

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:

- ▶ enacts a refundable state earned income tax credit;
 - ▶ decreases the general state sales and use tax rate;
 - ▶ increases the state sales and use tax rate on food and food ingredients to 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



28 **59-1-401**, as last amended by Laws of Utah 2015, Chapter 369
29 **59-12-102**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6
30 **59-12-103**, as last amended by Laws of Utah 2016, Chapters 184, 291, 348 and last
31 amended by Coordination Clause, Laws of Utah 2016, Chapter 291
32 **59-12-108**, as last amended by Laws of Utah 2013, Chapter 50
33 **59-12-204**, as last amended by Laws of Utah 2014, Chapter 258
34 **59-12-401**, as last amended by Laws of Utah 2013, Chapter 362
35 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
36 **59-12-402.1**, as enacted by Laws of Utah 2015, Chapter 182
37 **59-12-703**, as last amended by Laws of Utah 2016, Chapters 344 and 364
38 **59-12-802**, as last amended by Laws of Utah 2016, Chapter 364
39 **59-12-804**, as last amended by Laws of Utah 2016, Chapter 364
40 **59-12-1102**, as last amended by Laws of Utah 2016, Chapter 364
41 **59-12-1302**, as last amended by Laws of Utah 2016, Chapter 364
42 **59-12-1402**, as last amended by Laws of Utah 2016, Chapter 364
43 **59-12-1802**, as last amended by Laws of Utah 2008, Chapter 384
44 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263
45 **59-12-2103**, as last amended by Laws of Utah 2016, Chapter 364
46 **59-12-2213**, as last amended by Laws of Utah 2011, Chapter 223
47 **59-12-2214**, as last amended by Laws of Utah 2015, Chapter 421
48 **59-12-2215**, as enacted by Laws of Utah 2010, Chapter 263
49 **59-12-2216**, as enacted by Laws of Utah 2010, Chapter 263
50 **59-12-2217**, as last amended by Laws of Utah 2015, Chapter 421
51 **59-12-2218**, as last amended by Laws of Utah 2016, Chapter 348
52 **59-12-2219**, as last amended by Laws of Utah 2016, Chapter 373
53 **63N-2-502**, as last amended by Laws of Utah 2016, Chapter 350

54 ENACTS:

55 **59-10-1102.1**, Utah Code Annotated 1953

56 **59-10-1112**, Utah Code Annotated 1953

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

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

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

(1) Subject to the other provisions of this section, the commission shall collect, enforce, and administer any municipal telecommunications license tax imposed under this part pursuant to:

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

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

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

(A) except for:

(I) Subsection **59-12-103**(2)(~~+~~)(i);

(II) Section **59-12-104**;

(III) Section **59-12-104.1**;

(IV) Section **59-12-104.2**;

(V) Section **59-12-104.3**;

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

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

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

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

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

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

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

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

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

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

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

(iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

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

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

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

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

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

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

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

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

(i) within the municipality;

(ii) at a rate of 3.5%; and

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

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

(i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal

telecommunications license tax under this part at a rate of up to 3.5%;

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

(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.

183 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

206 (I) this title;

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

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

209 (IV) Section 19-6-410.5;

210 (V) Section 19-6-714;

211 (VI) Section 19-6-805;

212 (VII) Section 32B-2-304;

213 (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

245 filed no later than five days after the due date described in Subsection (2)(a);

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

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

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

252 (i) an amended return; or

253 (ii) a return with no tax due.

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

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

258 (ii) the person:

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

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

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

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

265 (iv) the person:

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

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

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

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

271 (v) (A) the commission:

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

274 (II) is considered to have denied a request for reconsideration under Subsection

275 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed

request for agency action; and

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

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

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

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

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

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

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

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

(A) \$20; or

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

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

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

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

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

(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 ~~(d)~~(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 ~~(d)~~(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 ~~(d)~~(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):

431 (i) is subject to a penalty described in Subsection (2); and
432 (ii) may not retain the percentage of sales and use taxes that would otherwise be
433 allowable under Subsection 59-12-108(2).

