

Representative Joel K. Briscoe proposes the following substitute bill:

MODIFICATIONS TO TAX

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions in the Individual Income Tax Act and the Sales and Use Tax Act.

Highlighted Provisions:

This bill:

- decreases the general state sales and use tax rate;
 - imposes a state sales and use tax on amounts paid or charged for certain services;
- and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-1-405, as last amended by Laws of Utah 2012, Chapter 424

11-41-102, as last amended by Laws of Utah 2016, Chapter 176

59-1-401, as last amended by Laws of Utah 2015, Chapter 369



26 **59-12-102**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6
27 **59-12-103**, as last amended by Laws of Utah 2016, Chapters 184, 291, 348 and last
28 amended by Coordination Clause, Laws of Utah 2016, Chapter 291
29 **59-12-108**, as last amended by Laws of Utah 2013, Chapter 50
30 **59-12-204**, as last amended by Laws of Utah 2014, Chapter 258
31 **59-12-401**, as last amended by Laws of Utah 2013, Chapter 362
32 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
33 **59-12-402.1**, as enacted by Laws of Utah 2015, Chapter 182
34 **59-12-703**, as last amended by Laws of Utah 2016, Chapters 344 and 364
35 **59-12-802**, as last amended by Laws of Utah 2016, Chapter 364
36 **59-12-804**, as last amended by Laws of Utah 2016, Chapter 364
37 **59-12-1102**, as last amended by Laws of Utah 2016, Chapter 364
38 **59-12-1302**, as last amended by Laws of Utah 2016, Chapter 364
39 **59-12-1402**, as last amended by Laws of Utah 2016, Chapter 364
40 **59-12-1802**, as last amended by Laws of Utah 2008, Chapter 384
41 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263
42 **59-12-2103**, as last amended by Laws of Utah 2016, Chapter 364
43 **59-12-2213**, as last amended by Laws of Utah 2011, Chapter 223
44 **59-12-2214**, as last amended by Laws of Utah 2015, Chapter 421
45 **59-12-2215**, as enacted by Laws of Utah 2010, Chapter 263
46 **59-12-2216**, as enacted by Laws of Utah 2010, Chapter 263
47 **59-12-2217**, as last amended by Laws of Utah 2015, Chapter 421
48 **59-12-2218**, as last amended by Laws of Utah 2016, Chapter 348
49 **59-12-2219**, as last amended by Laws of Utah 2016, Chapter 373
50 **63N-2-502**, as last amended by Laws of Utah 2016, Chapter 350

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

53 Section 1. Section **10-1-405** is amended to read:

54 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
55 **Administrative charge -- Rulemaking authority.**

56 (1) Subject to the other provisions of this section, the commission shall collect,

57 enforce, and administer any municipal telecommunications license tax imposed under this part
58 pursuant to:

59 (a) the same procedures used in the administration, collection, and enforcement of the
60 state sales and use tax under:

61 (i) Title 59, Chapter 1, General Taxation Policies; and

62 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

63 (A) except for:

64 (I) Subsection 59-12-103(2)(~~†~~)(i);

65 (II) Section 59-12-104;

66 (III) Section 59-12-104.1;

67 (IV) Section 59-12-104.2;

68 (V) Section 59-12-104.3;

69 (VI) Section 59-12-107.1; and

70 (VII) Section 59-12-123; and

71 (B) except that for purposes of Section 59-1-1410, the term "person" may include a
72 customer from whom a municipal telecommunications license tax is recovered in accordance
73 with Subsection 10-1-403(2); and

74 (b) a uniform interlocal agreement between the municipality that imposes the
75 municipal telecommunications license tax and the commission:

76 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

77 (ii) that complies with Subsection (2)(a); and

78 (iii) that is developed by rule in accordance with Subsection (2)(b).

79 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
80 the commission shall:

81 (i) transmit money collected under this part monthly by electronic funds transfer by the
82 commission to the municipality;

83 (ii) conduct audits of the municipal telecommunications license tax;

84 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306
85 from revenues the commission collects from a tax under this part; and

86 (iv) collect, enforce, and administer the municipal telecommunications license tax
87 authorized under this part pursuant to the same procedures used in the administration,

88 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

89 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
90 commission shall develop a uniform interlocal agreement that meets the requirements of this
91 section.

92 (3) If a telecommunications provider pays a municipal telecommunications license tax
93 to the commission, the telecommunications provider shall pay the municipal
94 telecommunications license tax to the commission:

95 (a) monthly on or before the last day of the month immediately following the last day
96 of the previous month if:

97 (i) the telecommunications provider is required to file a sales and use tax return with
98 the commission monthly under Section 59-12-108; or

99 (ii) the telecommunications provider is not required to file a sales and use tax return
100 under Title 59, Chapter 12, Sales and Use Tax Act; or

101 (b) quarterly on or before the last day of the month immediately following the last day
102 of the previous quarter if the telecommunications provider is required to file a sales and use tax
103 return with the commission quarterly under Section 59-12-108.

104 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
105 telecommunications license tax under this part at a rate that exceeds 3.5%:

106 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
107 shall collect the municipal telecommunications license tax:

108 (i) within the municipality;

109 (ii) at a rate of 3.5%; and

110 (iii) from a telecommunications provider required to pay the municipal
111 telecommunications license tax on or after July 1, 2007; and

112 (b) the commission shall collect a municipal telecommunications license tax within the
113 municipality at the rate imposed by the municipality if:

114 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
115 telecommunications license tax under this part at a rate of up to 3.5%;

116 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
117 the rate of the municipal telecommunications license tax; and

118 (iii) a telecommunications provider is required to pay the municipal

telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Section 2. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city;

(b) town; or

(c) metro township.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

(d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section [41-1a-102](#);

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

(d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

(b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax authorized under:

- (i) Subsection 59-12-103(2)(a)(i);
- (ii) Subsection 59-12-103(2)(b)(i);
- (iii) Subsection 59-12-103(2)(c)(i);
- (iv) Subsection 59-12-103(2)(d);
- ~~[(iv)]~~ (v) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A);
- ~~[(v)]~~ (vi) Section 59-12-301;
- ~~[(vi)]~~ (vii) Section 59-12-352;
- ~~[(vii)]~~ (viii) Section 59-12-353;
- ~~[(viii)]~~ (ix) Section 59-12-603; or
- ~~[(ix)]~~ (x) Section 59-12-1201.

(6) (a) "Sales and use tax incentive payment" means a payment of revenues:

- (i) to a person;
- (ii) by a:
 - (A) county; or
 - (B) municipality;
- (iii) to induce the person to locate or relocate a regional retail business within the:
 - (A) county; or
 - (B) municipality; and
- (iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Section 3. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

- (i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 32B-2-304;

(VIII) Section 34A-2-202;

(IX) Section 40-6-14;

(X) Section 69-2-5;

(XI) Section 69-2-5.5; or

(XII) Section 69-2-5.6; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

243 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
244 filed more than 15 days after the due date described in Subsection (2)(a).

245 (d) This Subsection (2) does not apply to:

246 (i) an amended return; or

247 (ii) a return with no tax due.

248 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

249 (i) the person files a return on or before the due date for filing a return described in
250 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
251 date;

252 (ii) the person:

253 (A) is subject to a penalty under Subsection (2)(b); and

254 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
255 due date for filing a return described in Subsection (2)(a);

256 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

257 (B) the commission estimates an amount of tax due for that person in accordance with
258 Subsection 59-1-1406(2);

259 (iv) the person:

260 (A) is mailed a notice of deficiency; and

261 (B) within a 30-day period after the day on which the notice of deficiency described in
262 Subsection (3)(a)(iv)(A) is mailed:

263 (I) does not file a petition for redetermination or a request for agency action; and

264 (II) fails to pay the tax, fee, or charge due on a return;

265 (v) (A) the commission:

266 (I) issues an order constituting final agency action resulting from a timely filed petition
267 for redetermination or a timely filed request for agency action; or

268 (II) is considered to have denied a request for reconsideration under Subsection
269 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
270 request for agency action; and

271 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
272 after the date the commission:

273 (I) issues the order constituting final agency action described in Subsection

274 (3)(a)(v)(A)(I); or

275 (II) is considered to have denied the request for reconsideration described in

276 Subsection (3)(a)(v)(A)(II); or

277 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
278 of a final judicial decision resulting from a timely filed petition for judicial review.

279 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

280 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
281 respect to an unactivated tax, fee, or charge:

282 (A) \$20; or

283 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

284 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
285 respect to an activated tax, fee, or charge, beginning on the activation date:

286 (A) \$20; or

287 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
288 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
289 return described in Subsection (2)(a);

290 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
291 fee, or charge due on the return is paid more than five days after the due date for filing a return
292 described in Subsection (2)(a) but no later than 15 days after that due date; or

293 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
294 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
295 return described in Subsection (2)(a).

296 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
297 quarterly installments required by Sections [59-5-107](#), [59-5-207](#), [59-7-504](#), and [59-9-104](#), there
298 shall be added a penalty in an amount determined by applying the interest rate provided under
299 Section [59-1-402](#) plus four percentage points to the amount of the underpayment for the period
300 of the underpayment.

301 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
302 excess of the required installment over the amount, if any, of the installment paid on or before
303 the due date for the installment.

304 (ii) The period of the underpayment shall run from the due date for the installment to

whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is

due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice;

or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in

Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(f)~~(e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(f)~~(e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(f)~~(e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~(d)~~(e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

429 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
430 following documents:

431 (A) a return;

432 (B) an affidavit;

433 (C) a claim; or

434 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

435 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
436 will be used in connection with any material matter administered by the commission; and

437 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
438 with any material matter administered by the commission, would result in an understatement of
439 another person's liability for a tax, fee, or charge.

440 (b) The following acts apply to Subsection (11)(a)(i):

441 (i) preparing any portion of a document described in Subsection (11)(a)(i);

442 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

443 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

444 (iv) advising in the preparation or presentation of any portion of a document described
445 in Subsection (11)(a)(i);

446 (v) aiding in the preparation or presentation of any portion of a document described in
447 Subsection (11)(a)(i);

448 (vi) assisting in the preparation or presentation of any portion of a document described
449 in Subsection (11)(a)(i); or

450 (vii) counseling in the preparation or presentation of any portion of a document
451 described in Subsection (11)(a)(i).

452 (c) For purposes of Subsection (11)(a), the penalty:

453 (i) shall be imposed by the commission;

454 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
455 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

456 (iii) is in addition to any other penalty provided by law.

457 (d) The commission may seek a court order to enjoin a person from engaging in
458 conduct that is subject to a penalty under this Subsection (11).

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

commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

491 (I) a return;
492 (II) an affidavit;
493 (III) a claim; or
494 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
495 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
496 Subsection (12)(e)(i)(A):
497 (I) is false or fraudulent as to any material matter; and
498 (II) could be used in connection with any material matter administered by the
499 commission.
500 (ii) The following acts apply to Subsection (12)(e)(i):
501 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
502 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
503 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
504 (D) advising in the preparation or presentation of any portion of a document described
505 in Subsection (12)(e)(i)(A);
506 (E) aiding in the preparation or presentation of any portion of a document described in
507 Subsection (12)(e)(i)(A);
508 (F) assisting in the preparation or presentation of any portion of a document described
509 in Subsection (12)(e)(i)(A); or
510 (G) counseling in the preparation or presentation of any portion of a document
511 described in Subsection (12)(e)(i)(A).
512 (iii) This Subsection (12)(e) applies:
513 (A) regardless of whether the person for which the document described in Subsection
514 (12)(e)(i)(A) is prepared or presented:
515 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
516 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
517 (B) in addition to any other penalty provided by law.
518 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
519 penalty may not:
520 (A) be less than \$1,500; or
521 (B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under

553 this part.

554 Section 4. Section **59-12-102** is amended to read:

555 **59-12-102. Definitions.**

556 As used in this chapter:

557 (1) "800 service" means a telecommunications service that:

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

559 (b) is typically marketed:

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

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

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

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

564 (v) under the name 888 toll-free calling; or

565 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

566 Federal Communications Commission.

567 (2) (a) "900 service" means an inbound toll telecommunications service that:

568 (i) a subscriber purchases;

569 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

570 the subscriber's:

571 (A) prerecorded announcement; or

572 (B) live service; and

573 (iii) is typically marketed:

574 (A) under the name 900 service; or

575 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

576 Communications Commission.

577 (b) "900 service" does not include a charge for:

578 (i) a collection service a seller of a telecommunications service provides to a

579 subscriber; or

580 (ii) the following a subscriber sells to the subscriber's customer:

581 (A) a product; or

582 (B) a service.

583 (3) (a) "Admission or user fees" includes season passes.

584 (b) "Admission or user fees" does not include annual membership dues to private
585 organizations.

586 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
587 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
588 Agreement after November 12, 2002.

589 (5) "Agreement combined tax rate" means the sum of the tax rates:

590 (a) listed under Subsection (6); and

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

592 (6) "Agreement sales and use tax" means a tax imposed under:

593 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

594 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);

595 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);

596 (d) Subsection [59-12-103\(2\)\(d\)](#);

597 ~~[(d)]~~ (e) Subsection [59-12-103\(2\)](#)~~[(d)]~~(e)(i)(A)(I);

598 ~~[(e)]~~ (f) Section [59-12-204](#);

599 ~~[(f)]~~ (g) Section [59-12-401](#);

600 ~~[(g)]~~ (h) Section [59-12-402](#);

601 ~~[(h)]~~ (i) Section [59-12-402.1](#);

602 ~~[(i)]~~ (j) Section [59-12-703](#);

603 ~~[(j)]~~ (k) Section [59-12-802](#);

604 ~~[(k)]~~ (l) Section [59-12-804](#);

605 ~~[(l)]~~ (m) Section [59-12-1102](#);

606 ~~[(m)]~~ (n) Section [59-12-1302](#);

607 ~~[(n)]~~ (o) Section [59-12-1402](#);

608 ~~[(o)]~~ (p) Section [59-12-1802](#);

609 ~~[(p)]~~ (q) Section [59-12-2003](#);

610 ~~[(q)]~~ (r) Section [59-12-2103](#);

611 ~~[(r)]~~ (s) Section [59-12-2213](#);

612 ~~[(s)]~~ (t) Section [59-12-2214](#);

613 ~~[(t)]~~ (u) Section [59-12-2215](#);

614 ~~[(u)]~~ (v) Section [59-12-2216](#);

615 ~~[(v)]~~ (w) Section 59-12-2217; or
616 ~~[(w)]~~ (x) Section 59-12-2218.
617 (7) "Aircraft" is as defined in Section 72-10-102.
618 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
619 (a) except for:
620 (i) an airline as defined in Section 59-2-102; or
621 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
622 includes a corporation that is qualified to do business but is not otherwise doing business in the
623 state, of an airline; and
624 (b) that has the workers, expertise, and facilities to perform the following, regardless of
625 whether the business entity performs the following in this state:
626 (i) check, diagnose, overhaul, and repair:
627 (A) an onboard system of a fixed wing turbine powered aircraft; and
628 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
629 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
630 engine;
631 (iii) perform at least the following maintenance on a fixed wing turbine powered
632 aircraft:
633 (A) an inspection;
634 (B) a repair, including a structural repair or modification;
635 (C) changing landing gear; and
636 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
637 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
638 completely apply new paint to the fixed wing turbine powered aircraft; and
639 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
640 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
641 authority that certifies the fixed wing turbine powered aircraft.
642 (9) "Alcoholic beverage" means a beverage that:
643 (a) is suitable for human consumption; and
644 (b) contains .5% or more alcohol by volume.
645 (10) "Alternative energy" means:

- 646 (a) biomass energy;
647 (b) geothermal energy;
648 (c) hydroelectric energy;
649 (d) solar energy;
650 (e) wind energy; or
651 (f) energy that is derived from:
652 (i) coal-to-liquids;
653 (ii) nuclear fuel;
654 (iii) oil-impregnated diatomaceous earth;
655 (iv) oil sands;
656 (v) oil shale;
657 (vi) petroleum coke; or
658 (vii) waste heat from:
659 (A) an industrial facility; or
660 (B) a power station in which an electric generator is driven through a process in which
661 water is heated, turns into steam, and spins a steam turbine.
- 662 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
663 facility" means a facility that:
664 (i) uses alternative energy to produce electricity; and
665 (ii) has a production capacity of two megawatts or greater.
666 (b) A facility is an alternative energy electricity production facility regardless of
667 whether the facility is:
668 (i) connected to an electric grid; or
669 (ii) located on the premises of an electricity consumer.
- 670 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
671 provision of telecommunications service.
672 (b) "Ancillary service" includes:
673 (i) a conference bridging service;
674 (ii) a detailed communications billing service;
675 (iii) directory assistance;
676 (iv) a vertical service; or

677 (v) a voice mail service.

678 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).

679 (14) "Assisted amusement device" means an amusement device, skill device, or ride
680 device that is started and stopped by an individual:

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

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

685 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
686 washing of tangible personal property if the cleaning or washing labor is primarily performed
687 by an individual:

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

690 (b) at the direction of the seller of the cleaning or washing of the tangible personal
691 property.

692 (16) "Authorized carrier" means:

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

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

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

701 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
702 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

706 (B) animal waste;

707 (C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

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

(A) seller's purchase price of the tangible personal property or product subject to

739 taxation under this chapter is de minimis; or

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

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

744 (A) that retail sale includes:

745 (I) food and food ingredients;

746 (II) a drug;

747 (III) durable medical equipment;

748 (IV) mobility enhancing equipment;

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

750 (VI) a prosthetic device; or

751 (VII) a medical supply; and

752 (B) subject to Subsection (18)(f):

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

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

757 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
758 service that is distinct and identifiable does not include:

759 (A) packaging that:

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

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

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

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

767 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
768 product, or a service is provided free of charge with the purchase of another item of tangible
769 personal property, a product, or a service if the sales price of the purchased item of tangible

personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

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

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

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

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

(ii) For purposes of Subsection (18)(b)(vi), a seller:

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

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product

subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

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

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

(i) on a transaction; and

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

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

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

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

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

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

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

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

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

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under

Subsection (106).

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

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

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

(25) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

(a) future updates or upgrades to computer software;

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

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or

863 more participants of an audio conference call or video conference call.

864 (b) "Conference bridging service" may include providing a telephone number as part of
865 the ancillary service described in Subsection (29)(a).

866 (c) "Conference bridging service" does not include a telecommunications service used
867 to reach the ancillary service described in Subsection (29)(a).

868 (30) "Construction materials" means any tangible personal property that will be
869 converted into real property.

870 (31) "Delivered electronically" means delivered to a purchaser by means other than
871 tangible storage media.

872 (32) (a) "Delivery charge" means a charge:

873 (i) by a seller of:

874 (A) tangible personal property;

875 (B) a product transferred electronically; or

876 (C) services; and

877 (ii) for preparation and delivery of the tangible personal property, product transferred
878 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
879 purchaser.

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

881 (i) transportation;

882 (ii) shipping;

883 (iii) postage;

884 (iv) handling;

885 (v) crating; or

886 (vi) packing.

