii) develop underground sources of water, including springs and wells; and

1117 (iii) develop surface water sources.

1118 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1119 2006, the difference between the following amounts shall be expended as provided in this
1120 Subsection (5), if that difference is greater than \$1:

1121 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1122 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1123 (ii) \$17,500,000.

1124 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1125 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1126 credits; and

1127 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1128 restoration.

1129 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1130 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1131 created in Section 73-10-24.

1132 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1133 remaining difference described in Subsection (5)(a) shall be:

1134 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1135 credits; and

1136 (B) expended by the Division of Water Resources for cloud-seeding projects
1137 authorized by Title 73, Chapter 15, Modification of Weather.

1138 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1139 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1140 created in Section 73-10-24.

1141 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1142 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1143 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

1144 Division of Water Resources for:

1145 (i) preconstruction costs:

1146 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1147 26, Bear River Development Act; and

1148 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1149 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1150 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1151 Chapter 26, Bear River Development Act;

1152 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1153 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1154 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1155 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1156 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1157 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
1158 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1159 incurred for employing additional technical staff for the administration of water rights.

1160 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1161 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1162 Fund created in Section 73-10-24.

1163 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1164 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
1165 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
1166 the Transportation Fund created by Section 72-2-102.

1167 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
1168 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
1169 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1170 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1171 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
1172 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
1173 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
1174 created by Section 72-2-124:

1175 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1176 the revenues collected from the following taxes, which represents a portion of the
1177 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1178 on vehicles and vehicle-related products:

- 1179 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 1180 (B) the tax imposed by Subsection (2)(b)(i);
- 1181 (C) the tax imposed by Subsection (2)(c)(i); and
- 1182 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1183 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1184 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
1185 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1186 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

1187 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
1188 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
1189 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
1190 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
1191 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
1192 (8)(a) equal to the product of:

- 1193 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
1194 previous fiscal year; and
- 1195 (B) the total sales and use tax revenue generated by the taxes described in Subsections
1196 (8)(a)(i)(A) through (D) in the current fiscal year.

1197 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
1198 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
1199 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
1200 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
1201 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

1202 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
1203 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
1204 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
1205 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the

1206 current fiscal year under Subsection (8)(a).

1207 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
1208 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
1209 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
1210 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
1211 72-2-124.

1212 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
1213 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
1214 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

1215 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
1216 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
1217 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
1218 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
1219 transactions described in Subsection (1).

1220 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
1221 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
1222 charged for food and food ingredients, except for tax revenue generated by a bundled
1223 transaction attributable to food and food ingredients and tangible personal property other than
1224 food and food ingredients described in Subsection (2)(d).

1225 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
1226 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
1227 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
1228 .025% tax rate on the transactions described in Subsection (1) to be expended to address
1229 chokepoints in construction management.

1230 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
1231 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
1232 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
1233 and food ingredients and tangible personal property other than food and food ingredients
1234 described in Subsection (2)(d).

1235 Section 13. Section **63A-3-205** is amended to read:

1236 **63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**

- 1237 (1) As used in this section, "revolving loan fund" means:
- 1238 (a) the Water Resources Conservation and Development Fund, created in Section
- 1239 73-10-24;
- 1240 (b) the Water Resources Construction Fund, created in Section 73-10-8;
- 1241 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;
- 1242 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
- 1243 Fuels and Vehicle Technology Program Act;
- 1244 (e) the Water Development Security Fund and its subaccounts, created in Section
- 1245 73-10c-5;
- 1246 (f) the Agriculture Resource Development Fund, created in Section [~~4-18-6~~] 4-18-106;
- 1247 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;
- 1248 (h) the Permanent Community Impact Fund, created in Section 35A-8-603;
- 1249 (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;
- 1250 (j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;
- 1251 (k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and
- 1252 (l) the Energy Efficiency Fund, created in Section 11-45-201.
- 1253 (2) The division shall for each revolving loan fund:
- 1254 (a) make rules establishing standards and procedures governing:
- 1255 (i) payment schedules and due dates;
- 1256 (ii) interest rate effective dates;
- 1257 (iii) loan documentation requirements; and
- 1258 (iv) interest rate calculation requirements; and
- 1259 (b) make an annual report to the Legislature containing:
- 1260 (i) the total dollars loaned by that fund during the last fiscal year;
- 1261 (ii) a listing of each loan currently more than 90 days delinquent, in default, or that was
- 1262 restructured during the last fiscal year;
- 1263 (iii) a description of each project that received money from that revolving loan fund;
- 1264 (iv) the amount of each loan made to that project;
- 1265 (v) the specific purpose for which the proceeds of the loan were to be used, if any;
- 1266 (vi) any restrictions on the use of the loan proceeds;
- 1267 (vii) the present value of each loan at the end of the fiscal year calculated using the