434 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:
435 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
436 following documents:
437 (A) a return;
438 (B) an affidavit;
439 (C) a claim; or
440 (D) a document similar to Subsections (11)(a)(i)(A) through (C);
441 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
442 will be used in connection with any material matter administered by the commission; and
443 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
444 with any material matter administered by the commission, would result in an understatement of
445 another person's liability for a tax, fee, or charge.

446 (b) The following acts apply to Subsection (11)(a)(i):
447 (i) preparing any portion of a document described in Subsection (11)(a)(i);
448 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
449 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
450 (iv) advising in the preparation or presentation of any portion of a document described
451 in Subsection (11)(a)(i);
452 (v) aiding in the preparation or presentation of any portion of a document described in
453 Subsection (11)(a)(i);
454 (vi) assisting in the preparation or presentation of any portion of a document described
455 in Subsection (11)(a)(i); or
456 (vii) counseling in the preparation or presentation of any portion of a document
457 described in Subsection (11)(a)(i).

458 (c) For purposes of Subsection (11)(a), the penalty:
459 (i) shall be imposed by the commission;
460 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
461 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

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

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

(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

493 (B) exceed \$25,000.

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

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

496 documents:

497 (I) a return;

498 (II) an affidavit;

499 (III) a claim; or

500 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

501 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in

502 Subsection (12)(e)(i)(A):

503 (I) is false or fraudulent as to any material matter; and

504 (II) could be used in connection with any material matter administered by the

505 commission.

506 (ii) The following acts apply to Subsection (12)(e)(i):

507 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

508 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

509 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

510 (D) advising in the preparation or presentation of any portion of a document described

511 in Subsection (12)(e)(i)(A);

512 (E) aiding in the preparation or presentation of any portion of a document described in

513 Subsection (12)(e)(i)(A);

514 (F) assisting in the preparation or presentation of any portion of a document described

515 in Subsection (12)(e)(i)(A); or

516 (G) counseling in the preparation or presentation of any portion of a document

517 described in Subsection (12)(e)(i)(A).

518 (iii) This Subsection (12)(e) applies:

519 (A) regardless of whether the person for which the document described in Subsection

520 (12)(e)(i)(A) is prepared or presented:

521 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

522 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

523 (B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

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

(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 this part.

Section 4. Section **59-10-1102.1** is enacted to read:

59-10-1102.1. Apportionment of tax credit.

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

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

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

Section 5. Section **59-10-1112** is enacted to read:

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

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

(2) Except as provided in Section [59-10-1102.1](#) and for a taxable year beginning on or after January 1, 2018, a claimant may claim a refundable earned income tax credit equal to 10% of the federal earned income tax credit if the claimant:

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

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

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b), the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (3)(a).

Section 6. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

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

Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

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

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

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

(A) a product; or

(B) a service.

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

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

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

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

(a) listed under Subsection (6); and

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

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

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

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

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

(d) Subsection 59-12-103(2)(d);

~~(e)~~ (e) Subsection 59-12-103(2)~~(e)~~(i)(A)(I);

~~(f)~~ (f) Section 59-12-204;

~~(g)~~ (g) Section 59-12-401;

~~(h)~~ (h) Section 59-12-402;

~~(i)~~ (i) Section 59-12-402.1;

~~(j)~~ (j) Section 59-12-703;

~~(k)~~ (k) Section 59-12-802;

~~(l)~~ (l) Section 59-12-804;

~~(m)~~ (m) Section 59-12-1102;

~~(n)~~ (n) Section 59-12-1302;

~~(o)~~ (o) Section 59-12-1402;

~~(p)~~ (p) Section 59-12-1802;

~~(q)~~ (q) Section 59-12-2003;

~~(r)~~ (r) Section 59-12-2103;

~~(s)~~ (s) Section 59-12-2213;

~~(t)~~ (t) Section 59-12-2214;

~~(u)~~ (u) Section 59-12-2215;

~~(v)~~ (v) Section 59-12-2216;

~~(w)~~ (w) Section 59-12-2217; or

~~(x)~~ (x) Section 59-12-2218.