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

889 (34) "Dietary supplement" means a product, other than tobacco, that:

890 (a) is intended to supplement the diet;

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

892 (i) a vitamin;

893 (ii) a mineral;

894 (iii) an herb or other botanical;
 895 (iv) an amino acid;
 896 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 897 dietary intake; or
 898 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
 899 described in Subsections (34)(b)(i) through (v);
 900 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
 901 (A) tablet form;
 902 (B) capsule form;
 903 (C) powder form;
 904 (D) softgel form;
 905 (E) gelcap form; or
 906 (F) liquid form; or
 907 (ii) if the product is not intended for ingestion in a form described in Subsections
 908 (34)(c)(i)(A) through (F), is not represented:
 909 (A) as conventional food; and
 910 (B) for use as a sole item of:
 911 (I) a meal; or
 912 (II) the diet; and
 913 (d) is required to be labeled as a dietary supplement:
 914 (i) identifiable by the "Supplemental Facts" box found on the label; and
 915 (ii) as required by 21 C.F.R. Sec. 101.36.
 916 (35) "Digital audio-visual work" means a series of related images which, when shown
 917 in succession, imparts an impression of motion, together with accompanying sounds, if any.
 918 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
 919 musical, spoken, or other sounds.
 920 (b) "Digital audio work" includes a ringtone.
 921 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
 922 sense as a book.
 923 (38) (a) "Direct mail" means printed material delivered or distributed by United States
 924 mail or other delivery service:

- 925 (i) to:
- 926 (A) a mass audience; or
- 927 (B) addressees on a mailing list provided:
- 928 (I) by a purchaser of the mailing list; or
- 929 (II) at the discretion of the purchaser of the mailing list; and
- 930 (ii) if the cost of the printed material is not billed directly to the recipients.
- 931 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 932 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 933 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 934 single address.
- 935 (39) "Directory assistance" means an ancillary service of providing:
- 936 (a) address information; or
- 937 (b) telephone number information.
- 938 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 939 or supplies that:
- 940 (i) cannot withstand repeated use; and
- 941 (ii) are purchased by, for, or on behalf of a person other than:
- 942 (A) a health care facility as defined in Section 26-21-2;
- 943 (B) a health care provider as defined in Section 78B-3-403;
- 944 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 945 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 946 (b) "Disposable home medical equipment or supplies" does not include:
- 947 (i) a drug;
- 948 (ii) durable medical equipment;
- 949 (iii) a hearing aid;
- 950 (iv) a hearing aid accessory;
- 951 (v) mobility enhancing equipment; or
- 952 (vi) tangible personal property used to correct impaired vision, including:
- 953 (A) eyeglasses; or
- 954 (B) contact lenses.
- 955 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

956 commission may by rule define what constitutes medical equipment or supplies.

957 (41) "Drilling equipment manufacturer" means a facility:

958 (a) located in the state;

959 (b) with respect to which 51% or more of the manufacturing activities of the facility

960 consist of manufacturing component parts of drilling equipment;

961 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

962 manufacturing process; and

963 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

964 manufacturing process.

965 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a

966 compound, substance, or preparation that is:

967 (i) recognized in:

968 (A) the official United States Pharmacopoeia;

969 (B) the official Homeopathic Pharmacopoeia of the United States;

970 (C) the official National Formulary; or

971 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

972 (ii) intended for use in the:

973 (A) diagnosis of disease;

974 (B) cure of disease;

975 (C) mitigation of disease;

976 (D) treatment of disease; or

977 (E) prevention of disease; or

978 (iii) intended to affect:

979 (A) the structure of the body; or

980 (B) any function of the body.

981 (b) "Drug" does not include:

982 (i) food and food ingredients;

983 (ii) a dietary supplement;

984 (iii) an alcoholic beverage; or

985 (iv) a prosthetic device.

986 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means

equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(44) "Electronic" means:

(a) relating to technology; and

(b) having:

- (i) electrical capabilities;
- (ii) digital capabilities;
- (iii) magnetic capabilities;
- (iv) wireless capabilities;
- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) "Employee" is as defined in Section 59-10-401.

(47) "Fixed guideway" means a public transit facility that uses and occupies:

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

1018 (49) "Fixed wireless service" means a telecommunications service that provides radio
1019 communication between fixed points.

1020 (50) (a) "Food and food ingredients" means substances:

1021 (i) regardless of whether the substances are in:

1022 (A) liquid form;

1023 (B) concentrated form;

1024 (C) solid form;

1025 (D) frozen form;

1026 (E) dried form; or

1027 (F) dehydrated form; and

1028 (ii) that are:

1029 (A) sold for:

1030 (I) ingestion by humans; or

1031 (II) chewing by humans; and

1032 (B) consumed for the substance's:

1033 (I) taste; or

1034 (II) nutritional value.

1035 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

1036 (c) "Food and food ingredients" does not include:

1037 (i) an alcoholic beverage;

1038 (ii) tobacco; or

1039 (iii) prepared food.

1040 (51) (a) "Fundraising sales" means sales:

1041 (i) (A) made by a school; or

1042 (B) made by a school student;

1043 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1044 materials, or provide transportation; and

1045 (iii) that are part of an officially sanctioned school activity.

1046 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
1047 means a school activity:

1048 (i) that is conducted in accordance with a formal policy adopted by the school or school

district governing the authorization and supervision of fundraising activities;

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

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

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

(53) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

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

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

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

(iv) the National Guard;

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

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

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

(i) an applied technology college within the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(55) "Hydroelectric energy" means water used as the sole source of energy to produce

1080 electricity.

1081 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

1082 other fuels:

1083 (a) in mining or extraction of minerals;

1084 (b) in agricultural operations to produce an agricultural product up to the time of

1085 harvest or placing the agricultural product into a storage facility, including:

1086 (i) commercial greenhouses;

1087 (ii) irrigation pumps;

1088 (iii) farm machinery;

1089 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered

1090 under Title 41, Chapter 1a, Part 2, Registration; and

1091 (v) other farming activities;

1092 (c) in manufacturing tangible personal property at an establishment described in SIC

1093 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

1094 Executive Office of the President, Office of Management and Budget;

1095 (d) by a scrap recycler if:

1096 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1097 one or more of the following items into prepared grades of processed materials for use in new

1098 products:

1099 (A) iron;

1100 (B) steel;

1101 (C) nonferrous metal;

1102 (D) paper;

1103 (E) glass;

1104 (F) plastic;

1105 (G) textile; or

1106 (H) rubber; and

1107 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

1108 nonrecycled materials; or

1109 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

1110 cogeneration facility as defined in Section 54-2-1.

1111 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
1112 for installing:

1113 (i) tangible personal property; or

1114 (ii) a product transferred electronically.

1115 (b) "Installation charge" does not include a charge for:

1116 (i) repairs or renovations of:

1117 (A) tangible personal property; or

1118 (B) a product transferred electronically; or

1119 (ii) attaching tangible personal property or a product transferred electronically:

1120 (A) to other tangible personal property; and

1121 (B) as part of a manufacturing or fabrication process.

1122 (58) "Institution of higher education" means an institution of higher education listed in
1123 Section [53B-2-101](#).

1124 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1125 personal property or a product transferred electronically for:

1126 (i) (A) a fixed term; or

1127 (B) an indeterminate term; and

1128 (ii) consideration.

1129 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1130 amount of consideration may be increased or decreased by reference to the amount realized
1131 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1132 Code.

1133 (c) "Lease" or "rental" does not include:

1134 (i) a transfer of possession or control of property under a security agreement or
1135 deferred payment plan that requires the transfer of title upon completion of the required
1136 payments;

1137 (ii) a transfer of possession or control of property under an agreement that requires the
1138 transfer of title:

1139 (A) upon completion of required payments; and

1140 (B) if the payment of an option price does not exceed the greater of:

1141 (I) \$100; or

1142 (II) 1% of the total required payments; or
 1143 (iii) providing tangible personal property along with an operator for a fixed period of
 1144 time or an indeterminate period of time if the operator is necessary for equipment to perform as
 1145 designed.
 1146 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
 1147 perform as designed if the operator's duties exceed the:
 1148 (i) set-up of tangible personal property;
 1149 (ii) maintenance of tangible personal property; or
 1150 (iii) inspection of tangible personal property.
 1151 (60) "Life science establishment" means an establishment in this state that is classified
 1152 under the following NAICS codes of the 2007 North American Industry Classification System
 1153 of the federal Executive Office of the President, Office of Management and Budget:
 1154 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
 1155 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
 1156 Manufacturing; or
 1157 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
 1158 (61) "Life science research and development facility" means a facility owned, leased,
 1159 or rented by a life science establishment if research and development is performed in 51% or
 1160 more of the total area of the facility.
 1161 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
 1162 if the tangible storage media is not physically transferred to the purchaser.
 1163 (63) "Local taxing jurisdiction" means a:
 1164 (a) county that is authorized to impose an agreement sales and use tax;
 1165 (b) city that is authorized to impose an agreement sales and use tax; or
 1166 (c) town that is authorized to impose an agreement sales and use tax.
 1167 (64) "Manufactured home" is as defined in Section [15A-1-302](#).
 1168 (65) "Manufacturing facility" means:
 1169 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
 1170 Industrial Classification Manual of the federal Executive Office of the President, Office of
 1171 Management and Budget;
 1172 (b) a scrap recycler if:

1173 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1174 one or more of the following items into prepared grades of processed materials for use in new
1175 products:

- 1176 (A) iron;
- 1177 (B) steel;
- 1178 (C) nonferrous metal;
- 1179 (D) paper;
- 1180 (E) glass;
- 1181 (F) plastic;
- 1182 (G) textile; or
- 1183 (H) rubber; and

1184 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
1185 nonrecycled materials; or

1186 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
1187 placed in service on or after May 1, 2006.

1188 (66) "Member of the immediate family of the producer" means a person who is related
1189 to a producer described in Subsection 59-12-104(20)(a) as a:

1190 (a) child or stepchild, regardless of whether the child or stepchild is:

- 1191 (i) an adopted child or adopted stepchild; or
- 1192 (ii) a foster child or foster stepchild;

- 1193 (b) grandchild or stepgrandchild;
- 1194 (c) grandparent or stepgrandparent;
- 1195 (d) nephew or stepnephew;
- 1196 (e) niece or stepniece;
- 1197 (f) parent or stepparent;
- 1198 (g) sibling or stepsibling;
- 1199 (h) spouse;

1200 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

1201 or

1202 (j) person similar to a person described in Subsections (66)(a) through (i) as

1203 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1204 Administrative Rulemaking Act.

1205 (67) "Mobile home" is as defined in Section 15A-1-302.

1206 (68) "Mobile telecommunications service" is as defined in the Mobile

1207 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1208 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
1209 the technology used, if:

1210 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1211 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1212 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
1213 described in Subsection (69)(a)(ii) are not fixed.

1214 (b) "Mobile wireless service" includes a telecommunications service that is provided
1215 by a commercial mobile radio service provider.

1216 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1217 commission may by rule define "commercial mobile radio service provider."

1218 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
1219 means equipment that is:

1220 (i) primarily and customarily used to provide or increase the ability to move from one
1221 place to another;

1222 (ii) appropriate for use in a:

1223 (A) home; or

1224 (B) motor vehicle; and

1225 (iii) not generally used by persons with normal mobility.

1226 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1227 the equipment described in Subsection (70)(a).

1228 (c) "Mobility enhancing equipment" does not include:

1229 (i) a motor vehicle;

1230 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1231 vehicle manufacturer;

1232 (iii) durable medical equipment; or

1233 (iv) a prosthetic device.

1234 (71) "Model 1 seller" means a seller registered under the agreement that has selected a

certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" is as defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

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

(b) yield mixtures of liquid hydrocarbon; and

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

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

1266 (79) "Optional computer software maintenance contract" means a computer software
1267 maintenance contract that a customer is not obligated to purchase as a condition to the retail
1268 sale of computer software.

1269 (80) (a) "Other fuels" means products that burn independently to produce heat or
1270 energy.

1271 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1272 personal property.

1273 (81) (a) "Paging service" means a telecommunications service that provides
1274 transmission of a coded radio signal for the purpose of activating a specific pager.

1275 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
1276 includes a transmission by message or sound.

1277 (82) "Pawnbroker" is as defined in Section 13-32a-102.

1278 (83) "Pawn transaction" is as defined in Section 13-32a-102.

1279 (84) (a) "Permanently attached to real property" means that for tangible personal
1280 property attached to real property:

1281 (i) the attachment of the tangible personal property to the real property:

1282 (A) is essential to the use of the tangible personal property; and

1283 (B) suggests that the tangible personal property will remain attached to the real
1284 property in the same place over the useful life of the tangible personal property; or

1285 (ii) if the tangible personal property is detached from the real property, the detachment
1286 would:

1287 (A) cause substantial damage to the tangible personal property; or

1288 (B) require substantial alteration or repair of the real property to which the tangible
1289 personal property is attached.

1290 (b) "Permanently attached to real property" includes:

1291 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1292 (A) essential to the operation of the tangible personal property; and

1293 (B) attached only to facilitate the operation of the tangible personal property;

1294 (ii) a temporary detachment of tangible personal property from real property for a
1295 repair or renovation if the repair or renovation is performed where the tangible personal
1296 property and real property are located; or

- 1297 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1298 Subsection (84)(c)(iii) or (iv).
- 1299 (c) "Permanently attached to real property" does not include:
- 1300 (i) the attachment of portable or movable tangible personal property to real property if
1301 that portable or movable tangible personal property is attached to real property only for:
- 1302 (A) convenience;
- 1303 (B) stability; or
- 1304 (C) for an obvious temporary purpose;
- 1305 (ii) the detachment of tangible personal property from real property except for the
1306 detachment described in Subsection (84)(b)(ii);
- 1307 (iii) an attachment of the following tangible personal property to real property if the
1308 attachment to real property is only through a line that supplies water, electricity, gas,
1309 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1310 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1311 (A) a computer;
- 1312 (B) a telephone;
- 1313 (C) a television; or
- 1314 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
1315 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1316 Administrative Rulemaking Act; or
- 1317 (iv) an item listed in Subsection (125)(c).
- 1318 (85) "Person" includes any individual, firm, partnership, joint venture, association,
1319 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1320 municipality, district, or other local governmental entity of the state, or any group or
1321 combination acting as a unit.
- 1322 (86) "Place of primary use":
- 1323 (a) for telecommunications service other than mobile telecommunications service,
1324 means the street address representative of where the customer's use of the telecommunications
1325 service primarily occurs, which shall be:
- 1326 (i) the residential street address of the customer; or
- 1327 (ii) the primary business street address of the customer; or

1328 (b) for mobile telecommunications service, is as defined in the Mobile
1329 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1330 (87) (a) "Postpaid calling service" means a telecommunications service a person
1331 obtains by making a payment on a call-by-call basis:

1332 (i) through the use of a:

1333 (A) bank card;

1334 (B) credit card;

1335 (C) debit card; or

1336 (D) travel card; or

1337 (ii) by a charge made to a telephone number that is not associated with the origination
1338 or termination of the telecommunications service.

1339 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1340 service, that would be a prepaid wireless calling service if the service were exclusively a
1341 telecommunications service.

1342 (88) "Postproduction" means an activity related to the finishing or duplication of a
1343 medium described in Subsection [59-12-104\(54\)\(a\)](#).

1344 (89) "Prepaid calling service" means a telecommunications service:

1345 (a) that allows a purchaser access to telecommunications service that is exclusively
1346 telecommunications service;

1347 (b) that:

1348 (i) is paid for in advance; and

1349 (ii) enables the origination of a call using an:

1350 (A) access number; or

1351 (B) authorization code;

1352 (c) that is dialed:

1353 (i) manually; or

1354 (ii) electronically; and

1355 (d) sold in predetermined units or dollars that decline:

1356 (i) by a known amount; and

1357 (ii) with use.

1358 (90) "Prepaid wireless calling service" means a telecommunications service:

- 1359 (a) that provides the right to utilize:
1360 (i) mobile wireless service; and
1361 (ii) other service that is not a telecommunications service, including:
1362 (A) the download of a product transferred electronically;
1363 (B) a content service; or
1364 (C) an ancillary service;
1365 (b) that:
1366 (i) is paid for in advance; and
1367 (ii) enables the origination of a call using an:
1368 (A) access number; or
1369 (B) authorization code;
1370 (c) that is dialed:
1371 (i) manually; or
1372 (ii) electronically; and
1373 (d) sold in predetermined units or dollars that decline:
1374 (i) by a known amount; and
1375 (ii) with use.
1376 (91) (a) "Prepared food" means:
1377 (i) food:
1378 (A) sold in a heated state; or
1379 (B) heated by a seller;
1380 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1381 item; or
1382 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
1383 by the seller, including a:
1384 (A) plate;
1385 (B) knife;
1386 (C) fork;
1387 (D) spoon;
1388 (E) glass;
1389 (F) cup;

1390 (G) napkin; or
1391 (H) straw.
1392 (b) "Prepared food" does not include:
1393 (i) food that a seller only:
1394 (A) cuts;
1395 (B) repackages; or
1396 (C) pasteurizes; or
1397 (ii) (A) the following:
1398 (I) raw egg;
1399 (II) raw fish;
1400 (III) raw meat;
1401 (IV) raw poultry; or
1402 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
1403 and
1404 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1405 Food and Drug Administration's Food Code that a consumer cook the items described in
1406 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
1407 (iii) the following if sold without eating utensils provided by the seller:
1408 (A) food and food ingredients sold by a seller if the seller's proper primary
1409 classification under the 2002 North American Industry Classification System of the federal
1410 Executive Office of the President, Office of Management and Budget, is manufacturing in
1411 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1412 Manufacturing;
1413 (B) food and food ingredients sold in an unheated state:
1414 (I) by weight or volume; and
1415 (II) as a single item; or
1416 (C) a bakery item, including:
1417 (I) a bagel;
1418 (II) a bar;
1419 (III) a biscuit;
1420 (IV) bread;

- 1421 (V) a bun;
1422 (VI) a cake;
1423 (VII) a cookie;
1424 (VIII) a croissant;
1425 (IX) a danish;
1426 (X) a donut;
1427 (XI) a muffin;
1428 (XII) a pastry;
1429 (XIII) a pie;
1430 (XIV) a roll;
1431 (XV) a tart;
1432 (XVI) a torte; or
1433 (XVII) a tortilla.
- 1434 (c) An eating utensil provided by the seller does not include the following used to
1435 transport the food:
- 1436 (i) a container; or
1437 (ii) packaging.
- 1438 (92) "Prescription" means an order, formula, or recipe that is issued:
- 1439 (a) (i) orally;
1440 (ii) in writing;
1441 (iii) electronically; or
1442 (iv) by any other manner of transmission; and
1443 (b) by a licensed practitioner authorized by the laws of a state.
- 1444 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
1445 software" means computer software that is not designed and developed:
- 1446 (i) by the author or other creator of the computer software; and
1447 (ii) to the specifications of a specific purchaser.
- 1448 (b) "Prewritten computer software" includes:
- 1449 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1450 software is not designed and developed:
- 1451 (A) by the author or other creator of the computer software; and

1452 (B) to the specifications of a specific purchaser;
1453 (ii) computer software designed and developed by the author or other creator of the
1454 computer software to the specifications of a specific purchaser if the computer software is sold
1455 to a person other than the purchaser; or
1456 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
1457 prewritten portion of prewritten computer software:
1458 (A) that is modified or enhanced to any degree; and
1459 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
1460 designed and developed to the specifications of a specific purchaser.
1461 (c) "Prewritten computer software" does not include a modification or enhancement
1462 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
1463 (i) reasonable; and
1464 (ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), separately stated
1465 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
1466 as demonstrated by:
1467 (A) the books and records the seller keeps at the time of the transaction in the regular
1468 course of business, including books and records the seller keeps at the time of the transaction in
1469 the regular course of business for nontax purposes;
1470 (B) a preponderance of the facts and circumstances at the time of the transaction; and
1471 (C) the understanding of all of the parties to the transaction.
1472 (94) (a) "Private communications service" means a telecommunications service:
1473 (i) that entitles a customer to exclusive or priority use of one or more communications
1474 channels between or among termination points; and
1475 (ii) regardless of the manner in which the one or more communications channels are
1476 connected.
1477 (b) "Private communications service" includes the following provided in connection
1478 with the use of one or more communications channels:
1479 (i) an extension line;
1480 (ii) a station;
1481 (iii) switching capacity; or
1482 (iv) another associated service that is provided in connection with the use of one or

1483 more communications channels as defined in Section 59-12-215.