1268 interest rate paid by the state on the bonds providing the revenue on which the loan is based or,
1269 if that is unknown, on the average interest rate paid by the state on general obligation bonds
1270 issued during the most recent fiscal year in which bonds were sold; and

1271 (viii) the financial position of each revolving loan fund, including the fund's cash
1272 investments, cash forecasts, and equity position.

1273 Section 14. Section **63B-1b-102** is amended to read:

1274 **63B-1b-102. Definitions.**

1275 As used in this chapter:

1276 (1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness
1277 representing loans or grants made by an authorizing agency.

1278 (2) "Authorized official" means the state treasurer or other person authorized by a bond
1279 document to perform the required action.

1280 (3) "Authorizing agency" means the board, person, or unit with legal responsibility for
1281 administering and managing revolving loan funds.

1282 (4) "Bond document" means:

1283 (a) a resolution of the commission; or

1284 (b) an indenture or other similar document authorized by the commission that
1285 authorizes and secures outstanding revenue bonds from time to time.

1286 (5) "Commission" means the State Bonding Commission, created in Section
1287 63B-1-201.

1288 (6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

1289 (7) "Revolving Loan Funds" means:

1290 (a) the Water Resources Conservation and Development Fund, created in Section
1291 73-10-24;

1292 (b) the Water Resources Construction Fund, created in Section 73-10-8;

1293 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

1294 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
1295 Fuels and Vehicle Technology Program Act;

1296 (e) the Water Development Security Fund and its subaccounts, created in Section
1297 73-10c-5;

1298 (f) the Agriculture Resource Development Fund, created in Section ~~[4-18-6]~~ 4-18-106;

- 1299 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;
 - 1300 (h) the Permanent Community Impact Fund, created in Section 35A-8-303;
 - 1301 (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and
 - 1302 (j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.
- 1303 Section 15. Section **63B-1b-202** is amended to read:
- 1304 **63B-1b-202. Custodial officer -- Powers and duties.**
- 1305 (1) (a) There is created within the Division of Finance an officer responsible for the
- 1306 care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust
- 1307 documents, and other evidences of indebtedness:
- 1308 (i) owned or administered by the state or any of its agencies; and
 - 1309 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.
- 1310 (b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not
- 1311 responsible for the care, custody, safekeeping, collection, and accounting of a bond, note,
- 1312 contract, trust document, or other evidence of indebtedness relating to the:
- 1313 (i) Agriculture Resource Development Fund, created in Section [~~4-18-6~~] 4-18-106;
 - 1314 (ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;
 - 1315 (iii) Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;
 - 1316 (iv) Olene Walker Housing Loan Fund, created in Section 35A-8-502;
 - 1317 (v) Business Development for Disadvantaged Rural Communities Restricted Account,
 - 1318 created in Section 63M-1-2003; and
 - 1319 (vi) Brownfields Fund, created in Section 19-8-120.
- 1320 (2) (a) Each authorizing agency shall deliver to this officer for the officer's care,
- 1321 custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents,
- 1322 and other evidences of indebtedness:
- 1323 (i) owned or administered by the state or any of its agencies; and
 - 1324 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.
- 1325 (b) This officer shall:
- 1326 (i) establish systems, programs, and facilities for the care, custody, safekeeping,
 - 1327 collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences
 - 1328 of indebtedness submitted to the officer under this Subsection (2); and
 - 1329 (ii) shall make available updated reports to each authorizing agency as to the status of

1330 loans under their authority.