(7) "Aircraft" is as defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

- 679 (c) hydroelectric energy;
680 (d) solar energy;
681 (e) wind energy; or
682 (f) energy that is derived from:
683 (i) coal-to-liquids;
684 (ii) nuclear fuel;
685 (iii) oil-impregnated diatomaceous earth;
686 (iv) oil sands;
687 (v) oil shale;
688 (vi) petroleum coke; or
689 (vii) waste heat from:
690 (A) an industrial facility; or
691 (B) a power station in which an electric generator is driven through a process in which
692 water is heated, turns into steam, and spins a steam turbine.
- 693 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
694 facility" means a facility that:
695 (i) uses alternative energy to produce electricity; and
696 (ii) has a production capacity of two megawatts or greater.
- 697 (b) A facility is an alternative energy electricity production facility regardless of
698 whether the facility is:
699 (i) connected to an electric grid; or
700 (ii) located on the premises of an electricity consumer.
- 701 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
702 provision of telecommunications service.
- 703 (b) "Ancillary service" includes:
704 (i) a conference bridging service;
705 (ii) a detailed communications billing service;
706 (iii) directory assistance;
707 (iv) a vertical service; or
708 (v) a voice mail service.
- 709 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).

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

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

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

716 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
717 washing of tangible personal property if the cleaning or washing labor is primarily performed
718 by an individual:

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

721 (b) at the direction of the seller of the cleaning or washing of the tangible personal
722 property.

723 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

737 (B) animal waste;

738 (C) waste vegetable oil;

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

741 thermal conversion process;

742 (E) aquatic plants; and

743 (F) agricultural products.

744 (b) "Biomass energy" does not include:

745 (i) black liquor; or

746 (ii) treated woods.

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

749 (i) distinct and identifiable; and

750 (ii) sold for one nonitemized price.

751 (b) "Bundled transaction" does not include:

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

755 (ii) the sale of real property;

756 (iii) the sale of services to real property;

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

758 (A) the tangible personal property:

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

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

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

762 (v) the retail sale of two services if:

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

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

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

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

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

771 (B) seller's sales price of the tangible personal property or product subject to taxation

under this chapter is de minimis; and

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

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

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

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

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

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

(A) packaging that:

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

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

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

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

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible 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 more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of

896 the ancillary service described in Subsection (29)(a).

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

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

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

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

904 (i) by a seller of:

905 (A) tangible personal property;

906 (B) a product transferred electronically; or

907 (C) services; and

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

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

912 (i) transportation;

913 (ii) shipping;

914 (iii) postage;

915 (iv) handling;

916 (v) crating; or

917 (vi) packing.

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

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

921 (a) is intended to supplement the diet;

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

923 (i) a vitamin;

924 (ii) a mineral;

925 (iii) an herb or other botanical;

926 (iv) an amino acid;

927 (v) a dietary substance for use by humans to supplement the diet by increasing the total
928 dietary intake; or

929 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
930 described in Subsections (34)(b)(i) through (v);

931 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

932 (A) tablet form;

933 (B) capsule form;

934 (C) powder form;

935 (D) softgel form;

936 (E) gelcap form; or

937 (F) liquid form; or

938 (ii) if the product is not intended for ingestion in a form described in Subsections

939 (34)(c)(i)(A) through (F), is not represented:

940 (A) as conventional food; and

941 (B) for use as a sole item of:

942 (I) a meal; or

943 (II) the diet; and

944 (d) is required to be labeled as a dietary supplement:

945 (i) identifiable by the "Supplemental Facts" box found on the label; and

946 (ii) as required by 21 C.F.R. Sec. 101.36.