1484 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
1485 means a product transferred electronically that would be subject to a tax under this chapter if
1486 that product was transferred in a manner other than electronically.

1487 (b) "Product transferred electronically" does not include:

1488 (i) an ancillary service;

1489 (ii) computer software; or

1490 (iii) a telecommunications service.

1491 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

1492 (i) artificially replace a missing portion of the body;

1493 (ii) prevent or correct a physical deformity or physical malfunction; or

1494 (iii) support a weak or deformed portion of the body.

1495 (b) "Prosthetic device" includes:

1496 (i) parts used in the repairs or renovation of a prosthetic device;

1497 (ii) replacement parts for a prosthetic device;

1498 (iii) a dental prosthesis; or

1499 (iv) a hearing aid.

1500 (c) "Prosthetic device" does not include:

1501 (i) corrective eyeglasses; or

1502 (ii) contact lenses.

1503 (97) (a) "Protective equipment" means an item:

1504 (i) for human wear; and

1505 (ii) that is:

1506 (A) designed as protection:

1507 (I) to the wearer against injury or disease; or

1508 (II) against damage or injury of other persons or property; and

1509 (B) not suitable for general use.

1510 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1511 commission shall make rules:

1512 (i) listing the items that constitute "protective equipment"; and

1513 (ii) that are consistent with the list of items that constitute "protective equipment"

1514 under the agreement.

1515 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1516 printed matter, other than a photocopy:

1517 (i) regardless of:

1518 (A) characteristics;

1519 (B) copyright;

1520 (C) form;

1521 (D) format;

1522 (E) method of reproduction; or

1523 (F) source; and

1524 (ii) made available in printed or electronic format.

1525 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1526 commission may by rule define the term "photocopy."

1527 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1528 (i) valued in money; and

1529 (ii) for which tangible personal property, a product transferred electronically, or
1530 services are:

1531 (A) sold;

1532 (B) leased; or

1533 (C) rented.

1534 (b) "Purchase price" and "sales price" include:

1535 (i) the seller's cost of the tangible personal property, a product transferred
1536 electronically, or services sold;

1537 (ii) expenses of the seller, including:

1538 (A) the cost of materials used;

1539 (B) a labor cost;

1540 (C) a service cost;

1541 (D) interest;

1542 (E) a loss;

1543 (F) the cost of transportation to the seller; or

1544 (G) a tax imposed on the seller;

1545 (iii) a charge by the seller for any service necessary to complete the sale; or
1546 (iv) consideration a seller receives from a person other than the purchaser if:
1547 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1548 and
1549 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
1550 price reduction or discount on the sale;
1551 (B) the seller has an obligation to pass the price reduction or discount through to the
1552 purchaser;
1553 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1554 the seller at the time of the sale to the purchaser; and
1555 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1556 seller to claim a price reduction or discount; and
1557 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1558 coupon, or other documentation with the understanding that the person other than the seller
1559 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
1560 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1561 organization allowed a price reduction or discount, except that a preferred customer card that is
1562 available to any patron of a seller does not constitute membership in a group or organization
1563 allowed a price reduction or discount; or
1564 (III) the price reduction or discount is identified as a third party price reduction or
1565 discount on the:
1566 (Aa) invoice the purchaser receives; or
1567 (Bb) certificate, coupon, or other documentation the purchaser presents.
1568 (c) "Purchase price" and "sales price" do not include:
1569 (i) a discount:
1570 (A) in a form including:
1571 (I) cash;
1572 (II) term; or
1573 (III) coupon;
1574 (B) that is allowed by a seller;
1575 (C) taken by a purchaser on a sale; and

1576 (D) that is not reimbursed by a third party; or
1577 (ii) subject to Subsections 59-12-103(2)(~~(e)~~)(f)(ii) and (2)(~~(f)~~)(g)(i), the following if
1578 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
1579 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
1580 of the transaction in the regular course of business, including books and records the seller
1581 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
1582 preponderance of the facts and circumstances at the time of the transaction, and by the
1583 understanding of all of the parties to the transaction:

1584 (A) the following from credit extended on the sale of tangible personal property or
1585 services:

- 1586 (I) a carrying charge;
- 1587 (II) a financing charge; or
- 1588 (III) an interest charge;
- 1589 (B) a delivery charge;
- 1590 (C) an installation charge;
- 1591 (D) a manufacturer rebate on a motor vehicle; or
- 1592 (E) a tax or fee legally imposed directly on the consumer.

1593 (100) "Purchaser" means a person to whom:

- 1594 (a) a sale of tangible personal property is made;
- 1595 (b) a product is transferred electronically; or
- 1596 (c) a service is furnished.

1597 (101) "Qualifying enterprise data center" means an establishment that will:

1598 (a) own and operate a data center facility that will house a group of networked server
1599 computers in one physical location in order to centralize the dissemination, management, and
1600 storage of data and information;

- 1601 (b) be located in the state;
- 1602 (c) be a new operation constructed on or after July 1, 2016;
- 1603 (d) consist of one or more buildings that total 150,000 or more square feet;
- 1604 (e) be owned or leased by:
 - 1605 (i) the establishment; or
 - 1606 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1607 establishment; and

1608 (f) be located on one or more parcels of land that are owned or leased by:

1609 (i) the establishment; or

1610 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1611 establishment.

1612 (102) "Regularly rented" means:

1613 (a) rented to a guest for value three or more times during a calendar year; or

1614 (b) advertised or held out to the public as a place that is regularly rented to guests for

1615 value.

1616 (103) "Rental" is as defined in Subsection (59).

1617 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1618 personal property" means:

1619 (i) a repair or renovation of tangible personal property that is not permanently attached
1620 to real property; or

1621 (ii) attaching tangible personal property or a product transferred electronically to other
1622 tangible personal property or detaching tangible personal property or a product transferred
1623 electronically from other tangible personal property if:

1624 (A) the other tangible personal property to which the tangible personal property or
1625 product transferred electronically is attached or from which the tangible personal property or
1626 product transferred electronically is detached is not permanently attached to real property; and

1627 (B) the attachment of tangible personal property or a product transferred electronically
1628 to other tangible personal property or detachment of tangible personal property or a product
1629 transferred electronically from other tangible personal property is made in conjunction with a
1630 repair or replacement of tangible personal property or a product transferred electronically.

1631 (b) "Repairs or renovations of tangible personal property" does not include:

1632 (i) attaching prewritten computer software to other tangible personal property if the
1633 other tangible personal property to which the prewritten computer software is attached is not
1634 permanently attached to real property; or

1635 (ii) detaching prewritten computer software from other tangible personal property if the
1636 other tangible personal property from which the prewritten computer software is detached is
1637 not permanently attached to real property.

1638 (105) "Research and development" means the process of inquiry or experimentation
1639 aimed at the discovery of facts, devices, technologies, or applications and the process of
1640 preparing those devices, technologies, or applications for marketing.

1641 (106) (a) "Residential telecommunications services" means a telecommunications
1642 service or an ancillary service that is provided to an individual for personal use:

1643 (i) at a residential address; or

1644 (ii) at an institution, including a nursing home or a school, if the telecommunications
1645 service or ancillary service is provided to and paid for by the individual residing at the
1646 institution rather than the institution.

1647 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1648 (i) apartment; or

1649 (ii) other individual dwelling unit.

1650 (107) "Residential use" means the use in or around a home, apartment building,
1651 sleeping quarters, and similar facilities or accommodations.

1652 (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1653 than:

1654 (a) resale;

1655 (b) sublease; or

1656 (c) subrent.

1657 (109) (a) "Retailer" means any person engaged in a regularly organized business in
1658 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1659 who is selling to the user or consumer and not for resale.

1660 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1661 engaged in the business of selling to users or consumers within the state.

1662 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1663 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1664 Subsection 59-12-103(1), for consideration.

1665 (b) "Sale" includes:

1666 (i) installment and credit sales;

1667 (ii) any closed transaction constituting a sale;

1668 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

chapter;

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

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

(111) "Sale at retail" is as defined in Subsection (108).

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

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

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

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

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

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

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

(113) "Sales price" is as defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

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

(A) the sale of:

1700 (I) textbooks;

1701 (II) textbook fees;

1702 (III) laboratory fees;

1703 (IV) laboratory supplies; or

1704 (V) safety equipment;

1705 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1706 that:

1707 (I) a student is specifically required to wear as a condition of participation in a

1708 school-related event or school-related activity; and

1709 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1710 place of ordinary clothing;

1711 (C) sales of the following if the net or gross revenues generated by the sales are

1712 deposited into a school district fund or school fund dedicated to school meals:

1713 (I) food and food ingredients; or

1714 (II) prepared food; or

1715 (D) transportation charges for official school activities; or

1716 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1717 event or school-related activity.

1718 (b) "Sales relating to schools" does not include:

1719 (i) bookstore sales of items that are not educational materials or supplies;

1720 (ii) except as provided in Subsection (114)(a)(i)(B):

1721 (A) clothing;

1722 (B) clothing accessories or equipment;

1723 (C) protective equipment; or

1724 (D) sports or recreational equipment; or

1725 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1726 event or school-related activity if the amounts paid or charged are passed through to a person:

1727 (A) other than a:

1728 (I) school;

1729 (II) nonprofit organization authorized by a school board or a governing body of a

1730 private school to organize and direct a competitive secondary school activity; or

- 1731 (III) nonprofit association authorized by a school board or a governing body of a
1732 private school to organize and direct a competitive secondary school activity; and
1733 (B) that is required to collect sales and use taxes under this chapter.
- 1734 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1735 commission may make rules defining the term "passed through."
- 1736 (115) For purposes of this section and Section 59-12-104, "school":
1737 (a) means:
1738 (i) an elementary school or a secondary school that:
1739 (A) is a:
1740 (I) public school; or
1741 (II) private school; and
1742 (B) provides instruction for one or more grades kindergarten through 12; or
1743 (ii) a public school district; and
1744 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1745 (116) "Seller" means a person that makes a sale, lease, or rental of:
1746 (a) tangible personal property;
1747 (b) a product transferred electronically; or
1748 (c) a service.
- 1749 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
1750 means tangible personal property or a product transferred electronically if the tangible personal
1751 property or product transferred electronically is:
1752 (i) used primarily in the process of:
1753 (A) (I) manufacturing a semiconductor;
1754 (II) fabricating a semiconductor; or
1755 (III) research or development of a:
1756 (Aa) semiconductor; or
1757 (Bb) semiconductor manufacturing process; or
1758 (B) maintaining an environment suitable for a semiconductor; or
1759 (ii) consumed primarily in the process of:
1760 (A) (I) manufacturing a semiconductor;
1761 (II) fabricating a semiconductor; or

1762 (III) research or development of a:
 1763 (Aa) semiconductor; or
 1764 (Bb) semiconductor manufacturing process; or
 1765 (B) maintaining an environment suitable for a semiconductor.
 1766 (b) "Semiconductor fabricating, processing, research, or development materials"
 1767 includes:
 1768 (i) parts used in the repairs or renovations of tangible personal property or a product
 1769 transferred electronically described in Subsection (117)(a); or
 1770 (ii) a chemical, catalyst, or other material used to:
 1771 (A) produce or induce in a semiconductor a:
 1772 (I) chemical change; or
 1773 (II) physical change;
 1774 (B) remove impurities from a semiconductor; or
 1775 (C) improve the marketable condition of a semiconductor.
 1776 (118) "Senior citizen center" means a facility having the primary purpose of providing
 1777 services to the aged as defined in Section [62A-3-101](#).
 1778 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
 1779 means tangible personal property that:
 1780 (i) a business that provides accommodations and services described in Subsection
 1781 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
 1782 to a purchaser;
 1783 (ii) is intended to be consumed by the purchaser; and
 1784 (iii) is:
 1785 (A) included in the purchase price of the accommodations and services; and
 1786 (B) not separately stated on an invoice, bill of sale, or other similar document provided
 1787 to the purchaser.
 1788 (b) "Short-term lodging consumable" includes:
 1789 (i) a beverage;
 1790 (ii) a brush or comb;
 1791 (iii) a cosmetic;
 1792 (iv) a hair care product;

- 1793 (v) lotion;
1794 (vi) a magazine;
1795 (vii) makeup;
1796 (viii) a meal;
1797 (ix) mouthwash;
1798 (x) nail polish remover;
1799 (xi) a newspaper;
1800 (xii) a notepad;
1801 (xiii) a pen;
1802 (xiv) a pencil;
1803 (xv) a razor;
1804 (xvi) saline solution;
1805 (xvii) a sewing kit;
1806 (xviii) shaving cream;
1807 (xix) a shoe shine kit;
1808 (xx) a shower cap;
1809 (xxi) a snack item;
1810 (xxii) soap;
1811 (xxiii) toilet paper;
1812 (xxiv) a toothbrush;
1813 (xxv) toothpaste; or
1814 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
1815 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1816 Rulemaking Act.
- 1817 (c) "Short-term lodging consumable" does not include:
1818 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1819 property to be reused; or
1820 (ii) a product transferred electronically.
- 1821 (120) "Simplified electronic return" means the electronic return:
1822 (a) described in Section 318(C) of the agreement; and
1823 (b) approved by the governing board of the agreement.

1824 (121) "Solar energy" means the sun used as the sole source of energy for producing
1825 electricity.

1826 (122) (a) "Sports or recreational equipment" means an item:

1827 (i) designed for human use; and

1828 (ii) that is:

1829 (A) worn in conjunction with:

1830 (I) an athletic activity; or

1831 (II) a recreational activity; and

1832 (B) not suitable for general use.

1833 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1834 commission shall make rules:

1835 (i) listing the items that constitute "sports or recreational equipment"; and

1836 (ii) that are consistent with the list of items that constitute "sports or recreational
1837 equipment" under the agreement.

1838 (123) "State" means the state of Utah, its departments, and agencies.

1839 (124) "Storage" means any keeping or retention of tangible personal property or any
1840 other taxable transaction under Subsection [59-12-103](#)(1), in this state for any purpose except
1841 sale in the regular course of business.

1842 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
1843 means personal property that:

1844 (i) may be:

1845 (A) seen;

1846 (B) weighed;

1847 (C) measured;

1848 (D) felt; or

1849 (E) touched; or

1850 (ii) is in any manner perceptible to the senses.

1851 (b) "Tangible personal property" includes:

1852 (i) electricity;

1853 (ii) water;

1854 (iii) gas;

- 1855 (iv) steam; or
- 1856 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1857 computer software is transferred.
- 1858 (c) "Tangible personal property" includes the following regardless of whether the item
- 1859 is attached to real property:
- 1860 (i) a dishwasher;
- 1861 (ii) a dryer;
- 1862 (iii) a freezer;
- 1863 (iv) a microwave;
- 1864 (v) a refrigerator;
- 1865 (vi) a stove;
- 1866 (vii) a washer; or
- 1867 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 1868 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1869 Rulemaking Act.
- 1870 (d) "Tangible personal property" does not include a product that is transferred
- 1871 electronically.
- 1872 (e) "Tangible personal property" does not include the following if attached to real
- 1873 property, regardless of whether the attachment to real property is only through a line that
- 1874 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1875 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1876 Rulemaking Act:
- 1877 (i) a hot water heater;
- 1878 (ii) a water filtration system; or
- 1879 (iii) a water softener system.
- 1880 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1881 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
- 1882 primarily to enable or facilitate one or more of the following to function:
- 1883 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1884 (ii) telecommunications transmission equipment, machinery, or software.
- 1885 (b) The following apply to Subsection (126)(a):

1886 (i) a pole;
1887 (ii) software;
1888 (iii) a supplementary power supply;
1889 (iv) temperature or environmental equipment or machinery;
1890 (v) test equipment;
1891 (vi) a tower; or
1892 (vii) equipment, machinery, or software that functions similarly to an item listed in
1893 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
1894 accordance with Subsection (126)(c).

1895 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1896 commission may by rule define what constitutes equipment, machinery, or software that
1897 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1898 (127) "Telecommunications equipment, machinery, or software required for 911
1899 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1900 Sec. 20.18.

1901 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1902 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1903 one or more of the following, regardless of whether the equipment, machinery, or software is
1904 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1905 following:

1906 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1907 (b) telecommunications switching or routing equipment, machinery, or software; or
1908 (c) telecommunications transmission equipment, machinery, or software.

1909 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
1910 transmission of audio, data, video, voice, or any other information or signal to a point, or
1911 among or between points.