1331 (3) The officer described in Section 63B-1b-201 shall deliver to the officer described in
1332 Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer
1333 described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other
1334 evidences of indebtedness closed as provided in Subsection 63B-1b-201(2)(b).

1335 Section 16. Section **63G-2-305** is amended to read:

1336 **63G-2-305. Protected records.**

1337 The following records are protected if properly classified by a governmental entity:

1338 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
1339 has provided the governmental entity with the information specified in Section 63G-2-309;

1340 (2) commercial information or nonindividual financial information obtained from a
1341 person if:

1342 (a) disclosure of the information could reasonably be expected to result in unfair
1343 competitive injury to the person submitting the information or would impair the ability of the
1344 governmental entity to obtain necessary information in the future;

1345 (b) the person submitting the information has a greater interest in prohibiting access
1346 than the public in obtaining access; and

1347 (c) the person submitting the information has provided the governmental entity with
1348 the information specified in Section 63G-2-309;

1349 (3) commercial or financial information acquired or prepared by a governmental entity
1350 to the extent that disclosure would lead to financial speculations in currencies, securities, or
1351 commodities that will interfere with a planned transaction by the governmental entity or cause
1352 substantial financial injury to the governmental entity or state economy;

1353 (4) records the disclosure of which could cause commercial injury to, or confer a
1354 competitive advantage upon a potential or actual competitor of, a commercial project entity as
1355 defined in Subsection 11-13-103(4);

1356 (5) test questions and answers to be used in future license, certification, registration,
1357 employment, or academic examinations;

1358 (6) records the disclosure of which would impair governmental procurement
1359 proceedings or give an unfair advantage to any person proposing to enter into a contract or
1360 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this

1361 Subsection (6) does not restrict the right of a person to have access to, once the contract or
1362 grant has been awarded, a bid, proposal, or application submitted to or by a governmental
1363 entity in response to:

1364 (a) a request for bids;

1365 (b) a request for proposals;

1366 (c) a grant; or

1367 (d) other similar document;

1368 (7) records that would identify real property or the appraisal or estimated value of real
1369 or personal property, including intellectual property, under consideration for public acquisition
1370 before any rights to the property are acquired unless:

1371 (a) public interest in obtaining access to the information is greater than or equal to the
1372 governmental entity's need to acquire the property on the best terms possible;

1373 (b) the information has already been disclosed to persons not employed by or under a
1374 duty of confidentiality to the entity;

1375 (c) in the case of records that would identify property, potential sellers of the described
1376 property have already learned of the governmental entity's plans to acquire the property;

1377 (d) in the case of records that would identify the appraisal or estimated value of
1378 property, the potential sellers have already learned of the governmental entity's estimated value
1379 of the property; or

1380 (e) the property under consideration for public acquisition is a single family residence
1381 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
1382 the property as required under Section 78B-6-505;

1383 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
1384 compensated transaction of real or personal property including intellectual property, which, if
1385 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
1386 of the subject property, unless:

1387 (a) the public interest in access is greater than or equal to the interests in restricting
1388 access, including the governmental entity's interest in maximizing the financial benefit of the
1389 transaction; or

1390 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1391 the value of the subject property have already been disclosed to persons not employed by or

1392 under a duty of confidentiality to the entity;

1393 (9) records created or maintained for civil, criminal, or administrative enforcement
1394 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1395 release of the records:

1396 (a) reasonably could be expected to interfere with investigations undertaken for
1397 enforcement, discipline, licensing, certification, or registration purposes;

1398 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1399 proceedings;

1400 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1401 hearing;

1402 (d) reasonably could be expected to disclose the identity of a source who is not
1403 generally known outside of government and, in the case of a record compiled in the course of
1404 an investigation, disclose information furnished by a source not generally known outside of
1405 government if disclosure would compromise the source; or

1406 (e) reasonably could be expected to disclose investigative or audit techniques,
1407 procedures, policies, or orders not generally known outside of government if disclosure would
1408 interfere with enforcement or audit efforts;