947 (35) "Digital audio-visual work" means a series of related images which, when shown
948 in succession, imparts an impression of motion, together with accompanying sounds, if any.

949 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
950 musical, spoken, or other sounds.

951 (b) "Digital audio work" includes a ringtone.

952 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
953 sense as a book.

954 (38) (a) "Direct mail" means printed material delivered or distributed by United States
955 mail or other delivery service:

956 (i) to:

957 (A) a mass audience; or

(B) addressees on a mailing list provided:

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

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

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

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

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

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

(a) address information; or

(b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

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

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

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

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

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

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

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

- 989 (a) located in the state;
990 (b) with respect to which 51% or more of the manufacturing activities of the facility
991 consist of manufacturing component parts of drilling equipment;
992 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
993 manufacturing process; and
994 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
995 manufacturing process.

996 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
997 compound, substance, or preparation that is:

998 (i) recognized in:

999 (A) the official United States Pharmacopoeia;

1000 (B) the official Homeopathic Pharmacopoeia of the United States;

1001 (C) the official National Formulary; or

1002 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

1003 (ii) intended for use in the:

1004 (A) diagnosis of disease;

1005 (B) cure of disease;

1006 (C) mitigation of disease;

1007 (D) treatment of disease; or

1008 (E) prevention of disease; or

1009 (iii) intended to affect:

1010 (A) the structure of the body; or

1011 (B) any function of the body.

1012 (b) "Drug" does not include:

1013 (i) food and food ingredients;

1014 (ii) a dietary supplement;

1015 (iii) an alcoholic beverage; or

1016 (iv) a prosthetic device.

1017 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
1018 equipment that:

1019 (i) can withstand repeated use;

1020 (ii) is primarily and customarily used to serve a medical purpose;
1021 (iii) generally is not useful to a person in the absence of illness or injury; and
1022 (iv) is not worn in or on the body.

1023 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1024 equipment described in Subsection (43)(a).

1025 (c) "Durable medical equipment" does not include mobility enhancing equipment.

1026 (44) "Electronic" means:

1027 (a) relating to technology; and
1028 (b) having:

1029 (i) electrical capabilities;
1030 (ii) digital capabilities;
1031 (iii) magnetic capabilities;
1032 (iv) wireless capabilities;
1033 (v) optical capabilities;
1034 (vi) electromagnetic capabilities; or
1035 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

1036 (45) "Electronic financial payment service" means an establishment:

1037 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
1038 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
1039 federal Executive Office of the President, Office of Management and Budget; and
1040 (b) that performs electronic financial payment services.

1041 (46) "Employee" is as defined in Section [59-10-401](#).

1042 (47) "Fixed guideway" means a public transit facility that uses and occupies:

1043 (a) rail for the use of public transit; or
1044 (b) a separate right-of-way for the use of public transit.

1045 (48) "Fixed wing turbine powered aircraft" means an aircraft that:

1046 (a) is powered by turbine engines;
1047 (b) operates on jet fuel; and
1048 (c) has wings that are permanently attached to the fuselage of the aircraft.

1049 (49) "Fixed wireless service" means a telecommunications service that provides radio
1050 communication between fixed points.

- 1051 (50) (a) "Food and food ingredients" means substances:
1052 (i) regardless of whether the substances are in:
1053 (A) liquid form;
1054 (B) concentrated form;
1055 (C) solid form;
1056 (D) frozen form;
1057 (E) dried form; or
1058 (F) dehydrated form; and
1059 (ii) that are:
1060 (A) sold for:
1061 (I) ingestion by humans; or
1062 (II) chewing by humans; and
1063 (B) consumed for the substance's:
1064 (I) taste; or
1065 (II) nutritional value.
1066 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
1067 (c) "Food and food ingredients" does not include:
1068 (i) an alcoholic beverage;
1069 (ii) tobacco; or
1070 (iii) prepared food.
1071 (51) (a) "Fundraising sales" means sales:
1072 (i) (A) made by a school; or
1073 (B) made by a school student;
1074 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1075 materials, or provide transportation; and
1076 (iii) that are part of an officially sanctioned school activity.
1077 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
1078 means a school activity:
1079 (i) that is conducted in accordance with a formal policy adopted by the school or school
1080 district governing the authorization and supervision of fundraising activities;
1081 (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 electricity.