1912 (b) "Telecommunications service" includes:

1913 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1914 processing application is used to act:

1915 (A) on the code, form, or protocol of the content;

1916 (B) for the purpose of electronic conveyance, routing, or transmission; and

1917 (C) regardless of whether the service:
1918 (I) is referred to as voice over Internet protocol service; or
1919 (II) is classified by the Federal Communications Commission as enhanced or value
1920 added;
1921 (ii) an 800 service;
1922 (iii) a 900 service;
1923 (iv) a fixed wireless service;
1924 (v) a mobile wireless service;
1925 (vi) a postpaid calling service;
1926 (vii) a prepaid calling service;
1927 (viii) a prepaid wireless calling service; or
1928 (ix) a private communications service.
1929 (c) "Telecommunications service" does not include:
1930 (i) advertising, including directory advertising;
1931 (ii) an ancillary service;
1932 (iii) a billing and collection service provided to a third party;
1933 (iv) a data processing and information service if:
1934 (A) the data processing and information service allows data to be:
1935 (I) (Aa) acquired;
1936 (Bb) generated;
1937 (Cc) processed;
1938 (Dd) retrieved; or
1939 (Ee) stored; and
1940 (II) delivered by an electronic transmission to a purchaser; and
1941 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1942 or information;
1943 (v) installation or maintenance of the following on a customer's premises:
1944 (A) equipment; or
1945 (B) wiring;
1946 (vi) Internet access service;
1947 (vii) a paging service;

1948 (viii) a product transferred electronically, including:
 1949 (A) music;
 1950 (B) reading material;
 1951 (C) a ring tone;
 1952 (D) software; or
 1953 (E) video;
 1954 (ix) a radio and television audio and video programming service:
 1955 (A) regardless of the medium; and
 1956 (B) including:
 1957 (I) furnishing conveyance, routing, or transmission of a television audio and video
 1958 programming service by a programming service provider;
 1959 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 1960 (III) audio and video programming services delivered by a commercial mobile radio
 1961 service provider as defined in 47 C.F.R. Sec. 20.3;
 1962 (x) a value-added nonvoice data service; or
 1963 (xi) tangible personal property.
 1964 (130) (a) "Telecommunications service provider" means a person that:
 1965 (i) owns, controls, operates, or manages a telecommunications service; and
 1966 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 1967 resale to any person of the telecommunications service.
 1968 (b) A person described in Subsection (130)(a) is a telecommunications service provider
 1969 whether or not the Public Service Commission of Utah regulates:
 1970 (i) that person; or
 1971 (ii) the telecommunications service that the person owns, controls, operates, or
 1972 manages.
 1973 (131) (a) "Telecommunications switching or routing equipment, machinery, or
 1974 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
 1975 primarily for switching or routing:
 1976 (i) an ancillary service;
 1977 (ii) data communications;
 1978 (iii) voice communications; or

1979 (iv) telecommunications service.

1980 (b) The following apply to Subsection (131)(a):

1981 (i) a bridge;

1982 (ii) a computer;

1983 (iii) a cross connect;

1984 (iv) a modem;

1985 (v) a multiplexer;

1986 (vi) plug in circuitry;

1987 (vii) a router;

1988 (viii) software;

1989 (ix) a switch; or

1990 (x) equipment, machinery, or software that functions similarly to an item listed in

1991 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in

1992 accordance with Subsection (131)(c).

1993 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1994 commission may by rule define what constitutes equipment, machinery, or software that

1995 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1996 (132) (a) "Telecommunications transmission equipment, machinery, or software"

1997 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for

1998 sending, receiving, or transporting:

1999 (i) an ancillary service;

2000 (ii) data communications;

2001 (iii) voice communications; or

2002 (iv) telecommunications service.

2003 (b) The following apply to Subsection (132)(a):

2004 (i) an amplifier;

2005 (ii) a cable;

2006 (iii) a closure;

2007 (iv) a conduit;

2008 (v) a controller;

2009 (vi) a duplexer;

2010 (vii) a filter;
2011 (viii) an input device;
2012 (ix) an input/output device;
2013 (x) an insulator;
2014 (xi) microwave machinery or equipment;
2015 (xii) an oscillator;
2016 (xiii) an output device;
2017 (xiv) a pedestal;
2018 (xv) a power converter;
2019 (xvi) a power supply;
2020 (xvii) a radio channel;
2021 (xviii) a radio receiver;
2022 (xix) a radio transmitter;
2023 (xx) a repeater;
2024 (xxi) software;
2025 (xxii) a terminal;
2026 (xxiii) a timing unit;
2027 (xxiv) a transformer;
2028 (xxv) a wire; or
2029 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2030 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
2031 accordance with Subsection (132)(c).
2032 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2033 commission may by rule define what constitutes equipment, machinery, or software that
2034 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).
2035 (133) (a) "Textbook for a higher education course" means a textbook or other printed
2036 material that is required for a course:
2037 (i) offered by an institution of higher education; and
2038 (ii) that the purchaser of the textbook or other printed material attends or will attend.
2039 (b) "Textbook for a higher education course" includes a textbook in electronic format.
2040 (134) "Tobacco" means:

- 2041 (a) a cigarette;
2042 (b) a cigar;
2043 (c) chewing tobacco;
2044 (d) pipe tobacco; or
2045 (e) any other item that contains tobacco.

2046 (135) "Unassisted amusement device" means an amusement device, skill device, or
2047 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2048 the amusement device, skill device, or ride device.

2049 (136) (a) "Use" means the exercise of any right or power over tangible personal
2050 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2051 incident to the ownership or the leasing of that tangible personal property, product transferred
2052 electronically, or service.

2053 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2054 property, a product transferred electronically, or a service in the regular course of business and
2055 held for resale.

2056 (137) "Value-added nonvoice data service" means a service:

2057 (a) that otherwise meets the definition of a telecommunications service except that a
2058 computer processing application is used to act primarily for a purpose other than conveyance,
2059 routing, or transmission; and

2060 (b) with respect to which a computer processing application is used to act on data or
2061 information:

- 2062 (i) code;
2063 (ii) content;
2064 (iii) form; or
2065 (iv) protocol.

2066 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
2067 required to be titled, registered, or titled and registered:

- 2068 (i) an aircraft as defined in Section 72-10-102;
2069 (ii) a vehicle as defined in Section 41-1a-102;
2070 (iii) an off-highway vehicle as defined in Section 41-22-2; or
2071 (iv) a vessel as defined in Section 41-1a-102.

- 2072 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 2073 (i) a vehicle described in Subsection (138)(a); or
- 2074 (ii) (A) a locomotive;
- 2075 (B) a freight car;
- 2076 (C) railroad work equipment; or
- 2077 (D) other railroad rolling stock.
- 2078 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 2079 exchanging a vehicle as defined in Subsection (138).
- 2080 (140) (a) "Vertical service" means an ancillary service that:
- 2081 (i) is offered in connection with one or more telecommunications services; and
- 2082 (ii) offers an advanced calling feature that allows a customer to:
- 2083 (A) identify a caller; and
- 2084 (B) manage multiple calls and call connections.
- 2085 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2086 conference bridging service.
- 2087 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 2088 receive, send, or store a recorded message.
- 2089 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2090 to have in order to utilize a voice mail service.
- 2091 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 2092 facility that generates electricity:
- 2093 (i) using as the primary source of energy waste materials that would be placed in a
- 2094 landfill or refuse pit if it were not used to generate electricity, including:
- 2095 (A) tires;
- 2096 (B) waste coal;
- 2097 (C) oil shale; or
- 2098 (D) municipal solid waste; and
- 2099 (ii) in amounts greater than actually required for the operation of the facility.
- 2100 (b) "Waste energy facility" does not include a facility that incinerates:
- 2101 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 2102 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2103 (143) "Watercraft" means a vessel as defined in Section 73-18-2.

2104 (144) "Wind energy" means wind used as the sole source of energy to produce
2105 electricity.

2106 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2107 location by the United States Postal Service.

2108 Section 5. Section 59-12-103 is amended to read:

2109 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2110 **tax revenues.**

2111 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2112 charged for the following transactions:

2113 (a) retail sales of tangible personal property made within the state;

2114 (b) amounts paid for:

2115 (i) telecommunications service, other than mobile telecommunications service, that
2116 originates and terminates within the boundaries of this state;

2117 (ii) mobile telecommunications service that originates and terminates within the
2118 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2119 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2120 (iii) an ancillary service associated with a:

2121 (A) telecommunications service described in Subsection (1)(b)(i); or

2122 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2123 (c) sales of the following for commercial use:

2124 (i) gas;

2125 (ii) electricity;

2126 (iii) heat;

2127 (iv) coal;

2128 (v) fuel oil; or

2129 (vi) other fuels;

2130 (d) sales of the following for residential use:

2131 (i) gas;

2132 (ii) electricity;

2133 (iii) heat;

- 2134 (iv) coal;
- 2135 (v) fuel oil; or
- 2136 (vi) other fuels;
- 2137 (e) sales of prepared food;
- 2138 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2139 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2140 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2141 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2142 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2143 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2144 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2145 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2146 exhibition, cultural, or athletic activity;
- 2147 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2148 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2149 (i) the tangible personal property; and
- 2150 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2151 in Subsection (1)(g)(i), regardless of whether:
- 2152 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 2153 property; or
- 2154 (B) the particular parts used in the repairs or renovations of that tangible personal
- 2155 property are exempt from a tax under this chapter;
- 2156 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2157 assisted cleaning or washing of tangible personal property;
- 2158 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2159 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2160 (j) amounts paid or charged for laundry or dry cleaning services;
- 2161 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2162 this state the tangible personal property is:
- 2163 (i) stored;
- 2164 (ii) used; or

2165 (iii) otherwise consumed;

2166 (l) amounts paid or charged for tangible personal property if within this state the

2167 tangible personal property is:

2168 (i) stored;

2169 (ii) used; or

2170 (iii) consumed; ~~and~~

2171 (m) amounts paid or charged for a sale:

2172 (i) (A) of a product transferred electronically; or

2173 (B) of a repair or renovation of a product transferred electronically; and

2174 (ii) regardless of whether the sale provides:

2175 (A) a right of permanent use of the product; or

2176 (B) a right to use the product that is less than a permanent use, including a right:

2177 (I) for a definite or specified length of time; and

2178 (II) that terminates upon the occurrence of a condition~~[-]; and~~

2179 (n) amounts paid or charged for a sale of a service by an establishment that is classified

2180 within one of the following NAICS codes of the 2012 North American Industry Classification

2181 System of the federal Executive Office of the President, Office of Management and Budget:

2182 (i) NAICS Subsector 522, Credit Intermediation and Related Activities;

2183 (ii) NAICS Subsector 523, Securities, Commodity, Contracts, and Other Financial

2184 Investments and Related Activities;

2185 (iii) NAICS Subsector 524, Insurance Carriers and Related Activities;

2186 (iv) NAICS Subsector 525, Funds, Trusts, and Other Financial Vehicles;

2187 (v) NAICS Sector 53, Real Estate and Rental Leasing;

2188 (vi) NAICS Sector 54, Professional, Scientific, and Technical Services;

2189 (vii) NAICS Sector 55, Management of Companies and Enterprise; or

2190 (viii) NAICS Subsector 56, Administrative and Support and Waste Management and

2191 Remediation Services.

2192 (2) (a) Except as provided in Subsections (2)(b) through ~~(e)~~ (f), a state tax and a local

2193 tax is imposed on a transaction described in Subsection (1) equal to the sum of:

2194 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2195 (A) ~~[4.70%]~~ 3.38%; and

2196 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2197 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2198 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2199 State Sales and Use Tax Act; and

2200 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2201 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2202 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2203 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2204 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2205 transaction under this chapter other than this part.

2206 (b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
2207 tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2208 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2209 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2210 transaction under this chapter other than this part.

2211 (c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
2212 tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2213 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2214 a tax rate of 1.75%; and

2215 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2216 amounts paid or charged for food and food ingredients under this chapter other than this part.

2217 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on a
2218 transaction described in Subsection (1)(n) at a tax rate equal to the tax rate described in
2219 Subsection (2)(a)(i)(A).

2220 ~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
2221 and tangible personal property other than food and food ingredients, a state tax and a local tax
2222 is imposed on the entire bundled transaction equal to the sum of:

2223 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2224 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2225 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2226 Sales and Use Tax Act, if the location of the transaction as determined under Sections

2227 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2228 Additional State Sales and Use Tax Act; and

2229 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2230 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2231 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2232 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2233 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2234 described in Subsection (2)(a)(ii).

2235 (ii) If an optional computer software maintenance contract is a bundled transaction that
2236 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2237 similar billing document, the purchase of the optional computer software maintenance contract
2238 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2239 (iii) Subject to Subsection (2)(~~(d)~~)(e)(iv), for a bundled transaction other than a
2240 bundled transaction described in Subsection (2)(~~(d)~~)(e)(i) or (ii):

2241 (A) if the sales price of the bundled transaction is attributable to tangible personal
2242 property, a product, or a service that is subject to taxation under this chapter and tangible
2243 personal property, a product, or service that is not subject to taxation under this chapter, the
2244 entire bundled transaction is subject to taxation under this chapter unless:

2245 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2246 personal property, product, or service that is not subject to taxation under this chapter from the
2247 books and records the seller keeps in the seller's regular course of business; or

2248 (II) state or federal law provides otherwise; or

2249 (B) if the sales price of a bundled transaction is attributable to two or more items of
2250 tangible personal property, products, or services that are subject to taxation under this chapter
2251 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2252 higher tax rate unless:

2253 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2254 personal property, product, or service that is subject to taxation under this chapter at the lower
2255 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2256 (II) state or federal law provides otherwise.

2257 (iv) For purposes of Subsection (2)(~~(d)~~)(e)(iii), books and records that a seller keeps in

2258 the seller's regular course of business includes books and records the seller keeps in the regular
2259 course of business for nontax purposes.

2260 ~~[(e)]~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
2261 (2)~~[(e)]~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
2262 property, a product, or a service that is subject to taxation under this chapter, and the sale,
2263 lease, or rental of tangible personal property, other property, a product, or a service that is not
2264 subject to taxation under this chapter, the entire transaction is subject to taxation under this
2265 chapter unless the seller, at the time of the transaction:

2266 (A) separately states the portion of the transaction that is not subject to taxation under
2267 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2268 (B) is able to identify by reasonable and verifiable standards, from the books and
2269 records the seller keeps in the seller's regular course of business, the portion of the transaction
2270 that is not subject to taxation under this chapter.

2271 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2272 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2273 the transaction that is not subject to taxation under this chapter was not separately stated on an
2274 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2275 ignorance of the law; and

2276 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2277 and records the seller keeps in the seller's regular course of business, the portion of the
2278 transaction that is not subject to taxation under this chapter.

2279 (iii) For purposes of Subsections (2)~~[(e)]~~(f)(i) and (ii), books and records that a seller
2280 keeps in the seller's regular course of business includes books and records the seller keeps in
2281 the regular course of business for nontax purposes.

2282 ~~[(f)]~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
2283 tangible personal property, products, or services that are subject to taxation under this chapter
2284 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
2285 rate unless the seller, at the time of the transaction:

2286 (A) separately states the items subject to taxation under this chapter at each of the
2287 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2288 (B) is able to identify by reasonable and verifiable standards the tangible personal

2289 property, product, or service that is subject to taxation under this chapter at the lower tax rate
 2290 from the books and records the seller keeps in the seller's regular course of business.

2291 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
 2292 the seller's regular course of business includes books and records the seller keeps in the regular
 2293 course of business for nontax purposes.

2294 ~~(g)~~ (h) Subject to Subsections (2)~~(h)~~(i) and ~~(i)~~ (j), a tax rate repeal or tax rate
 2295 change for a tax rate imposed under the following shall take effect on the first day of a calendar
 2296 quarter:

2297 (i) Subsection (2)(a)(i)(A);

2298 (ii) Subsection (2)(b)(i);

2299 (iii) Subsection (2)(c)(i); ~~[or]~~

2300 (iv) Subsection (2)(d); or

2301 ~~(iv)~~ (v) Subsection (2)~~(d)~~(e)(i)(A)(I).

2302 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
 2303 begins on or after the effective date of the tax rate increase if the billing period for the
 2304 transaction begins before the effective date of a tax rate increase imposed under:

2305 (A) Subsection (2)(a)(i)(A);

2306 (B) Subsection (2)(b)(i);

2307 (C) Subsection (2)(c)(i); ~~[or]~~

2308 (D) Subsection (2)(d); or

2309 ~~(D)~~ (E) Subsection (2)~~(d)~~(e)(i)(A)(I).

2310 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 2311 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 2312 or the tax rate decrease imposed under:

2313 (A) Subsection (2)(a)(i)(A);

2314 (B) Subsection (2)(b)(i);

2315 (C) Subsection (2)(c)(i); ~~[or]~~

2316 (D) Subsection (2)(d); or

2317 ~~(D)~~ (E) Subsection (2)~~(d)~~(e)(i)(A)(I).

2318 ~~(i)~~ (j) (i) For a tax rate described in Subsection (2)~~(i)~~(j)(ii), if a tax due on a
 2319 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a

2320 tax rate repeal or change in a tax rate takes effect:

2321 (A) on the first day of a calendar quarter; and

2322 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2323 (ii) Subsection (2)~~(f)~~(j)(i) applies to the tax rates described in the following:

2324 (A) Subsection (2)(a)(i)(A);

2325 (B) Subsection (2)(b)(i);

2326 (C) Subsection (2)(c)(i); ~~[or]~~

2327 (D) Subsection (2)(d); or

2328 ~~[(f)]~~ (E) Subsection (2)~~(f)~~(e)(i)(A)(I).

2329 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

2330 the commission may by rule define the term "catalogue sale."

2331 (3) (a) The following state taxes shall be deposited into the General Fund:

2332 (i) the tax imposed by Subsection (2)(a)(i)(A);

2333 (ii) the tax imposed by Subsection (2)(b)(i);

2334 (iii) the tax imposed by Subsection (2)(c)(i); ~~[or]~~

2335 (iv) Subsection (2)(d); or

2336 ~~[(iv)]~~ (v) the tax imposed by Subsection (2)~~(f)~~(e)(i)(A)(I).

2337 (b) The following local taxes shall be distributed to a county, city, or town as provided

2338 in this chapter:

2339 (i) the tax imposed by Subsection (2)(a)(ii);

2340 (ii) the tax imposed by Subsection (2)(b)(ii);

2341 (iii) the tax imposed by Subsection (2)(c)(ii); and

2342 (iv) the tax imposed by Subsection (2)~~(f)~~(e)(i)(B).

2343 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2344 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

2345 through (g):

2346 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2347 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2348 (B) for the fiscal year; or

2349 (ii) \$17,500,000.

2350 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

2351 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2352 Department of Natural Resources to:

2353 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2354 protect sensitive plant and animal species; or

2355 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2356 act, to political subdivisions of the state to implement the measures described in Subsections
2357 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2358 (ii) Money transferred to the Department of Natural Resources under Subsection
2359 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2360 person to list or attempt to have listed a species as threatened or endangered under the
2361 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2362 (iii) At the end of each fiscal year:

2363 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2364 Conservation and Development Fund created in Section 73-10-24;

2365 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2366 Program Subaccount created in Section 73-10c-5; and

2367 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2368 Program Subaccount created in Section 73-10c-5.

2369 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2370 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2371 created in Section 4-18-106.

2372 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2373 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2374 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2375 water rights.

2376 (ii) At the end of each fiscal year:

2377 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2378 Conservation and Development Fund created in Section 73-10-24;

2379 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2380 Program Subaccount created in Section 73-10c-5; and

2381 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

2382 Program Subaccount created in Section 73-10c-5.

2383 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2384 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2385 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2386 (ii) In addition to the uses allowed of the Water Resources Conservation and
2387 Development Fund under Section 73-10-24, the Water Resources Conservation and
2388 Development Fund may also be used to:

2389 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2390 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2391 quantifying surface and ground water resources and describing the hydrologic systems of an
2392 area in sufficient detail so as to enable local and state resource managers to plan for and
2393 accommodate growth in water use without jeopardizing the resource;

2394 (B) fund state required dam safety improvements; and

2395 (C) protect the state's interest in interstate water compact allocations, including the
2396 hiring of technical and legal staff.