1409 (10) records the disclosure of which would jeopardize the life or safety of an
1410 individual;

1411 (11) records the disclosure of which would jeopardize the security of governmental
1412 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1413 or other appropriation or use contrary to law or public policy;

1414 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
1415 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1416 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1417 (13) records that, if disclosed, would reveal recommendations made to the Board of
1418 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1419 Board of Pardons and Parole, or the Department of Human Services that are based on the
1420 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
1421 jurisdiction;

1422 (14) records and audit workpapers that identify audit, collection, and operational

1423 procedures and methods used by the State Tax Commission, if disclosure would interfere with
1424 audits or collections;

1425 (15) records of a governmental audit agency relating to an ongoing or planned audit
1426 until the final audit is released;

1427 (16) records that are subject to the attorney client privilege;

1428 (17) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
1429 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
1430 quasi-judicial, or administrative proceeding;

1431 (18) (a) (i) personal files of a state legislator, including personal correspondence to or
1432 from a member of the Legislature; and

1433 (ii) notwithstanding Subsection (18)(a)(i), correspondence that gives notice of
1434 legislative action or policy may not be classified as protected under this section; and

1435 (b) (i) an internal communication that is part of the deliberative process in connection
1436 with the preparation of legislation between:

1437 (A) members of a legislative body;

1438 (B) a member of a legislative body and a member of the legislative body's staff; or

1439 (C) members of a legislative body's staff; and

1440 (ii) notwithstanding Subsection (18)(b)(i), a communication that gives notice of
1441 legislative action or policy may not be classified as protected under this section;

1442 (19) (a) records in the custody or control of the Office of Legislative Research and
1443 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
1444 legislation or contemplated course of action before the legislator has elected to support the
1445 legislation or course of action, or made the legislation or course of action public; and

1446 (b) notwithstanding Subsection (19)(a), the form to request legislation submitted to the
1447 Office of Legislative Research and General Counsel is a public document unless a legislator
1448 asks that the records requesting the legislation be maintained as protected records until such
1449 time as the legislator elects to make the legislation or course of action public;

1450 (20) research requests from legislators to the Office of Legislative Research and
1451 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
1452 in response to these requests;

1453 (21) drafts, unless otherwise classified as public;

- 1454 (22) records concerning a governmental entity's strategy about:
1455 (a) collective bargaining; or
1456 (b) imminent or pending litigation;
- 1457 (23) records of investigations of loss occurrences and analyses of loss occurrences that
1458 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
1459 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 1460 (24) records, other than personnel evaluations, that contain a personal recommendation
1461 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
1462 personal privacy, or disclosure is not in the public interest;
- 1463 (25) records that reveal the location of historic, prehistoric, paleontological, or
1464 biological resources that if known would jeopardize the security of those resources or of
1465 valuable historic, scientific, educational, or cultural information;
- 1466 (26) records of independent state agencies if the disclosure of the records would
1467 conflict with the fiduciary obligations of the agency;
- 1468 (27) records of an institution within the state system of higher education defined in
1469 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
1470 retention decisions, and promotions, which could be properly discussed in a meeting closed in
1471 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
1472 the final decisions about tenure, appointments, retention, promotions, or those students
1473 admitted, may not be classified as protected under this section;
- 1474 (28) records of the governor's office, including budget recommendations, legislative
1475 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
1476 policies or contemplated courses of action before the governor has implemented or rejected
1477 those policies or courses of action or made them public;
- 1478 (29) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
1479 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
1480 recommendations in these areas;
- 1481 (30) records provided by the United States or by a government entity outside the state
1482 that are given to the governmental entity with a requirement that they be managed as protected
1483 records if the providing entity certifies that the record would not be subject to public disclosure
1484 if retained by it;

1485 (31) transcripts, minutes, or reports of the closed portion of a meeting of a public body
1486 except as provided in Section 52-4-206;

1487 (32) records that would reveal the contents of settlement negotiations but not including
1488 final settlements or empirical data to the extent that they are not otherwise exempt from
1489 disclosure;

1490 (33) memoranda prepared by staff and used in the decision-making process by an
1491 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1492 other body charged by law with performing a quasi-judicial function;