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

1113 other fuels:

1114 (a) in mining or extraction of minerals;

1115 (b) in agricultural operations to produce an agricultural product up to the time of

1116 harvest or placing the agricultural product into a storage facility, including:

1117 (i) commercial greenhouses;

1118 (ii) irrigation pumps;

1119 (iii) farm machinery;

1120 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered

1121 under Title 41, Chapter 1a, Part 2, Registration; and

1122 (v) other farming activities;

1123 (c) in manufacturing tangible personal property at an establishment described in SIC

1124 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

1125 Executive Office of the President, Office of Management and Budget;

1126 (d) by a scrap recycler if:

1127 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1128 one or more of the following items into prepared grades of processed materials for use in new

1129 products:

1130 (A) iron;

1131 (B) steel;

1132 (C) nonferrous metal;

1133 (D) paper;

1134 (E) glass;

1135 (F) plastic;

1136 (G) textile; or

1137 (H) rubber; and

1138 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

1139 nonrecycled materials; or

1140 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

1141 cogeneration facility as defined in Section 54-2-1.

1142 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge

1143 for installing:

- 1144 (i) tangible personal property; or
1145 (ii) a product transferred electronically.
1146 (b) "Installation charge" does not include a charge for:
1147 (i) repairs or renovations of:
1148 (A) tangible personal property; or
1149 (B) a product transferred electronically; or
1150 (ii) attaching tangible personal property or a product transferred electronically:
1151 (A) to other tangible personal property; and
1152 (B) as part of a manufacturing or fabrication process.
1153 (58) "Institution of higher education" means an institution of higher education listed in
1154 Section 53B-2-101.
- 1155 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1156 personal property or a product transferred electronically for:
1157 (i) (A) a fixed term; or
1158 (B) an indeterminate term; and
1159 (ii) consideration.
1160 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1161 amount of consideration may be increased or decreased by reference to the amount realized
1162 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1163 Code.
- 1164 (c) "Lease" or "rental" does not include:
1165 (i) a transfer of possession or control of property under a security agreement or
1166 deferred payment plan that requires the transfer of title upon completion of the required
1167 payments;
1168 (ii) a transfer of possession or control of property under an agreement that requires the
1169 transfer of title:
1170 (A) upon completion of required payments; and
1171 (B) if the payment of an option price does not exceed the greater of:
1172 (I) \$100; or
1173 (II) 1% of the total required payments; or
1174 (iii) providing tangible personal property along with an operator for a fixed period of

1175 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1176 designed.

1177 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
1178 perform as designed if the operator's duties exceed the:

- 1179 (i) set-up of tangible personal property;
1180 (ii) maintenance of tangible personal property; or
1181 (iii) inspection of tangible personal property.

1182 (60) "Life science establishment" means an establishment in this state that is classified
1183 under the following NAICS codes of the 2007 North American Industry Classification System
1184 of the federal Executive Office of the President, Office of Management and Budget:

- 1185 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
1186 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

1187 Manufacturing; or

- 1188 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1189 (61) "Life science research and development facility" means a facility owned, leased,
1190 or rented by a life science establishment if research and development is performed in 51% or
1191 more of the total area of the facility.

1192 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1193 if the tangible storage media is not physically transferred to the purchaser.

1194 (63) "Local taxing jurisdiction" means a:

- 1195 (a) county that is authorized to impose an agreement sales and use tax;
1196 (b) city that is authorized to impose an agreement sales and use tax; or
1197 (c) town that is authorized to impose an agreement sales and use tax.

1198 (64) "Manufactured home" is as defined in Section [15A-1-302](#).