2397 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2398 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2399 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2400 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2401 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2402 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2403 (i) provide for the installation and repair of collection, treatment, storage, and
2404 distribution facilities for any public water system, as defined in Section 19-4-102;

2405 (ii) develop underground sources of water, including springs and wells; and

2406 (iii) develop surface water sources.

2407 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2408 2006, the difference between the following amounts shall be expended as provided in this
2409 Subsection (5), if that difference is greater than \$1:

2410 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2411 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2412 (ii) \$17,500,000.

2413 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2414 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2415 credits; and

2416 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2417 restoration.

2418 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2419 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2420 created in Section 73-10-24.

2421 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2422 remaining difference described in Subsection (5)(a) shall be:

2423 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2424 credits; and

2425 (B) expended by the Division of Water Resources for cloud-seeding projects
2426 authorized by Title 73, Chapter 15, Modification of Weather.

2427 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2428 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2429 created in Section 73-10-24.

2430 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2431 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2432 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2433 Division of Water Resources for:

2434 (i) preconstruction costs:

2435 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2436 26, Bear River Development Act; and

2437 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2438 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2439 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2440 Chapter 26, Bear River Development Act;

2441 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2442 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2443 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

2444 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2445 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2446 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
2447 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2448 incurred for employing additional technical staff for the administration of water rights.

2449 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2450 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2451 Fund created in Section 73-10-24.

2452 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2453 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2454 (1) for the fiscal year shall be deposited as follows:

2455 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
2456 shall be deposited into the Transportation Investment Fund of 2005 created by Section
2457 72-2-124;

2458 (b) for fiscal year 2017-18 only:

2459 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
2460 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2461 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
2462 Water Infrastructure Restricted Account created by Section 73-10g-103;

2463 (c) for fiscal year 2018-19 only:

2464 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
2465 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2466 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
2467 Water Infrastructure Restricted Account created by Section 73-10g-103;

2468 (d) for fiscal year 2019-20 only:

2469 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
2470 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2471 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
2472 Water Infrastructure Restricted Account created by Section 73-10g-103;

2473 (e) for fiscal year 2020-21 only:

2474 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the

2475 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2476 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2477 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2478 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2479 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
2480 created by Section 73-10g-103.

2481 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2482 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2483 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2484 created by Section 72-2-124:

2485 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2486 the revenues collected from the following taxes, which represents a portion of the
2487 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2488 on vehicles and vehicle-related products:

2489 (A) the tax imposed by Subsection (2)(a)(i)(A);

2490 (B) the tax imposed by Subsection (2)(b)(i);

2491 (C) the tax imposed by Subsection (2)(c)(i); ~~and~~

2492 (D) the tax imposed by Subsection (2)(d); and

2493 ~~[(D)]~~ (E) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

2494 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2495 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2496 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2497 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2498 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2499 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2500 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2501 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2502 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2503 (7)(a) equal to the product of:

2504 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2505 previous fiscal year; and

2506 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2507 (7)(a)(i)(A) through (D) in the current fiscal year.

2508 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2509 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2510 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2511 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2512 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2513 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2514 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2515 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2516 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2517 current fiscal year under Subsection (7)(a).

2518 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
2519 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
2520 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2521 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2522 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2523 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
2524 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2525 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2526 (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2527 Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of
2528 Finance shall annually deposit into the Transportation Investment Fund of 2005 created by
2529 Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a) in an amount equal to
2530 3.68% of the revenues collected from the following taxes:

- 2531 (i) the tax imposed by Subsection (2)(a)(i)(A);
2532 (ii) the tax imposed by Subsection (2)(b)(i);
2533 (iii) the tax imposed by Subsection (2)(c)(i); ~~and~~
2534 (iv) the tax imposed by Subsection (2)(d); and
2535 ~~[(iv)]~~ (v) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I).

2536 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year

2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

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

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

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

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

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

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

2568 created in Section 63N-2-512.

2569 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
2570 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2571 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2572 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2573 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2574 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2575 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
2576 or deposited in accordance with Subsections (4) through (12) may not include an amount the
2577 Division of Finance deposits in accordance with Section 59-12-103.2.

2578 Section 6. Section 59-12-108 is amended to read:

2579 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
2580 **Certain amounts allocated to local taxing jurisdictions.**

2581 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
2582 chapter of \$50,000 or more for the previous calendar year shall:

2583 (i) file a return with the commission:

2584 (A) monthly on or before the last day of the month immediately following the month
2585 for which the seller collects a tax under this chapter; and

2586 (B) for the month for which the seller collects a tax under this chapter; and

2587 (ii) except as provided in Subsection (1)(b), remit with the return required by
2588 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
2589 fee, or charge described in Subsection (1)(c):

2590 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2591 than \$96,000, by any method permitted by the commission; or

2592 (B) if that seller's tax liability under this chapter for the previous calendar year is
2593 \$96,000 or more, by electronic funds transfer.

2594 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
2595 the amount the seller is required to remit to the commission for each tax, fee, or charge
2596 described in Subsection (1)(c) if that seller:

2597 (i) is required by Section 59-12-107 to file the return electronically; or

2598 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

2599 (B) files a simplified electronic return.

2600 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2601 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2602 (ii) a fee under Section 19-6-714;

2603 (iii) a fee under Section 19-6-805;

2604 (iv) a charge under Section 69-2-5;

2605 (v) a charge under Section 69-2-5.5;

2606 (vi) a charge under Section 69-2-5.6; or

2607 (vii) a tax under this chapter.

2608 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,

2609 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

2610 for making same-day payments other than by electronic funds transfer if making payments by

2611 electronic funds transfer fails.

2612 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2613 commission shall establish by rule procedures and requirements for determining the amount a

2614 seller is required to remit to the commission under this Subsection (1).

2615 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a

2616 seller described in Subsection (4) may retain each month the amount allowed by this

2617 Subsection (2).

2618 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

2619 each month 1.31% of any amounts the seller is required to remit to the commission:

2620 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax

2621 and a local tax imposed in accordance with the following, for the month for which the seller is

2622 filing a return in accordance with Subsection (1):

2623 (A) Subsection 59-12-103(2)(a);

2624 (B) Subsection 59-12-103(2)(b); and

2625 (C) Subsection 59-12-103(2)(~~(d)~~)(c); and

2626 (ii) for an agreement sales and use tax.

2627 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may

2628 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described

2629 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in

2630 accordance with Subsection 59-12-103(2)(c).

2631 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount

2632 equal to the sum of:

2633 (A) 1.31% of any amounts the seller is required to remit to the commission for:

2634 (I) the state tax and the local tax imposed in accordance with Subsection

2635 59-12-103(2)(c);

2636 (II) the month for which the seller is filing a return in accordance with Subsection (1);

2637 and

2638 (III) an agreement sales and use tax; and

2639 (B) 1.31% of the difference between:

2640 (I) the amounts the seller would have been required to remit to the commission:

2641 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject

2642 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

2643 (Bb) for the month for which the seller is filing a return in accordance with Subsection

2644 (1); and

2645 (Cc) for an agreement sales and use tax; and

2646 (II) the amounts the seller is required to remit to the commission for:

2647 (Aa) the state tax and the local tax imposed in accordance with Subsection

2648 59-12-103(2)(c);

2649 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);

2650 and

2651 (Cc) an agreement sales and use tax.

2652 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

2653 each month 1% of any amounts the seller is required to remit to the commission:

2654 (i) for the month for which the seller is filing a return in accordance with Subsection

2655 (1); and

2656 (ii) under:

2657 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2658 (B) Subsection 59-12-603(1)(a)(i)(A); or

2659 (C) Subsection 59-12-603(1)(a)(i)(B).

2660 (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

2661 each month 1.31% of any amounts the seller is required to remit to the commission:
2662 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
2663 imposed in accordance with Subsection 59-12-103(2)(d), for the month for which the seller is
2664 filing a return in accordance with Subsection (1); and
2665 (ii) for an agreement sales and use tax.
2666 (3) A state government entity that is required to remit taxes monthly in accordance
2667 with Subsection (1) may not retain any amount under Subsection (2).
2668 (4) A seller that has a tax liability under this chapter for the previous calendar year of
2669 less than \$50,000 may:
2670 (a) voluntarily meet the requirements of Subsection (1); and
2671 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2672 amounts allowed by Subsection (2).
2673 (5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and
2674 remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to
2675 18% of any amounts the seller would otherwise remit to the commission:
2676 (i) if the seller obtains a license under Section 59-12-106 for the first time on or after
2677 January 1, 2014; and
2678 (ii) for:
2679 (A) an agreement sales and use tax; and
2680 (B) the time period for which the seller files a return in accordance with this section.
2681 (b) If a seller retains an amount under this Subsection (5), the seller may not retain any
2682 other amount under this section.
2683 (c) If a seller retains an amount under this Subsection (5), the commission may require
2684 the seller to file a return by:
2685 (i) electronic means; or
2686 (ii) a means other than electronic means.
2687 (d) A seller may not retain an amount under this Subsection (5) if the seller is required
2688 to collect or remit a tax under this section in accordance with Section 59-12-103.1.
2689 (6) Penalties for late payment shall be as provided in Section 59-1-401.
2690 (7) (a) Except as provided in Subsection (7)(c), for any amounts required to be
2691 remitted to the commission under this part, the commission shall each month calculate an

2692 amount equal to the difference between:

2693 (i) the total amount retained for that month by all sellers had the percentages listed
2694 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

2695 (ii) the total amount retained for that month by all sellers at the percentages listed
2696 under Subsections (2)(b) and (2)(c)(ii).

2697 (b) The commission shall each month allocate the amount calculated under Subsection
2698 (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
2699 tax that the commission distributes to each county, city, and town for that month compared to
2700 the total agreement sales and use tax that the commission distributes for that month to all
2701 counties, cities, and towns.

2702 (c) The amount the commission calculates under Subsection (7)(a) may not include an
2703 amount collected from a tax that:

2704 (i) the state imposes within a county, city, or town, including the unincorporated area
2705 of a county; and

2706 (ii) is not imposed within the entire state.

2707 Section 7. Section **59-12-204** is amended to read:

2708 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
2709 **tax revenues -- Commission requirement to retain an amount to be deposited into the**
2710 **Qualified Emergency Food Agencies Fund.**

2711 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
2712 transactions listed in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m).

2713 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax
2714 upon every transaction listed in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) made
2715 within a county, including areas contained within the cities and towns located in the county:

2716 (i) at the rate of 1% of the purchase price paid or charged; and

2717 (ii) if the location of the transaction is within the county as determined under Sections
2718 59-12-211 through 59-12-215.

2719 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
2720 include a provision prohibiting a county, city, or town from imposing a tax under this section
2721 on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
2722 exempt from taxation under Section 59-12-104.

(3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.

(4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.

(5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.

(6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:

(a) a provision imposing a tax upon every transaction listed in [~~Subsection~~ Subsections 59-12-103(1)(a) through (m) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

(b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(c) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

(d) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;

(e) a provision that the sale, storage, use, or other consumption of tangible personal

property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and

(f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.

(7) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (7).

(b) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that city, town, or unincorporated area of a county by the total sales and use tax collected under this part for that month within the boundaries of all of the cities, towns, and unincorporated areas of the counties that impose a tax under this part.

(c) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (7)(b) for the city, town, or unincorporated area of a county; and

(ii) \$25,417.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

Section 8. Section 59-12-401 is amended to read:

59-12-401. Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on

2785 the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located
2786 within the city or town.

2787 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
2788 section on:

2789 (i) the sale of:

2790 (A) a motor vehicle;

2791 (B) an aircraft;

2792 (C) a watercraft;

2793 (D) a modular home;

2794 (E) a manufactured home; or

2795 (F) a mobile home;

2796 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2797 are exempt from taxation under Section 59-12-104; and

2798 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2799 food ingredients.

2800 (c) For purposes of this Subsection (1), the location of a transaction shall be
2801 determined in accordance with Sections 59-12-211 through 59-12-215.

2802 (d) A city or town imposing a tax under this section shall impose the tax on amounts
2803 paid or charged for food and food ingredients if the food and food ingredients are sold as part
2804 of a bundled transaction attributable to food and food ingredients and tangible personal
2805 property other than food and food ingredients.

2806 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2807 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2808 the state from its collection fees received in connection with the implementation of Subsection
2809 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2810 provided for in Subsection (1).

2811 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2812 those cities and towns according to the amount of revenue the respective cities and towns
2813 generate in that year through imposition of that tax.

2814 (3) (a) Subject to Section 63H-1-203, the military installation development authority
2815 created in Section 63H-1-201 may impose a tax under this section on the transactions described

in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board as defined in Section 63H-1-102 shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) adopt a resolution verifying the population number; and

(iii) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

Section 9. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

2847 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2848 are exempt from taxation under Section 59-12-104; and

2849 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2850 food ingredients.

2851 (c) For purposes of this Subsection (1), the location of a transaction shall be
2852 determined in accordance with Sections 59-12-211 through 59-12-215.

2853 (d) A municipality imposing a tax under this section shall impose the tax on amounts
2854 paid or charged for food and food ingredients if the food and food ingredients are sold as part
2855 of a bundled transaction attributable to food and food ingredients and tangible personal
2856 property other than food and food ingredients.

2857 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2858 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2859 the state from its collection fees received in connection with the implementation of Subsection
2860 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2861 provided for in Subsection (1).

2862 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2863 those cities and towns according to the amount of revenue the respective cities and towns
2864 generate in that year through imposition of that tax.

2865 (3) To impose an additional resort communities sales tax under this section, the
2866 governing body of the municipality shall:

2867 (a) pass a resolution approving the tax; and

2868 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2869 in Subsection (4).

2870 (4) To obtain voter approval for an additional resort communities sales tax under
2871 Subsection (3)(b), a municipality shall:

2872 (a) hold the additional resort communities sales tax election during:

2873 (i) a regular general election; or

2874 (ii) a municipal general election; and

2875 (b) publish notice of the election:

2876 (i) 15 days or more before the day on which the election is held; and

2877 (ii) (A) in a newspaper of general circulation in the municipality; and

2878 (B) as required in Section 45-1-101.

2879 (5) An ordinance approving an additional resort communities sales tax under this
2880 section shall provide an effective date for the tax as provided in Section 59-12-403.

2881 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2882 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2883 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
2884 Section 10-1-203.

2885 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2886 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2887 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2888 (7) A military installation development authority authorized to impose a resort
2889 communities tax under Section 59-12-401 may not impose an additional resort communities
2890 sales tax under this section.

2891 Section 10. Section 59-12-402.1 is amended to read:

2892 **59-12-402.1. State correctional facility sales and use tax -- Base -- Rate --**
2893 **Collection fees -- Imposition -- Prohibition of military installation development authority**
2894 **imposition of tax.**

2895 (1) As used in this section, "new state correctional facility" means a new prison in the
2896 state:

- 2897 (a) that is operated by the Department of Corrections;
2898 (b) the construction of which begins on or after May 12, 2015; and
2899 (c) that provides a capacity of 2,500 or more inmate beds.

2900 (2) Subject to the other provisions of this part, a city or town legislative body may
2901 impose a tax under this section if the construction of a new state correctional facility has begun
2902 within the boundaries of the city or town.

2903 (3) For purposes of this section, the tax rate may not exceed .5%.

2904 (4) Except as provided in Subsection (5), a tax under this section shall be imposed on
2905 the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within the
2906 city or town.

2907 (5) A city or town may not impose a tax under this section on:

- 2908 (a) the sale of:

2909 (i) a motor vehicle;
2910 (ii) an aircraft;
2911 (iii) a watercraft;
2912 (iv) a modular home;
2913 (v) a manufactured home; or
2914 (vi) a mobile home;
2915 (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2916 are exempt under Section 59-12-104; and
2917 (c) except as provided in Subsection (7), amounts paid or charged for food and food
2918 ingredients.
2919 (6) For purposes of this section, the location of a transaction shall be determined in
2920 accordance with Sections 59-12-211 through 59-12-215.
2921 (7) A city or town that imposes a tax under this section shall impose the tax on
2922 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
2923 as part of a bundled transaction attributable to food and food ingredients and tangible personal
2924 property other than food and food ingredients.
2925 (8) A city or town may impose a tax under this section by majority vote of the
2926 members of the city or town legislative body.
2927 (9) A city or town that imposes a tax under this section is not subject to Section
2928 59-12-405.
2929 (10) A military installation development authority may not impose a tax under this
2930 section.
2931 Section 11. Section 59-12-703 is amended to read:
2932 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**
2933 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**
2934 **-- Notice requirements.**
2935 (1) (a) Subject to the other provisions of this section, a county legislative body may
2936 submit an opinion question to the residents of that county, by majority vote of all members of
2937 the legislative body, so that each resident of the county, except residents in municipalities that
2938 have already imposed a sales and use tax under Part 14, City or Town Option Funding for
2939 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an

2940 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
2941 .1% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m)
2942 located within the county, to:

2943 (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical
2944 organizations, cultural organizations, and zoological organizations, and rural radio stations, in
2945 that county; or

2946 (ii) provide funding for a botanical organization, cultural organization, or zoological
2947 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
2948 furtherance of the botanical organization's, cultural organization's, or zoological organization's
2949 primary purpose.

2950 (b) The opinion question required by this section shall state:

2951 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
2952 use tax for (list the purposes for which the revenue collected from the sales and use tax shall be
2953 expended)?"

2954 (c) A county legislative body may not impose a tax under this section on:

2955 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2956 are exempt from taxation under Section 59-12-104;

2957 (ii) sales and uses within a municipality that has already imposed a sales and use tax
2958 under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and
2959 Zoological Organizations or Facilities; and

2960 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
2961 food ingredients.

2962 (d) For purposes of this Subsection (1), the location of a transaction shall be
2963 determined in accordance with Sections 59-12-211 through 59-12-215.

2964 (e) A county legislative body imposing a tax under this section shall impose the tax on
2965 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
2966 as part of a bundled transaction attributable to food and food ingredients and tangible personal
2967 property other than food and food ingredients.

2968 (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
2969 Government Bonding Act.

2970 (2) (a) If the county legislative body determines that a majority of the county's

registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year

3002 period in accordance with this section.

3003 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3004 (5) (a) For purposes of this Subsection (5):

3005 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
3006 County Annexation.

3007 (ii) "Annexing area" means an area that is annexed into a county.

3008 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3009 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3010 (A) on the first day of a calendar quarter; and

3011 (B) after a 90-day period beginning on the date the commission receives notice meeting
3012 the requirements of Subsection (5)(b)(ii) from the county.

3013 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3014 (A) that the county will enact or repeal a tax under this part;

3015 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3016 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3017 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3018 tax.

3019 (c) (i) If the billing period for a transaction begins before the effective date of the
3020 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3021 the first billing period that begins on or after the effective date of the enactment of the tax.

3022 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3023 period is produced on or after the effective date of the repeal of the tax imposed under this
3024 section.

3025 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3026 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3027 Subsection (5)(b)(i) takes effect:

3028 (A) on the first day of a calendar quarter; and

3029 (B) beginning 60 days after the effective date of the enactment or repeal under
3030 Subsection (5)(b)(i).