1493 (34) records that would reveal negotiations regarding assistance or incentives offered
1494 by or requested from a governmental entity for the purpose of encouraging a person to expand
1495 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1496 person or place the governmental entity at a competitive disadvantage, but this section may not
1497 be used to restrict access to a record evidencing a final contract;

1498 (35) materials to which access must be limited for purposes of securing or maintaining
1499 the governmental entity's proprietary protection of intellectual property rights including patents,
1500 copyrights, and trade secrets;

1501 (36) the name of a donor or a prospective donor to a governmental entity, including an
1502 institution within the state system of higher education defined in Section 53B-1-102, and other
1503 information concerning the donation that could reasonably be expected to reveal the identity of
1504 the donor, provided that:

1505 (a) the donor requests anonymity in writing;

1506 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1507 classified protected by the governmental entity under this Subsection (36); and

1508 (c) except for an institution within the state system of higher education defined in
1509 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1510 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
1511 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1512 by the donor or the donor's immediate family;

1513 (37) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
1514 73-18-13;

1515 (38) a notification of workers' compensation insurance coverage described in Section

1516 34A-2-205;

1517 (39) (a) the following records of an institution within the state system of higher
1518 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
1519 or received by or on behalf of faculty, staff, employees, or students of the institution:

1520 (i) unpublished lecture notes;

1521 (ii) unpublished notes, data, and information:

1522 (A) relating to research; and

1523 (B) of:

1524 (I) the institution within the state system of higher education defined in Section
1525 53B-1-102; or

1526 (II) a sponsor of sponsored research;

1527 (iii) unpublished manuscripts;

1528 (iv) creative works in process;

1529 (v) scholarly correspondence; and

1530 (vi) confidential information contained in research proposals;

1531 (b) Subsection (39)(a) may not be construed to prohibit disclosure of public
1532 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

1533 (c) Subsection (39)(a) may not be construed to affect the ownership of a record;

1534 (40) (a) records in the custody or control of the Office of Legislative Auditor General
1535 that would reveal the name of a particular legislator who requests a legislative audit prior to the
1536 date that audit is completed and made public; and

1537 (b) notwithstanding Subsection (40)(a), a request for a legislative audit submitted to the
1538 Office of the Legislative Auditor General is a public document unless the legislator asks that
1539 the records in the custody or control of the Office of Legislative Auditor General that would
1540 reveal the name of a particular legislator who requests a legislative audit be maintained as
1541 protected records until the audit is completed and made public;

1542 (41) records that provide detail as to the location of an explosive, including a map or
1543 other document that indicates the location of:

1544 (a) a production facility; or

1545 (b) a magazine;

1546 (42) information:

1547 (a) contained in the statewide database of the Division of Aging and Adult Services
1548 created by Section 62A-3-311.1; or

1549 (b) received or maintained in relation to the Identity Theft Reporting Information
1550 System (IRIS) established under Section 67-5-22;

1551 (43) information contained in the Management Information System and Licensing
1552 Information System described in Title 62A, Chapter 4a, Child and Family Services;

1553 (44) information regarding National Guard operations or activities in support of the
1554 National Guard's federal mission;

1555 (45) records provided by any pawn or secondhand business to a law enforcement
1556 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
1557 Secondhand Merchandise Transaction Information Act;

1558 (46) information regarding food security, risk, and vulnerability assessments performed
1559 by the Department of Agriculture and Food;

1560 (47) except to the extent that the record is exempt from this chapter pursuant to Section
1561 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
1562 prepared or maintained by the Division of Emergency Management, and the disclosure of
1563 which would jeopardize:

1564 (a) the safety of the general public; or

1565 (b) the security of:

1566 (i) governmental property;

1567 (ii) governmental programs; or

1568 (iii) the property of a private person who provides the Division of Emergency
1569 Management information;

1570 (48) records of the Department of Agriculture and Food that provides for the
1571 identification, tracing, or control of livestock diseases, including any program established under
1572 Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Control of
1573 Animal Disease;

1574 (49) as provided in Section 26-39-501:

1575 (a) information or records held by the Department of Health related to a complaint
1576 regarding a child care program or residential child care which the department is unable to
1577 substantiate; and

1578 (b) information or records related to a complaint received by the Department of Health
1579 from an anonymous complainant regarding a child care program or residential child care;

1580 (50) unless otherwise classified as public under Section 63G-2-301 and except as
1581 provided under Section 41-1a-116, an individual's home address, home telephone number, or
1582 personal mobile phone number, if:

1583 (a) the individual is required to provide the information in order to comply with a law,
1584 ordinance, rule, or order of a government entity; and

1585 (b) the subject of the record has a reasonable expectation that this information will be
1586 kept confidential due to:

1587 (i) the nature of the law, ordinance, rule, or order; and

1588 (ii) the individual complying with the law, ordinance, rule, or order;

1589 (51) the name, home address, work addresses, and telephone numbers of an individual
1590 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1591 (a) conducted within the state system of higher education, as defined in Section
1592 53B-1-102; and

1593 (b) conducted using animals;

1594 (52) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
1595 Private Proposal Program, to the extent not made public by rules made under that chapter;

1596 (53) in accordance with Section 78A-12-203, any record of the Judicial Performance
1597 Evaluation Commission concerning an individual commissioner's vote on whether or not to
1598 recommend that the voters retain a judge;

1599 (54) information collected and a report prepared by the Judicial Performance
1600 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
1601 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1602 the information or report;

1603 (55) records contained in the Management Information System created in Section
1604 62A-4a-1003;

1605 (56) records provided or received by the Public Lands Policy Coordinating Office in
1606 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

1607 (57) information requested by and provided to the Utah State 911 Committee under
1608 Section 53-10-602;

1609 (58) recorded Children's Justice Center investigative interviews, both video and audio,
1610 the release of which are governed by Section 77-37-4;

1611 (59) in accordance with Section 73-10-33:

1612 (a) a management plan for a water conveyance facility in the possession of the Division
1613 of Water Resources or the Board of Water Resources; or

1614 (b) an outline of an emergency response plan in possession of the state or a county or
1615 municipality;

1616 (60) the following records in the custody or control of the Office of Inspector General
1617 of Medicaid Services, created in Section 63J-4a-201:

1618 (a) records that would disclose information relating to allegations of personal
1619 misconduct, gross mismanagement, or illegal activity of a person if the information or
1620 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1621 through other documents or evidence, and the records relating to the allegation are not relied
1622 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1623 report or final audit report;

1624 (b) records and audit workpapers to the extent they would disclose the identity of a
1625 person who, during the course of an investigation or audit, communicated the existence of any
1626 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1627 regulation adopted under the laws of this state, a political subdivision of the state, or any
1628 recognized entity of the United States, if the information was disclosed on the condition that
1629 the identity of the person be protected;

1630 (c) before the time that an investigation or audit is completed and the final
1631 investigation or final audit report is released, records or drafts circulated to a person who is not
1632 an employee or head of a governmental entity for the person's response or information;

1633 (d) records that would disclose an outline or part of any investigation, audit survey
1634 plan, or audit program; or

1635 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1636 investigation or audit;

1637 (61) records that reveal methods used by the Office of Inspector General of Medicaid
1638 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
1639 abuse;

1640 (62) information provided to the Department of Health or the Division of Occupational
1641 and Professional Licensing under Subsection 58-68-304(3) or (4); [~~and~~]

1642 (63) a record described in Section 63G-12-210[-]; and

1643 (64) a record provided by, obtained from, or containing information provided by or
1644 obtained from, an owner or operator of an agricultural operation under Section 4-18-107 in
1645 relation to an application to become a certified agricultural operation, an application for
1646 renewal of certification as a certified agricultural operation, or an investigation of a certified
1647 agricultural operation.

1648 Section 17. **Effective dates.**

1649 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

1650 (2) The actions affecting Section 59-12-103 (Effective 07/01/14) take effect on July 1,
1651 2014.

Legislative Review Note

as of 1-31-13 1:02 PM

Office of Legislative Research and General Counsel