1199 (65) "Manufacturing facility" means:

- 1200 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
1201 Industrial Classification Manual of the federal Executive Office of the President, Office of
1202 Management and Budget;
1203 (b) a scrap recycler if:
1204 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1205 one or more of the following items into prepared grades of processed materials for use in new

1206 products:

1207 (A) iron;

1208 (B) steel;

1209 (C) nonferrous metal;

1210 (D) paper;

1211 (E) glass;

1212 (F) plastic;

1213 (G) textile; or

1214 (H) rubber; and

1215 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with

1216 nonrecycled materials; or

1217 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

1218 placed in service on or after May 1, 2006.

1219 (66) "Member of the immediate family of the producer" means a person who is related

1220 to a producer described in Subsection 59-12-104(20)(a) as a:

1221 (a) child or stepchild, regardless of whether the child or stepchild is:

1222 (i) an adopted child or adopted stepchild; or

1223 (ii) a foster child or foster stepchild;

1224 (b) grandchild or stepgrandchild;

1225 (c) grandparent or stepgrandparent;

1226 (d) nephew or stepnephew;

1227 (e) niece or stepniece;

1228 (f) parent or stepparent;

1229 (g) sibling or stepsibling;

1230 (h) spouse;

1231 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

1232 or

1233 (j) person similar to a person described in Subsections (66)(a) through (i) as

1234 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1235 Administrative Rulemaking Act.

1236 (67) "Mobile home" is as defined in Section 15A-1-302.

1237 (68) "Mobile telecommunications service" is as defined in the Mobile
1238 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1239 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
1240 the technology used, if:

- 1241 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1242 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1243 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
1244 described in Subsection (69)(a)(ii) are not fixed.

1245 (b) "Mobile wireless service" includes a telecommunications service that is provided
1246 by a commercial mobile radio service provider.

1247 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1248 commission may by rule define "commercial mobile radio service provider."

1249 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
1250 means equipment that is:

1251 (i) primarily and customarily used to provide or increase the ability to move from one
1252 place to another;

1253 (ii) appropriate for use in a:

1254 (A) home; or

1255 (B) motor vehicle; and

1256 (iii) not generally used by persons with normal mobility.

1257 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1258 the equipment described in Subsection (70)(a).

1259 (c) "Mobility enhancing equipment" does not include:

1260 (i) a motor vehicle;

1261 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1262 vehicle manufacturer;

1263 (iii) durable medical equipment; or

1264 (iv) a prosthetic device.

1265 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
1266 certified service provider as the seller's agent to perform all of the seller's sales and use tax
1267 functions for agreement sales and use taxes other than the seller's obligation under Section

- 1268 59-12-124 to remit a tax on the seller's own purchases.
- 1269 (72) "Model 2 seller" means a seller registered under the agreement that:
- 1270 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 1271 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 1272 (b) retains responsibility for remitting all of the sales tax:
- 1273 (i) collected by the seller; and
- 1274 (ii) to the appropriate local taxing jurisdiction.
- 1275 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 1276 the agreement that has:
- 1277 (i) sales in at least five states that are members of the agreement;
- 1278 (ii) total annual sales revenues of at least \$500,000,000;
- 1279 (iii) a proprietary system that calculates the amount of tax:
- 1280 (A) for an agreement sales and use tax; and
- 1281 (B) due to each local taxing jurisdiction; and
- 1282 (iv) entered into a performance agreement with the governing board of the agreement.
- 1283 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
- 1284 sellers using the same proprietary system.
- 1285 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 1286 model 1 seller, model 2 seller, or model 3 seller.
- 1287 (75) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 1288 (76) "Motor vehicle" is as defined in Section 41-1a-102.
- 1289 (77) "Oil sands" means impregnated bituminous sands that:
- 1290 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 1291 other hydrocarbons, or otherwise treated;
- 1292 (b) yield mixtures of liquid hydrocarbon; and
- 1293 (c) require further processing other than mechanical blending before becoming finished
- 1294 petroleum products.
- 1295 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 1296 material that yields petroleum upon heating and distillation.
- 1297 (79) "Optional computer software maintenance contract" means a computer software
- 1298 maintenance contract that a customer is not obligated to purchase as a condition to the retail

1299 sale of computer software.