3031 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3032 commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 12. Section **59-12-802** is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class

3064 may impose a sales and use tax of up to 1% on the transactions described in [Subsection]
3065 Subsections 59-12-103(1)(a) through (m) located within the county.

3066 (b) Subject to Subsection (3), the money collected from a tax under this section may be
3067 used to fund:

3068 (i) for a county of the third or fourth class, rural county health care facilities in that
3069 county; or

3070 (ii) for a county of the fifth or sixth class:

3071 (A) rural emergency medical services in that county;

3072 (B) federally qualified health centers in that county;

3073 (C) freestanding urgent care centers in that county;

3074 (D) rural county health care facilities in that county;

3075 (E) rural health clinics in that county; or

3076 (F) a combination of Subsections (1)(b)(ii)(A) through (E).

3077 (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
3078 under this section on:

3079 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3080 are exempt from taxation under Section 59-12-104;

3081 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3082 a city that imposes a tax under Section 59-12-804; and

3083 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
3084 food ingredients.

3085 (d) For purposes of this Subsection (1), the location of a transaction shall be
3086 determined in accordance with Sections 59-12-211 through 59-12-215.

3087 (e) A county legislative body imposing a tax under this section shall impose the tax on
3088 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3089 as part of a bundled transaction attributable to food and food ingredients and tangible personal
3090 property other than food and food ingredients.

3091 (2) (a) Before imposing a tax under Subsection (1), a county legislative body shall
3092 obtain approval to impose the tax from a majority of the:

3093 (i) members of the county's legislative body; and

3094 (ii) county's registered voters voting on the imposition of the tax.

3095 (b) The county legislative body shall conduct the election according to the procedures
3096 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3097 (3) (a) The money collected from a tax imposed under Subsection (1) by a county
3098 legislative body of a county of the third or fourth class may only be used for the financing of:

3099 (i) ongoing operating expenses of a rural county health care facility within that county;
3100 (ii) the acquisition of land for a rural county health care facility within that county; or
3101 (iii) the design, construction, equipping, or furnishing of a rural county health care
3102 facility within that county.

3103 (b) The money collected from a tax imposed under Subsection (1) by a county of the
3104 fifth or sixth class may only be used to fund:

3105 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3106 (1)(b)(ii) within that county;

3107 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3108 (1)(b)(ii) within that county;

3109 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3110 described in Subsection (1)(b)(ii) within that county; or

3111 (iv) rural emergency medical services within that county.

3112 (4) (a) A tax under this section shall be:

3113 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3114 accordance with:

3115 (A) the same procedures used to administer, collect, and enforce the tax under:

3116 (I) Part 1, Tax Collection; or

3117 (II) Part 2, Local Sales and Use Tax Act; and

3118 (B) Chapter 1, General Taxation Policies; and

3119 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3120 period by the county legislative body as provided in Subsection (1).

3121 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3122 (c) A county legislative body shall distribute money collected from a tax under this
3123 section quarterly.

3124 (5) The commission shall retain and deposit an administrative charge in accordance
3125 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

3126 Section 13. Section **59-12-804** is amended to read:

3127 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
3128 **collection, and enforcement of tax -- Administrative charge.**

3129 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3130 (i) on the transactions described in ~~[Subsection]~~ Subsections **59-12-103**(1)(a) through
3131 (m) located within the city; and

3132 (ii) to fund rural city hospitals in that city.

3133 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
3134 under this section on:

3135 (i) the sales and uses described in Section **59-12-104** to the extent the sales and uses are
3136 exempt from taxation under Section **59-12-104**; and

3137 (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
3138 ingredients.

3139 (c) For purposes of this Subsection (1), the location of a transaction shall be
3140 determined in accordance with Sections **59-12-211** through **59-12-215**.

3141 (d) A city legislative body imposing a tax under this section shall impose the tax on
3142 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3143 as part of a bundled transaction attributable to food and food ingredients and tangible personal
3144 property other than food and food ingredients.

3145 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
3146 obtain approval to impose the tax from a majority of the:

3147 (i) members of the city legislative body; and

3148 (ii) city's registered voters voting on the imposition of the tax.

3149 (b) The city legislative body shall conduct the election according to the procedures and
3150 requirements of Title 11, Chapter 14, Local Government Bonding Act.

3151 (3) The money collected from a tax imposed under Subsection (1) may only be used to
3152 fund:

3153 (a) ongoing operating expenses of a rural city hospital;

3154 (b) the acquisition of land for a rural city hospital; or

3155 (c) the design, construction, equipping, or furnishing of a rural city hospital.

3156 (4) (a) A tax under this section shall be:

3157 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3158 accordance with:

3159 (A) the same procedures used to administer, collect, and enforce the tax under:

3160 (I) Part 1, Tax Collection; or

3161 (II) Part 2, Local Sales and Use Tax Act; and

3162 (B) Chapter 1, General Taxation Policies; and

3163 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3164 period by the city legislative body as provided in Subsection (1).

3165 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3166 (5) The commission shall retain and deposit an administrative charge in accordance
3167 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

3168 Section 14. Section 59-12-1102 is amended to read:

3169 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**

3170 **Administration -- Administrative charge -- Commission requirement to retain an amount**

3171 **to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal**

3172 **of tax -- Effective date -- Notice requirements.**

3173 (1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax
3174 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
3175 of .25% upon the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through
3176 (m).

3177 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
3178 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3179 exempt from taxation under Section 59-12-104.

3180 (b) For purposes of this Subsection (1), the location of a transaction shall be
3181 determined in accordance with Sections 59-12-211 through 59-12-215.

3182 (c) The county option sales and use tax under this section shall be imposed:

3183 (i) upon transactions that are located within the county, including transactions that are
3184 located within municipalities in the county; and

3185 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
3186 January:

3187 (A) of the next calendar year after adoption of the ordinance imposing the tax if the

3188 ordinance is adopted on or before May 25; or

3189 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
3190 ordinance is adopted after May 25.

3191 (d) The county option sales and use tax under this section shall be imposed:

3192 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
3193 September 4, 1997; or

3194 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
3195 but after September 4, 1997.

3196 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
3197 county shall hold two public hearings on separate days in geographically diverse locations in
3198 the county.

3199 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
3200 time of no earlier than 6 p.m.

3201 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
3202 days after the day the first advertisement required by Subsection (2)(c) is published.

3203 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
3204 shall advertise:

3205 (A) its intent to adopt a county option sales and use tax;

3206 (B) the date, time, and location of each public hearing; and

3207 (C) a statement that the purpose of each public hearing is to obtain public comments
3208 regarding the proposed tax.

3209 (ii) The advertisement shall be published:

3210 (A) in a newspaper of general circulation in the county once each week for the two
3211 weeks preceding the earlier of the two public hearings; and

3212 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for two weeks
3213 preceding the earlier of the two public hearings.

3214 (iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8
3215 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch
3216 border.

3217 (iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that
3218 portion of the newspaper where legal notices and classified advertisements appear.

3219 (v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

3220 (A) the advertisement shall appear in a newspaper that is published at least five days a
3221 week, unless the only newspaper in the county is published less than five days a week; and

3222 (B) the newspaper selected shall be one of general interest and readership in the
3223 community, and not one of limited subject matter.

3224 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
3225 to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part
3226 6, Local Referenda - Procedures.

3227 (3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a
3228 county option sales and use tax under Subsection (1) is less than 75% of the state population,
3229 the tax levied under Subsection (1) shall be distributed to the county in which the tax was
3230 collected.

3231 (b) Subject to Subsection (5), if the aggregate population of the counties imposing a
3232 county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state
3233 population:

3234 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
3235 the county in which the tax was collected; and

3236 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
3237 (1) in each county shall be distributed proportionately among all counties imposing the tax,
3238 based on the total population of each county.

3239 (c) Except as provided in Subsection (5), the amount to be distributed annually to a
3240 county under Subsection (3)(b)(ii), when combined with the amount distributed to the county
3241 under Subsection (3)(b)(i), does not equal at least \$75,000, then:

3242 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
3243 be increased so that, when combined with the amount distributed to the county under
3244 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

3245 (ii) the amount to be distributed annually to all other counties under Subsection
3246 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
3247 Subsection (3)(c)(i).

3248 (d) The commission shall establish rules to implement the distribution of the tax under
3249 Subsections (3)(a), (b), and (c).

3250 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
3251 shall be administered, collected, and enforced in accordance with:

3252 (i) the same procedures used to administer, collect, and enforce the tax under:

3253 (A) Part 1, Tax Collection; or

3254 (B) Part 2, Local Sales and Use Tax Act; and

3255 (ii) Chapter 1, General Taxation Policies.

3256 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3257 (c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an
3258 administrative charge in accordance with Section 59-1-306 from the revenue the commission
3259 collects from a tax under this part.

3260 (ii) Notwithstanding Section 59-1-306, the administrative charge described in
3261 Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of
3262 the distribution amounts resulting after:

3263 (A) the applicable distribution calculations under Subsection (3) have been made; and

3264 (B) the commission retains the amount required by Subsection (5).

3265 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion
3266 of the sales and use tax collected under this part as provided in this Subsection (5).

3267 (b) For a county that imposes a tax under this part, the commission shall calculate a
3268 percentage each month by dividing the sales and use tax collected under this part for that
3269 month within the boundaries of that county by the total sales and use tax collected under this
3270 part for that month within the boundaries of all of the counties that impose a tax under this part.

3271 (c) For a county that imposes a tax under this part, the commission shall retain each
3272 month an amount equal to the product of:

3273 (i) the percentage the commission determines for the month under Subsection (5)(b)
3274 for the county; and

3275 (ii) \$6,354.

3276 (d) The commission shall deposit an amount the commission retains in accordance
3277 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section
3278 35A-8-1009.

3279 (e) An amount the commission deposits into the Qualified Emergency Food Agencies
3280 Fund shall be expended as provided in Section 35A-8-1009.

3281 (6) (a) For purposes of this Subsection (6):
3282 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
3283 Consolidations and Annexations.
3284 (ii) "Annexing area" means an area that is annexed into a county.
3285 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a
3286 county enacts or repeals a tax under this part:
3287 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or
3288 (II) the repeal shall take effect on the first day of a calendar quarter; and
3289 (B) after a 90-day period beginning on the date the commission receives notice meeting
3290 the requirements of Subsection (6)(b)(ii) from the county.
3291 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
3292 (A) that the county will enact or repeal a tax under this part;
3293 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
3294 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
3295 (D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the
3296 tax.
3297 (c) (i) If the billing period for a transaction begins before the effective date of the
3298 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day
3299 of the first billing period that begins on or after the effective date of the enactment of the tax.
3300 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3301 period is produced on or after the effective date of the repeal of the tax imposed under
3302 Subsection (1).
3303 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3304 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3305 Subsection (6)(b)(i) takes effect:
3306 (A) on the first day of a calendar quarter; and
3307 (B) beginning 60 days after the effective date of the enactment or repeal under
3308 Subsection (6)(b)(i).
3309 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3310 commission may by rule define the term "catalogue sale."
3311 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs

on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 15. Section **59-12-1302** is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

3343 (2) A town may impose a tax as provided in this part if the town imposed a license fee
3344 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
3345 1996.

3346 (3) A town imposing a tax under this section shall:

3347 (a) except as provided in Subsection (4), impose the tax on the transactions described
3348 in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the town; and

3349 (b) provide an effective date for the tax as provided in Subsection (5).

3350 (4) (a) A town may not impose a tax under this section on:

3351 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3352 are exempt from taxation under Section 59-12-104; and

3353 (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food
3354 ingredients.

3355 (b) For purposes of this Subsection (4), the location of a transaction shall be
3356 determined in accordance with Sections 59-12-211 through 59-12-215.

3357 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
3358 charged for food and food ingredients if the food and food ingredients are sold as part of a
3359 bundled transaction attributable to food and food ingredients and tangible personal property
3360 other than food and food ingredients.

3361 (5) (a) For purposes of this Subsection (5):

3362 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3363 Annexation.

3364 (ii) "Annexing area" means an area that is annexed into a town.

3365 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3366 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3367 or change shall take effect:

3368 (A) on the first day of a calendar quarter; and

3369 (B) after a 90-day period beginning on the date the commission receives notice meeting
3370 the requirements of Subsection (5)(b)(ii) from the town.

3371 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3372 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3373 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3374 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3375 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3376 (5)(b)(ii)(A), the rate of the tax.

3377 (c) (i) If the billing period for the transaction begins before the effective date of the
3378 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3379 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
3380 on or after the effective date of the enactment of the tax or the tax rate increase.

3381 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3382 statement for the billing period is produced on or after the effective date of the repeal of the tax
3383 or the tax rate decrease imposed under Subsection (1).

3384 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3385 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3386 a tax described in Subsection (5)(b)(i) takes effect:

3387 (A) on the first day of a calendar quarter; and

3388 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3389 rate of the tax under Subsection (5)(b)(i).

3390 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3391 commission may by rule define the term "catalogue sale."

3392 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3393 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3394 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3395 effect:

3396 (A) on the first day of a calendar quarter; and

3397 (B) after a 90-day period beginning on the date the commission receives notice meeting
3398 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3399 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3400 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
3401 repeal, or change in the rate of a tax under this part for the annexing area;

3402 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3403 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3404 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

3405 (5)(e)(ii)(A), the rate of the tax.

3406 (f) (i) If the billing period for a transaction begins before the effective date of the
3407 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3408 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
3409 on or after the effective date of the enactment of the tax or the tax rate increase.

3410 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3411 statement for the billing period is produced on or after the effective date of the repeal of the tax
3412 or the tax rate decrease imposed under Subsection (1).

3413 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3414 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3415 a tax described in Subsection (5)(e)(i) takes effect:

3416 (A) on the first day of a calendar quarter; and

3417 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3418 rate of the tax under Subsection (5)(e)(i).

3419 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3420 commission may by rule define the term "catalogue sale."

3421 (6) The commission shall:

3422 (a) distribute the revenue generated by the tax under this section to the town imposing
3423 the tax; and

3424 (b) except as provided in Subsection (8), administer, collect, and enforce the tax
3425 authorized under this section in accordance with:

3426 (i) the same procedures used to administer, collect, and enforce the tax under:

3427 (A) Part 1, Tax Collection; or

3428 (B) Part 2, Local Sales and Use Tax Act; and

3429 (ii) Chapter 1, General Taxation Policies.

3430 (7) The commission shall retain and deposit an administrative charge in accordance
3431 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

3432 (8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3433 Section 16. Section 59-12-1402 is amended to read:

3434 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**

3435 **Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice**

requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this

3498 section.

3499 (b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the
3500 tax shall be levied for a period of 10 years.

3501 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or
3502 after July 1, 2011, the tax shall be reauthorized for a ten-year period.

3503 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3504 (5) (a) For purposes of this Subsection (5):

3505 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3506 4, Annexation.

3507 (ii) "Annexing area" means an area that is annexed into a city or town.

3508 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3509 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3510 (A) on the first day of a calendar quarter; and

3511 (B) after a 90-day period beginning on the date the commission receives notice meeting
3512 the requirements of Subsection (5)(b)(ii) from the city or town.

3513 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3514 (A) that the city or town will enact or repeal a tax under this part;

3515 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3516 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3517 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
3518 the tax.

3519 (c) (i) If the billing period for a transaction begins before the effective date of the
3520 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3521 the first billing period that begins on or after the effective date of the enactment of the tax.

3522 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3523 period is produced on or after the effective date of the repeal of the tax imposed under this
3524 section.

3525 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3526 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3527 Subsection (5)(b)(i) takes effect:

3528 (A) on the first day of a calendar quarter; and

3529 (B) beginning 60 days after the effective date of the enactment or repeal under
3530 Subsection (5)(b)(i).

3531 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3532 commission may by rule define the term "catalogue sale."

3533 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3534 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3535 part for an annexing area, the enactment or repeal shall take effect:

3536 (A) on the first day of a calendar quarter; and

3537 (B) after a 90-day period beginning on the date the commission receives notice meeting
3538 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3539 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3540 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3541 repeal a tax under this part for the annexing area;

3542 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3543 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3544 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3545 (f) (i) If the billing period for a transaction begins before the effective date of the
3546 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3547 the first billing period that begins on or after the effective date of the enactment of the tax.

3548 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3549 period is produced on or after the effective date of the repeal of the tax imposed under this
3550 section.

3551 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3552 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3553 Subsection (5)(e)(i) takes effect:

3554 (A) on the first day of a calendar quarter; and

3555 (B) beginning 60 days after the effective date of the enactment or repeal under
3556 Subsection (5)(e)(i).

3557 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3558 commission may by rule define the term "catalogue sale."

3559 (6) (a) Before a city or town legislative body submits an opinion question to the

3560 residents of the city or town under Subsection (1), the city or town legislative body shall:

3561 (i) submit to the county legislative body in which the city or town is located a written
3562 notice of the intent to submit the opinion question to the residents of the city or town; and

3563 (ii) receive from the county legislative body:

3564 (A) a written resolution passed by the county legislative body stating that the county
3565 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
3566 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3567 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
3568 opinion question submitted to the residents of the county under Part 7, County Option Funding
3569 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
3570 or town legislative body to submit the opinion question to the residents of the city or town in
3571 accordance with this part.

3572 (b) (i) Within 60 days after the day the county legislative body receives from a city or
3573 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
3574 opinion question to the residents of the city or town, the county legislative body shall provide
3575 the city or town legislative body:

3576 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

3577 (B) written notice that the county legislative body will submit an opinion question to
3578 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
3579 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
3580 that part.

3581 (ii) If the county legislative body provides the city or town legislative body the written
3582 notice that the county legislative body will submit an opinion question as provided in
3583 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
3584 later than, from the date the county legislative body sends the written notice, the later of:

3585 (A) a 12-month period;

3586 (B) the next regular primary election; or

3587 (C) the next regular general election.

3588 (iii) Within 30 days of the date of the canvass of the election at which the opinion
3589 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
3590 city or town legislative body described in Subsection (6)(a) written results of the opinion

question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 17. Section **59-12-1802** is amended to read:

59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into General Fund.

(1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax, a tax shall be imposed within the county under this section by the state:

(a) on the transactions described in ~~Subsection~~ Subsection 59-12-103(1)(a) through (m);

(b) at a rate of .25%; and

(c) beginning on January 1, 2008, and ending on the day on which the county imposes a tax under Part 11, County Option Sales and Use Tax.

(2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(3) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(4) Revenues collected from the sales and use tax imposed by this section, after subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the General Fund.

Section 18. Section 59-12-2003 is amended to read:

59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public transit districts.

(1) Subject to the other provisions of this section and except as provided in Subsection (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within a city, town, or the unincorporated area of a county of the first or second class if, on January 1, 2008, there is a public transit district within any portion of that county of the first or second class.

(2) The state may not impose a tax under this part within a county of the first or second class if within all of the cities, towns, and the unincorporated area of the county of the first or second class there is imposed a sales and use tax of:

(a) .30% under Section 59-12-2213;

(b) .30% under Section 59-12-2215; or

(c) .30% under Section 59-12-2216.