1300 (80) (a) "Other fuels" means products that burn independently to produce heat or
1301 energy.

1302 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1303 personal property.

1304 (81) (a) "Paging service" means a telecommunications service that provides
1305 transmission of a coded radio signal for the purpose of activating a specific pager.

1306 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
1307 includes a transmission by message or sound.

1308 (82) "Pawnbroker" is as defined in Section 13-32a-102.

1309 (83) "Pawn transaction" is as defined in Section 13-32a-102.

1310 (84) (a) "Permanently attached to real property" means that for tangible personal
1311 property attached to real property:

1312 (i) the attachment of the tangible personal property to the real property:

1313 (A) is essential to the use of the tangible personal property; and

1314 (B) suggests that the tangible personal property will remain attached to the real
1315 property in the same place over the useful life of the tangible personal property; or

1316 (ii) if the tangible personal property is detached from the real property, the detachment
1317 would:

1318 (A) cause substantial damage to the tangible personal property; or

1319 (B) require substantial alteration or repair of the real property to which the tangible
1320 personal property is attached.

1321 (b) "Permanently attached to real property" includes:

1322 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1323 (A) essential to the operation of the tangible personal property; and

1324 (B) attached only to facilitate the operation of the tangible personal property;

1325 (ii) a temporary detachment of tangible personal property from real property for a
1326 repair or renovation if the repair or renovation is performed where the tangible personal
1327 property and real property are located; or

1328 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1329 Subsection (84)(c)(iii) or (iv).

1330 (c) "Permanently attached to real property" does not include:
1331 (i) the attachment of portable or movable tangible personal property to real property if
1332 that portable or movable tangible personal property is attached to real property only for:
1333 (A) convenience;
1334 (B) stability; or
1335 (C) for an obvious temporary purpose;
1336 (ii) the detachment of tangible personal property from real property except for the
1337 detachment described in Subsection (84)(b)(ii);
1338 (iii) an attachment of the following tangible personal property to real property if the
1339 attachment to real property is only through a line that supplies water, electricity, gas,
1340 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1341 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
1342 (A) a computer;
1343 (B) a telephone;
1344 (C) a television; or
1345 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
1346 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1347 Administrative Rulemaking Act; or
1348 (iv) an item listed in Subsection (125)(c).
1349 (85) "Person" includes any individual, firm, partnership, joint venture, association,
1350 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1351 municipality, district, or other local governmental entity of the state, or any group or
1352 combination acting as a unit.
1353 (86) "Place of primary use":
1354 (a) for telecommunications service other than mobile telecommunications service,
1355 means the street address representative of where the customer's use of the telecommunications
1356 service primarily occurs, which shall be:
1357 (i) the residential street address of the customer; or
1358 (ii) the primary business street address of the customer; or
1359 (b) for mobile telecommunications service, is as defined in the Mobile
1360 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

- 1361 (87) (a) "Postpaid calling service" means a telecommunications service a person
1362 obtains by making a payment on a call-by-call basis:
- 1363 (i) through the use of a:
- 1364 (A) bank card;
- 1365 (B) credit card;
- 1366 (C) debit card; or
- 1367 (D) travel card; or
- 1368 (ii) by a charge made to a telephone number that is not associated with the origination
1369 or termination of the telecommunications service.
- 1370 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1371 service, that would be a prepaid wireless calling service if the service were exclusively a
1372 telecommunications service.
- 1373 (88) "Postproduction" means an activity related to the finishing or duplication of a
1374 medium described in Subsection [59-12-104](#)(54)(a).
- 1375 (89) "Prepaid calling service" means a telecommunications service:
- 1376 (a) that allows a purchaser access to telecommunications service that is exclusively
1377 telecommunications service;
- 1378 (b) that:
- 1379 (i) is paid for in advance; and
- 1380 (ii) enables the origination of a call using an:
- 1381 (A) access number; or
- 1382 (B) authorization code;
- 1383 (c) that is dialed:
- 1384 (i) manually; or
- 1385 (ii) electronically; and
- 1386 (d) sold in predetermined units or dollars that decline:
- 1387 (i) by a known amount; and
- 1388 (ii) with use.
- 1389 (90) "Prepaid wireless calling service" means a telecommunications service:
- 1390 (a) that provides the right to utilize:
- 1391 (i) mobile wireless service; and