(3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a county of the first or second class is a percentage equal to the difference between:

(i) .30%; and

(ii) (A) for a city within the county of the first or second class, the highest tax rate imposed within that city under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216;

3653 (B) for a town within the county of the first or second class, the highest tax rate
3654 imposed within that town under:

3655 (I) Section 59-12-2213;
3656 (II) Section 59-12-2215; or
3657 (III) Section 59-12-2216; or

3658 (C) for the unincorporated area of the county of the first or second class, the highest tax
3659 rate imposed within that unincorporated area under:

3660 (I) Section 59-12-2213;
3661 (II) Section 59-12-2215; or
3662 (III) Section 59-12-2216.

3663 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
3664 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,
3665 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the
3666 first or second class is .30%, the state may not impose a tax under this part within that city,
3667 town, or unincorporated area.

3668 (4) (a) The state may not impose a tax under this part on:

3669 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3670 are exempt from taxation under Section 59-12-104; or

3671 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food
3672 ingredients.

3673 (b) The state shall impose a tax under this part on amounts paid or charged for food
3674 and food ingredients if the food and food ingredients are sold as part of a bundled transaction
3675 attributable to food and ingredients and tangible personal property other than food and food
3676 ingredients.

3677 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
3678 accordance with Sections 59-12-211 through 59-12-215.

3679 (6) The commission shall distribute the revenues the state collects from the sales and
3680 use tax under this part, after subtracting amounts a seller retains in accordance with Section
3681 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3682 (a) within which the state imposes a tax under this part; and
3683 (b) in proportion to the revenues collected from the sales and use tax under this part

3684 within each city, town, and unincorporated area within which the state imposes a tax under this
3685 part.

3686 Section 19. Section **59-12-2103** is amended to read:

3687 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected**
3688 **from the tax -- Administration, collection, and enforcement of tax by commission --**
3689 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

3690 (1) (a) Subject to the other provisions of this section and except as provided in
3691 Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or
3692 town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the
3693 city or town would have received a tax revenue distribution of less than .75% of the taxable
3694 sales within the boundaries of the city or town but for Subsection **59-12-205**(4)(a), the city or
3695 town legislative body may impose a sales and use tax of up to .20% on the transactions:

3696 (i) described in ~~[Subsection]~~ Subsections **59-12-103**(1)(a) through (m); and

3697 (ii) within the city or town.

3698 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
3699 expend the revenue collected from the tax for the same purposes for which the city or town
3700 may expend the city's or town's general fund revenue.

3701 (c) For purposes of this Subsection (1), the location of a transaction shall be
3702 determined in accordance with Sections **59-12-211** through **59-12-215**.

3703 (2) (a) A city or town legislative body may not impose a tax under this section on: (i)
3704 the sales and uses described in Section **59-12-104** to the extent the sales and uses are exempt
3705 from taxation under Section **59-12-104**; and

3706 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
3707 ingredients.

3708 (b) A city or town legislative body imposing a tax under this section shall impose the
3709 tax on amounts paid or charged for food and food ingredients if the food and food ingredients
3710 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
3711 personal property other than food and food ingredients.

3712 (3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax
3713 under this part, a city or town legislative body shall obtain approval from a majority of the
3714 members of the city or town legislative body.

3715 (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or
3716 town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

3717 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or
3718 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before
3719 March 31, 2016, the city or town legislative body obtains approval from a majority vote of the
3720 members of the city or town legislative body to continue to impose the tax.

3721 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of
3722 the members of the city or town legislative body to continue to impose a tax under this part on
3723 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

3724 (4) The commission shall transmit revenue collected within a city or town from a tax
3725 under this part:

3726 (a) to the city or town legislative body;

3727 (b) monthly; and

3728 (c) by electronic funds transfer.

3729 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
3730 collect, and enforce a tax under this part in accordance with:

3731 (i) the same procedures used to administer, collect, and enforce the tax under:

3732 (A) Part 1, Tax Collection; or

3733 (B) Part 2, Local Sales and Use Tax Act; and

3734 (ii) Chapter 1, General Taxation Policies.

3735 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3736 (6) The commission shall retain and deposit an administrative charge in accordance
3737 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

3738 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
3739 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
3740 repeal, or change shall take effect:

3741 (A) on the first day of a calendar quarter; and

3742 (B) after a 90-day period beginning on the date the commission receives notice meeting
3743 the requirements of Subsection (7)(a)(i) from the city or town.

3744 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

3745 (A) that the city or town will enact or repeal a tax or change the rate of the tax under

3746 this part;

3747 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

3748 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

3749 (D) if the city or town enacts the tax or changes the rate of the tax described in

3750 Subsection (7)(a)(ii)(A), the rate of the tax.

3751 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
3752 the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes
3753 effect on the first day of the first billing period that begins on or after the effective date of the
3754 enactment of the tax or the tax rate increase.

3755 (ii) If the billing period for a transaction begins before the effective date of the repeal
3756 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3757 rate decrease applies to a billing period if the billing statement for the billing period is rendered
3758 on or after the effective date of the repeal of the tax or the tax rate decrease.

3759 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3760 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3761 described in Subsection (7)(a)(i) takes effect:

3762 (A) on the first day of a calendar quarter; and

3763 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3764 rate of the tax under Subsection (7)(a)(i).

3765 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3766 commission may by rule define the term "catalogue sale."

3767 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
3768 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
3769 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3770 effect:

3771 (A) on the first day of a calendar quarter; and

3772 (B) after a 90-day period beginning on the date the commission receives notice meeting
3773 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3774 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3775 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
3776 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 20. Section **59-12-2213** is amended to read:

59-12-2213. County, city, or town option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax under this section of up to:

(a) for a county, city, or town other than a county, city, or town described in Subsection (1)(b), .25% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the county, city, or town to fund a system for public transit; or

(b) for a county, city, or town within which a tax is not imposed under Section 59-12-2216, .30% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the county, city, or town, to fund a system for public transit.

(2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if the county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July 1, 2011.

Section 21. Section 59-12-2214 is amended to read:

59-12-2214. County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate -- Voter approval exception.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the county, city, or town.

(2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) to fund a system for public transit;

(b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

(A) that city or town is located within a county of the second class;

(B) that city or town owns or operates the airport facility; and

(C) an airline is headquartered in that city or town; or

(c) for a combination of Subsections (2)(a) and (b).

(3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

(a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and

(b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class Highway Projects Fund created by Section 72-2-121.

(4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:

(a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011;

(b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

(i) Section 59-12-2213; or

(ii) Section 59-12-2215; and

(c) the county, city, or town obtained voter approval to impose the sales and use tax under:

(i) Section 59-12-2213; or

(ii) Section 59-12-2215.

Section 22. Section 59-12-2215 is amended to read:

59-12-2215. City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part, a city or town may impose a sales and use tax of up to .30% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the city or town.

(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;

(b) to fund a system for public transit; or

(c) for a combination of Subsections (2)(a) and (b).

Section 23. Section 59-12-2216 is amended to read:

59-12-2216. County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.

(1) Subject to the other provisions of this part, a county legislative body may impose a

3870 sales and use tax of up to .30% on the transactions described in ~~[Subsection]~~ Subsections
3871 59-12-103(1)(a) through (m) within the county, including the cities and towns within the
3872 county.

3873 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
3874 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the
3875 percentage of revenues the county will receive from the sales and use tax under this section that
3876 will be allocated to fund one or more of the following:

3877 (a) a project or service relating to a fixed guideway for the portion of the project or
3878 service that is performed within the county;

3879 (b) a project or service relating to a system for public transit, except for a fixed
3880 guideway, for the portion of the project or service that is performed within the county;

3881 (c) the following relating to a state highway within the county:

3882 (i) a project within the county if the project:

3883 (A) begins on or after the day on which a county legislative body imposes a tax under
3884 this section; and

3885 (B) involves an environmental study, an improvement, new construction, or a
3886 renovation;

3887 (ii) debt service on a project described in Subsection (2)(c)(i); or

3888 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

3889 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
3890 to a highway that is:

3891 (i) a principal arterial highway or minor arterial highway;

3892 (ii) included in a metropolitan planning organization's regional transportation plan; and

3893 (iii) not a state highway.

3894 (3) A county legislative body shall in the resolution described in Subsection (2)
3895 allocate 100% of the revenues the county will receive from the sales and use tax under this
3896 section for one or more of the purposes described in Subsection (2).

3897 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section
3898 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
3899 section.

3900 (5) The revenues collected from a sales and use tax under this section shall be:

3901 (a) allocated in accordance with the allocations specified in the resolution under
3902 Subsection (2); and

3903 (b) expended as provided in this section.

3904 (6) If a county legislative body allocates revenues collected from a sales and use tax
3905 under this section for a state highway project described in Subsection (2)(c)(i), before
3906 beginning the state highway project within the county, the county legislative body shall:

3907 (a) obtain approval from the Transportation Commission to complete the project; and

3908 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter
3909 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

3910 (7) If after a county legislative body imposes a sales and use tax under this section the
3911 county legislative body seeks to change an allocation specified in the resolution under
3912 Subsection (2), the county legislative body may change the allocation by:

3913 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage
3914 of revenues the county will receive from the sales and use tax under this section that will be
3915 allocated to fund one or more of the items described in Subsection (2);

3916 (b) obtaining approval to change the allocation of the sales and use tax by a majority of
3917 all of the members of the county legislative body; and

3918 (c) subject to Subsection (8):

3919 (i) in accordance with Section 59-12-2208, submitting an opinion question to the
3920 county's registered voters voting on changing the allocation so that each registered voter has the
3921 opportunity to express the registered voter's opinion on whether the allocation should be
3922 changed; and

3923 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation
3924 from a majority of the county's registered voters voting on changing the allocation.

3925 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
3926 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
3927 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
3928 (7)(b).

3929 (9) Revenues collected from a sales and use tax under this section that a county
3930 allocates for a purpose described in Subsection (2)(c) shall be:

3931 (a) deposited into the Highway Projects Within Counties Fund created by Section

3932 72-2-121.1; and

3933 (b) expended as provided in Section 72-2-121.1.

3934 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),
3935 revenues collected from a sales and use tax under this section that a county allocates for a
3936 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation
3937 if the transfer of the revenues is required under an interlocal agreement:

3938 (i) entered into on or before January 1, 2010; and

3939 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

3940 (b) The Department of Transportation shall expend the revenues described in
3941 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

3942 Section 24. Section 59-12-2217 is amended to read:

3943 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**

3944 **Written prioritization process -- Approval by county legislative body.**

3945 (1) Subject to the other provisions of this part, a county legislative body may impose a
3946 sales and use tax of up to .25% on the transactions described in ~~[Subsection]~~ Subsections
3947 59-12-103(1)(a) through (m) within the county, including the cities and towns within the
3948 county.

3949 (2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues
3950 collected from a sales and use tax under this section may only be expended for:

3951 (a) a project or service:

3952 (i) relating to a regionally significant transportation facility for the portion of the
3953 project or service that is performed within the county;

3954 (ii) for new capacity or congestion mitigation if the project or service is performed
3955 within a county:

3956 (A) of the first or second class; or

3957 (B) if that county is part of an area metropolitan planning organization; and

3958 (iii) that is on a priority list:

3959 (A) created by the county's council of governments in accordance with Subsection (7);

3960 and

3961 (B) approved by the county legislative body in accordance with Subsection (7);

3962 (b) corridor preservation for a project or service described in Subsection (2)(a) as

3963 provided in Subsection (8); or

3964 (c) debt service or bond issuance costs related to a project or service described in
3965 Subsection (2)(a)(i) or (ii).

3966 (3) If a project or service described in Subsection (2) is for:

3967 (a) a principal arterial highway or a minor arterial highway in a county of the first or
3968 second class or a collector road in a county of the second class, that project or service shall be
3969 part of the:

3970 (i) county and municipal master plan; and

3971 (ii) (A) statewide long-range plan; or

3972 (B) regional transportation plan of the area metropolitan planning organization if a
3973 metropolitan planning organization exists for the area; or

3974 (b) a fixed guideway or an airport, that project or service shall be part of the regional
3975 transportation plan of the area metropolitan planning organization if a metropolitan planning
3976 organization exists for the area.

3977 (4) In a county of the first or second class, a regionally significant transportation
3978 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
3979 designation on a Statewide Transportation Improvement Program and Transportation
3980 Improvement Program if the project or service described in Subsection (2)(a)(i) is:

3981 (a) a principal arterial highway;

3982 (b) a minor arterial highway;

3983 (c) a collector road in a county of the second class; or

3984 (d) a major collector highway in a rural area.

3985 (5) Of the revenues collected from a sales and use tax imposed under this section
3986 within a county of the first or second class, 25% or more shall be expended for the purpose
3987 described in Subsection (2)(b).

3988 (6) (a) As provided in this Subsection (6), a council of governments shall:

3989 (i) develop a written prioritization process for the prioritization of projects to be funded
3990 by revenues collected from a sales and use tax under this section;

3991 (ii) create a priority list of regionally significant transportation facility projects or
3992 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

3993 (iii) present the priority list to the county legislative body for approval in accordance

3994 with Subsection (7).

3995 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:

3996 (i) a definition of the type of projects to which the written prioritization process
3997 applies;

3998 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the
3999 council of governments will use to rank proposed projects and how that weighted criteria
4000 system will be used to determine which proposed projects will be prioritized;

4001 (iii) the specification of data that is necessary to apply the weighted criteria system;

4002 (iv) application procedures for a project to be considered for prioritization by the
4003 council of governments; and

4004 (v) any other provision the council of governments considers appropriate.

4005 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the
4006 following:

4007 (i) the cost effectiveness of a project;

4008 (ii) the degree to which a project will mitigate regional congestion;

4009 (iii) the compliance requirements of applicable federal laws or regulations;

4010 (iv) the economic impact of a project;

4011 (v) the degree to which a project will require tax revenues to fund maintenance and
4012 operation expenses; and

4013 (vi) any other provision the council of governments considers appropriate.

4014 (d) A council of governments of a county of the first or second class shall submit the
4015 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations
4016 Committee for approval prior to taking final action on:

4017 (i) the written prioritization process; or

4018 (ii) any proposed amendment to the written prioritization process.

4019 (7) (a) A council of governments shall use the weighted criteria system adopted in the
4020 written prioritization process developed in accordance with Subsection (6) to create a priority
4021 list of regionally significant transportation facility projects or services for which revenues
4022 collected from a sales and use tax under this section may be expended.

4023 (b) Before a council of governments may finalize a priority list or the funding level of a
4024 project, the council of governments shall conduct a public meeting on:

4025 (i) the written prioritization process; and
4026 (ii) the merits of the projects that are prioritized as part of the written prioritization
4027 process.

4028 (c) A council of governments shall make the weighted criteria system ranking for each
4029 project prioritized as part of the written prioritization process publicly available before the
4030 public meeting required by Subsection (7)(b) is held.

4031 (d) If a council of governments prioritizes a project over another project with a higher
4032 rank under the weighted criteria system, the council of governments shall:

4033 (i) identify the reasons for prioritizing the project over another project with a higher
4034 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
4035 and

4036 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

4037 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
4038 priority list in accordance with this Subsection (7), the council of governments shall:

4039 (i) submit the priority list to the county legislative body for approval; and
4040 (ii) obtain approval of the priority list from a majority of the members of the county
4041 legislative body.

4042 (f) A council of governments may only submit one priority list per calendar year to the
4043 county legislative body.

4044 (g) A county legislative body may only consider and approve one priority list submitted
4045 under Subsection (7)(e) per calendar year.

4046 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use
4047 tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall
4048 be:

4049 (i) deposited in or transferred to the Local Transportation Corridor Preservation Fund
4050 created by Section 72-2-117.5; and

4051 (ii) expended as provided in Section 72-2-117.5.

4052 (b) In a county of the first class, revenues collected from a sales and use tax under this
4053 section that a county allocates for a purpose described in Subsection (2)(b) shall be:

4054 (i) deposited in or transferred to the County of the First Class Highway Projects Fund
4055 created by Section 72-2-121; and

4056 (ii) expended as provided in Section 72-2-121.

4057 Section 25. Section 59-12-2218 is amended to read:

4058 **59-12-2218. County, city, or town option sales and use tax for airports, highways,**
4059 **and systems for public transit -- Base -- Rate -- Administration of sales and use tax --**
4060 **Voter approval exception.**

4061 (1) Subject to the other provisions of this part, the following may impose a sales and
4062 use tax under this section:

4063 (a) if, on April 1, 2009, a county legislative body of a county of the second class
4064 imposes a sales and use tax under this section, the county legislative body of the county of the
4065 second class may impose the sales and use tax on the transactions:

4066 (i) described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m); and

4067 (ii) within the county, including the cities and towns within the county; or

4068 (b) if, on April 1, 2009, a county legislative body of a county of the second class does
4069 not impose a sales and use tax under this section:

4070 (i) a city legislative body of a city within the county of the second class may impose a
4071 sales and use tax under this section on the transactions described in ~~[Subsection]~~ Subsections
4072 59-12-103(1)(a) through (m) within that city;

4073 (ii) a town legislative body of a town within the county of the second class may impose
4074 a sales and use tax under this section on the transactions described in ~~[Subsection]~~ Subsections
4075 59-12-103(1)(a) through (m) within that town; and

4076 (iii) the county legislative body of the county of the second class may impose a sales
4077 and use tax on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through
4078 (m):

4079 (A) within the county, including the cities and towns within the county, if on the date
4080 the county legislative body provides the notice described in Section 59-12-2209 to the
4081 commission stating that the county will enact a sales and use tax under this section, no city or
4082 town within that county imposes a sales and use tax under this section or has provided the
4083 notice described in Section 59-12-2209 to the commission stating that the city or town will
4084 enact a sales and use tax under this section; or

4085 (B) within the county, except for within a city or town within that county, if, on the
4086 date the county legislative body provides the notice described in Section 59-12-2209 to the

4087 commission stating that the county will enact a sales and use tax under this section, that city or
4088 town imposes a sales and use tax under this section or has provided the notice described in
4089 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
4090 tax under this section.

4091 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4092 county, city, or town legislative body that imposes a sales and use tax under this section may
4093 impose the tax at a rate of:

4094 (a) .10%; or

4095 (b) .25%.

4096 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
4097 expended as determined by the county, city, or town legislative body as follows:

4098 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4099 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4100 Section 72-2-121.2;

4101 (b) expended for a project or service relating to an airport facility for the portion of the
4102 project or service that is performed within the county, city, or town within which the tax is
4103 imposed:

4104 (i) for a county legislative body that imposes the sales and use tax, if that airport
4105 facility is part of the regional transportation plan of the area metropolitan planning organization
4106 if a metropolitan planning organization exists for the area; or

4107 (ii) for a city or town legislative body that imposes the sales and use tax, if:

4108 (A) that city or town owns or operates the airport facility; and

4109 (B) an airline is headquartered in that city or town; or

4110 (c) deposited or expended for a combination of Subsections (3)(a) and (b).

4111 (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate
4112 described in Subsection (2)(b) shall be expended as determined by the county, city, or town
4113 legislative body as follows:

4114 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4115 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4116 Section 72-2-121.2;

4117 (b) expended for:

- 4118 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;
- 4119 (ii) a local highway that is a principal arterial highway, minor arterial highway, major
- 4120 collector highway, or minor collector road; or
- 4121 (iii) a combination of Subsections (4)(b)(i) and (ii);
- 4122 (c) expended for a project or service relating to a system for public transit for the
- 4123 portion of the project or service that is performed within the county, city, or town within which
- 4124 the sales and use tax is imposed;
- 4125 (d) expended for a project or service relating to an airport facility for the portion of the
- 4126 project or service that is performed within the county, city, or town within which the sales and
- 4127 use tax is imposed:
- 4128 (i) for a county legislative body that imposes the sales and use tax, if that airport
- 4129 facility is part of the regional transportation plan of the area metropolitan planning organization
- 4130 if a metropolitan planning organization exists for the area; or
- 4131 (ii) for a city or town legislative body that imposes the sales and use tax, if:
- 4132 (A) that city or town owns or operates the airport facility; and
- 4133 (B) an airline is headquartered in that city or town;
- 4134 (e) expended for:
- 4135 (i) a class B road, as defined in Section 72-3-103;
- 4136 (ii) a class C road, as defined in Section 72-3-104; or
- 4137 (iii) a combination of Subsections (4)(e)(i) and (ii);
- 4138 (f) expended for traffic and pedestrian safety, including:
- 4139 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
- 4140 Section 72-3-104, for:
- 4141 (A) a sidewalk;
- 4142 (B) curb and gutter;
- 4143 (C) a safety feature;
- 4144 (D) a traffic sign;
- 4145 (E) a traffic signal;
- 4146 (F) street lighting; or
- 4147 (G) a combination of Subsections (4)(f)(i)(A) through (F);
- 4148 (ii) the construction of an active transportation facility that:

4149 (A) is for nonmotorized vehicles and multimodal transportation; and
4150 (B) connects an origin with a destination; or
4151 (iii) a combination of Subsections (4)(f)(i) and (ii); or
4152 (g) deposited or expended for a combination of Subsections (4)(a) through (f).
4153 (5) A county, city, or town legislative body may not expend revenue collected within a
4154 county, city, or town from a tax under this section for a purpose described in Subsections (4)(b)
4155 through (f) unless the purpose is recommended by:
4156 (a) for a county that is part of a metropolitan planning organization, the metropolitan
4157 planning organization of which the county is a part; or
4158 (b) for a county that is not part of a metropolitan planning organization, the council of
4159 governments of which the county is a part.
4160 (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes
4161 a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05%
4162 as provided in Subsection (9)(b)(i) into the Local Transportation Corridor Preservation Fund
4163 created by Section 72-2-117.5.
4164 (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and
4165 distributed in accordance with Section 72-2-117.5.
4166 (b) A county, city, or town is not required to make the deposit required by Subsection
4167 (6)(a)(i) if the county, city, or town:
4168 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
4169 (ii) has continuously imposed a tax described in Subsection (2)(b):
4170 (A) beginning after July 1, 2010; and
4171 (B) for a five-year period.
4172 (7) (a) Subject to the other provisions of this Subsection (7), a city or town within
4173 which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
4174 (i) expend the revenues in accordance with Subsection (4); or
4175 (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
4176 (A) that city or town owns or operates an airport facility; and
4177 (B) an airline is headquartered in that city or town.
4178 (b) (i) A city or town legislative body of a city or town within which a sales and use tax
4179 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected

4180 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4181 .25% for a purpose described in Subsection (7)(b)(ii) if:

4182 (A) that city or town owns or operates an airport facility; and

4183 (B) an airline is headquartered in that city or town.

4184 (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected
4185 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4186 .25% for:

4187 (A) a project or service relating to the airport facility; and

4188 (B) the portion of the project or service that is performed within the city or town
4189 imposing the sales and use tax.

4190 (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to
4191 expend the revenues collected from a tax rate of greater than .10% but not to exceed the
4192 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
4193 as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use
4194 tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or
4195 service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as
4196 follows:

4197 (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4198 into the County of the Second Class State Highway Projects Fund created by Section
4199 [72-2-121.2](#) and expended as provided in Section [72-2-121.2](#); and

4200 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4201 into the Local Transportation Corridor Preservation Fund created by Section [72-2-117.5](#) and
4202 expended and distributed in accordance with Section [72-2-117.5](#).

4203 (d) A city or town legislative body that expends the revenues collected from a sales and
4204 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
4205 (7)(b) and (c):

4206 (i) shall, on or before the date the city or town legislative body provides the notice
4207 described in Section [59-12-2209](#) to the commission stating that the city or town will enact a
4208 sales and use tax under this section:

4209 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4210 exceed .25%, the collections from which the city or town legislative body will expend for a

project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

4242 (b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the
4243 commission shall deposit revenues collected within a county, city, or town from a sales and use
4244 tax under this section that:

4245 (i) are required to be expended for a purpose described in Subsection (6)(a) into the
4246 Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

4247 (ii) a county, city, or town legislative body determines to expend for a purpose
4248 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
4249 Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body
4250 provides written notice to the commission requesting the deposit.

4251 (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice
4252 to the commission in accordance with Subsection (7)(d), the commission shall:

4253 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
4254 town legislative body monthly by electronic funds transfer; and

4255 (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with
4256 Subsection (7)(c).

4257 (d) (i) If a city or town legislative body provides the notice described in Subsection
4258 (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected
4259 from the sales and use tax:

4260 (A) in accordance with Subsection (9)(c);

4261 (B) beginning on the date the city or town legislative body enacts the sales and use tax;
4262 and

4263 (C) ending on the earlier of the June 30 immediately following the date the city or town
4264 legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the
4265 date the city or town legislative body repeals the sales and use tax.

4266 (ii) If a city or town legislative body provides the notice described in Subsection
4267 (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
4268 collected from the sales and use tax:

4269 (A) in accordance with Subsection (9)(c);

4270 (B) beginning on the July 1 immediately following the date the city or town legislative
4271 body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

4272 (C) ending on the earlier of the June 30 of the year after the date the city or town

legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

Section 26. Section **59-12-2219** is amended to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

(a) "Class B road" means the same as that term is defined in Section [72-3-103](#).

(b) "Class C road" means the same as that term is defined in Section [72-3-104](#).

(c) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, a county legislative body may impose a

4304 sales and use tax of .25% on the transactions described in ~~[Subsection]~~ Subsections
4305 59-12-103(1)(a) through (m) within the county, including the cities and towns within the
4306 county.

4307 (3) The commission shall distribute sales and use tax revenue collected under this
4308 section as provided in Subsections (4) through (10).

4309 (4) If the entire boundary of a county that imposes a sales and use tax under this section
4310 is annexed into a single public transit district, the commission shall distribute the sales and use
4311 tax revenue collected within the county as follows:

4312 (a) .10% shall be transferred to the public transit district in accordance with Section
4313 59-12-2206;

4314 (b) .10% shall be distributed as provided in Subsection (8); and

4315 (c) .05% shall be distributed to the county legislative body.

4316 (5) If the entire boundary of a county that imposes a sales and use tax under this section
4317 is not annexed into a single public transit district, but a city or town within the county is
4318 annexed into a single public transit district that also has a county of the first class annexed into
4319 the same public transit district, the commission shall distribute the sales and use tax revenue
4320 collected within the county as follows:

4321 (a) for a city or town within the county that is annexed into a single public transit
4322 district, the commission shall distribute the sales and use tax revenue collected within that city
4323 or town as follows:

4324 (i) .10% shall be transferred to the public transit district in accordance with Section
4325 59-12-2206;

4326 (ii) .10% shall be distributed as provided in Subsection (8); and

4327 (iii) .05% shall be distributed to the county legislative body;

4328 (b) for an eligible political subdivision within the county, the commission shall
4329 distribute the sales and use tax revenue collected within that eligible political subdivision as
4330 follows:

4331 (i) .10% shall be transferred to the eligible political subdivision in accordance with
4332 Section 59-12-2206;

4333 (ii) .10% shall be distributed as provided in Subsection (8); and

4334 (iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (8); and

(ii) .15% shall be distributed to the county legislative body.

(7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue

4366 collected within the county as follows:

4367 (a) for a city or town within the county that is annexed into a single public transit
4368 district, the commission shall distribute the sales and use tax revenue collected within that city
4369 or town as follows:

4370 (i) .10% shall be distributed as provided in Subsection (8);

4371 (ii) .10% shall be distributed as provided in Subsection (9); and

4372 (iii) .05% shall be distributed to the county legislative body;

4373 (b) for an eligible political subdivision within the county, the commission shall
4374 distribute the sales and use tax revenue collected within that eligible political subdivision as
4375 follows:

4376 (i) .10% shall be distributed as provided in Subsection (8);

4377 (ii) .10% shall be distributed as provided in Subsection (9); and

4378 (iii) .05% shall be distributed to the county legislative body; and

4379 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4380 and use tax revenue described in Subsections (7)(a) and (b), as follows:

4381 (i) .10% shall be distributed as provided in Subsection (8); and

4382 (ii) .15% shall be distributed to the county legislative body.

4383 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions
4384 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),
4385 (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

4386 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4387 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
4388 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4389 cities, and towns within those counties on the basis of the percentage that the population of
4390 each unincorporated area, city, or town bears to the total population of all of the counties that
4391 impose a tax under this section; and

4392 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4393 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
4394 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4395 cities, and towns within those counties on the basis of the location of the transaction as
4396 determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (9)(e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that obtains approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

4428 (ii) an eligible political subdivision within the county.

4429 (c) Notwithstanding Section 59-12-2208, the opinion question required by Section

4430 59-12-2208 shall state the allocations the county legislative body makes in accordance with this

4431 Subsection (9).

4432 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or

4433 (7)(b)(ii) as follows:

4434 (i) the percentage specified by a county legislative body shall be distributed in

4435 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an

4436 eligible political subdivision or a public transit district within the county; and

4437 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates

4438 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district

4439 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or

4440 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection

4441 (9)(a) shall be distributed as follows:

4442 (A) 50% of the revenue as provided in Subsection (8); and

4443 (B) 50% of the revenue to the county legislative body.

4444 (e) If a county legislative body seeks to change an allocation specified in a resolution

4445 under Subsection (9)(a), the county legislative body may change the allocation by:

4446 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage

4447 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit

4448 district or an eligible political subdivision;

4449 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of

4450 all the members of the county legislative body; and

4451 (iii) subject to Subsection (9)(f):

4452 (A) in accordance with Section 59-12-2208, submitting an opinion question to the

4453 county's registered voters voting on changing the allocation so that each registered voter has the

4454 opportunity to express the registered voter's opinion on whether the allocation should be

4455 changed; and

4456 (B) in accordance with Section 59-12-2208, obtaining approval to change the

4457 allocation from a majority of the county's registered voters voting on changing the allocation.

4458 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection

4459 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
4460 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
4461 (9)(e)(ii).

4462 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
4463 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
4464 take effect on the first distribution the commission makes under this section after a 90-day
4465 period that begins on the date the commission receives written notice meeting the requirements
4466 of Subsection (9)(g)(ii) from the county.

4467 (ii) The notice described in Subsection (9)(g)(i) shall state:

4468 (A) that the county will make or change the percentage of an allocation under
4469 Subsection (9)(a) or (e); and

4470 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be
4471 allocated to a public transit district or an eligible political subdivision.

4472 (10) (a) If a public transit district is organized after the date a county legislative body
4473 first imposes a tax under this section, a change in a distribution required by this section may
4474 not take effect until the first distribution the commission makes under this section after a
4475 90-day period that begins on the date the commission receives written notice from the public
4476 transit district of the organization of the public transit district.

4477 (b) If an eligible political subdivision intends to provide public transit service within a
4478 county after the date a county legislative body first imposes a tax under this section, a change
4479 in a distribution required by this section may not take effect until the first distribution the
4480 commission makes under this section after a 90-day period that begins on the date the
4481 commission receives written notice from the eligible political subdivision stating that the
4482 eligible political subdivision intends to provide public transit service within the county.

4483 (11) A county, city, or town may expend revenue collected from a tax under this
4484 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
4485 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

4486 (a) a class B road;

4487 (b) a class C road;

4488 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

4489 (i) a sidewalk;

- 4490 (ii) curb and gutter;
4491 (iii) a safety feature;
4492 (iv) a traffic sign;
4493 (v) a traffic signal;
4494 (vi) street lighting; or
4495 (vii) a combination of Subsections (11)(c)(i) through (vi);
4496 (d) the construction, maintenance, or operation of an active transportation facility that
4497 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
4498 destination;
4499 (e) public transit system services; or
4500 (f) a combination of Subsections (11)(a) through (e).

4501 (12) A public transit district or an eligible political subdivision may expend revenue
4502 the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i)
4503 for capital expenses and service delivery expenses of the public transit district or eligible
4504 political subdivision.

4505 (13) (a) Revenue collected from a sales and use tax under this section may not be used
4506 to supplant existing general fund appropriations that a county, city, or town has budgeted for
4507 transportation as of the date the tax becomes effective for a county, city, or town.

4508 (b) The limitation under Subsection (13)(a) does not apply to a designated
4509 transportation capital or reserve account a county, city, or town may have established prior to
4510 the date the tax becomes effective.

4511 Section 27. Section **63N-2-502** is amended to read:

4512 **63N-2-502. Definitions.**

4513 As used in this part:

4514 (1) "Agreement" means an agreement described in Section **63N-2-503**.

4515 (2) "Base taxable value" means the value of hotel property before the construction on a
4516 qualified hotel begins, as that value is established by the county in which the hotel property is
4517 located, using a reasonable valuation method that may include the value of the hotel property
4518 on the county assessment rolls the year before the year during which construction on the
4519 qualified hotel begins.

4520 (3) "Certified claim" means a claim that the office has approved and certified as

4521 provided in Section 63N-2-505.

4522 (4) "Claim" means a written document submitted by a qualified hotel owner or host
4523 local government to request a convention incentive.

4524 (5) "Claimant" means the qualified hotel owner or host local government that submits a
4525 claim under Subsection 63N-2-505(1)(a) for a convention incentive.

4526 (6) "Commission" means the [Utah] State Tax Commission.

4527 (7) "Community reinvestment agency" means the same as that term is defined in
4528 Section 17C-1-102.

4529 (8) "Construction revenue" means revenue generated from state taxes and local taxes
4530 imposed on transactions occurring during the eligibility period as a result of the construction of
4531 the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

4532 (9) "Convention incentive" means an incentive for the development of a qualified
4533 hotel, in the form of payment from the incentive fund as provided in this part, as authorized in
4534 an agreement.

4535 (10) "Eligibility period" means:

4536 (a) the period that:

4537 (i) begins the date construction of a qualified hotel begins; and

4538 (ii) ends:

4539 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
4540 qualified hotel; or

4541 (B) for purposes of the local portion and incremental property tax revenue, 25 years
4542 after the date of initial occupancy of that hotel; or

4543 (b) as provided in an agreement between the office and a qualified hotel owner or host
4544 local government, a period that:

4545 (i) begins no earlier than the date construction of a qualified hotel begins; and

4546 (ii) is shorter than the period described in Subsection (10)(a).

4547 (11) "Endorsement letter" means a letter:

4548 (a) from the county in which a qualified hotel is located or is proposed to be located;

4549 (b) signed by the county executive; and

4550 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
4551 all the county's criteria for receiving the county's endorsement.

4552 (12) "Host agency" means the community reinvestment agency of the host local
4553 government.

4554 (13) "Host local government" means:

4555 (a) a county that enters into an agreement with the office for the construction of a
4556 qualified hotel within the unincorporated area of the county; or

4557 (b) a city or town that enters into an agreement with the office for the construction of a
4558 qualified hotel within the boundary of the city or town.

4559 (14) "Hotel property" means a qualified hotel and any property that is included in the
4560 same development as the qualified hotel, including convention, exhibit, and meeting space,
4561 retail shops, restaurants, parking, and other ancillary facilities and amenities.

4562 (15) "Incentive fund" means the Convention Incentive Fund created in Section
4563 63N-2-503.5.

4564 (16) "Incremental property tax revenue" means the amount of property tax revenue
4565 generated from hotel property that equals the difference between:

4566 (a) the amount of property tax revenue generated in any tax year by all taxing entities
4567 from hotel property, using the current assessed value of the hotel property; and

4568 (b) the amount of property tax revenue that would be generated that tax year by all
4569 taxing entities from hotel property, using the hotel property's base taxable value.

4570 (17) "Local portion" means the portion of new tax revenue that is generated by local
4571 taxes.

4572 (18) "Local taxes" means a tax imposed under:

4573 (a) Section 59-12-204;

4574 (b) Section 59-12-301;

4575 (c) Sections 59-12-352 and 59-12-353;

4576 (d) Subsection 59-12-603(1)(a)(i)(A);

4577 (e) Subsection 59-12-603(1)(a)(i)(B);

4578 (f) Subsection 59-12-603(1)(a)(ii);

4579 (g) Subsection 59-12-603(1)(a)(iii); or

4580 (h) Section 59-12-1102.

4581 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite
4582 revenue.

4583 (20) "Offsite revenue" means revenue generated from state taxes and local taxes
4584 imposed on transactions by a third-party seller occurring other than on hotel property during the
4585 eligibility period, if:

4586 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax
4587 Act; and

4588 (b) the third-party seller voluntarily consents to the disclosure of information to the
4589 office, as provided in Subsection 63N-2-505(2)(b)(i)(E).

4590 (21) "Onsite revenue" means revenue generated from state taxes and local taxes
4591 imposed on transactions occurring on hotel property during the eligibility period.

4592 (22) "Public infrastructure" means:

4593 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
4594 systems and lines;

4595 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
4596 transportation facilities; and

4597 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

4598 (23) "Qualified hotel" means a full-service hotel development constructed in the state
4599 on or after July 1, 2014 that:

4600 (a) requires a significant capital investment;

4601 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
4602 room; and

4603 (c) is located within 1,000 feet of a convention center that contains at least 500,000
4604 square feet of convention, exhibit, and meeting space.

4605 (24) "Qualified hotel owner" means a person who owns a qualified hotel.

4606 (25) "Review committee" means the independent review committee established under
4607 Section 63N-2-504.

4608 (26) "Significant capital investment" means an amount of at least \$200,000,000.

4609 (27) "State portion" means the portion of new tax revenue that is generated by state
4610 taxes.

4611 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i),
4612 (2)(c)(i), (2)(d), or (2)[~~(d)~~](e)(i)(A).

4613 (29) "Third-party seller" means a person who is a seller in a transaction:

4614 (a) occurring other than on hotel property;
4615 (b) that is:
4616 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
4617 facilities on hotel property; or
4618 (ii) the sale of tangible personal property or a service that is part of a bundled
4619 transaction, as defined in Section [59-12-102](#), with a sale, rental, or lease described in
4620 Subsection (29)(b)(i); and
4621 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.
4622 Section 28. **Effective date.**
4623 This bill takes effect on January 1, 2018.