- 1392 (ii) other service that is not a telecommunications service, including:
1393 (A) the download of a product transferred electronically;
1394 (B) a content service; or
1395 (C) an ancillary service;
1396 (b) that:
1397 (i) is paid for in advance; and
1398 (ii) enables the origination of a call using an:
1399 (A) access number; or
1400 (B) authorization code;
1401 (c) that is dialed:
1402 (i) manually; or
1403 (ii) electronically; and
1404 (d) sold in predetermined units or dollars that decline:
1405 (i) by a known amount; and
1406 (ii) with use.
1407 (91) (a) "Prepared food" means:
1408 (i) food:
1409 (A) sold in a heated state; or
1410 (B) heated by a seller;
1411 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1412 item; or
1413 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
1414 by the seller, including a:
1415 (A) plate;
1416 (B) knife;
1417 (C) fork;
1418 (D) spoon;
1419 (E) glass;
1420 (F) cup;
1421 (G) napkin; or
1422 (H) straw.

1423 (b) "Prepared food" does not include:
1424 (i) food that a seller only:
1425 (A) cuts;
1426 (B) repackages; or
1427 (C) pasteurizes; or
1428 (ii) (A) the following:
1429 (I) raw egg;
1430 (II) raw fish;
1431 (III) raw meat;
1432 (IV) raw poultry; or
1433 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
1434 and
1435 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1436 Food and Drug Administration's Food Code that a consumer cook the items described in
1437 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
1438 (iii) the following if sold without eating utensils provided by the seller:
1439 (A) food and food ingredients sold by a seller if the seller's proper primary
1440 classification under the 2002 North American Industry Classification System of the federal
1441 Executive Office of the President, Office of Management and Budget, is manufacturing in
1442 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1443 Manufacturing;
1444 (B) food and food ingredients sold in an unheated state:
1445 (I) by weight or volume; and
1446 (II) as a single item; or
1447 (C) a bakery item, including:
1448 (I) a bagel;
1449 (II) a bar;
1450 (III) a biscuit;
1451 (IV) bread;
1452 (V) a bun;
1453 (VI) a cake;

1454 (VII) a cookie;
1455 (VIII) a croissant;
1456 (IX) a danish;
1457 (X) a donut;
1458 (XI) a muffin;
1459 (XII) a pastry;
1460 (XIII) a pie;
1461 (XIV) a roll;
1462 (XV) a tart;
1463 (XVI) a torte; or
1464 (XVII) a tortilla.
1465 (c) An eating utensil provided by the seller does not include the following used to
1466 transport the food:
1467 (i) a container; or
1468 (ii) packaging.
1469 (92) "Prescription" means an order, formula, or recipe that is issued:
1470 (a) (i) orally;
1471 (ii) in writing;
1472 (iii) electronically; or
1473 (iv) by any other manner of transmission; and
1474 (b) by a licensed practitioner authorized by the laws of a state.
1475 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
1476 software" means computer software that is not designed and developed:
1477 (i) by the author or other creator of the computer software; and
1478 (ii) to the specifications of a specific purchaser.
1479 (b) "Prewritten computer software" includes:
1480 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1481 software is not designed and developed:
1482 (A) by the author or other creator of the computer software; and
1483 (B) to the specifications of a specific purchaser;
1484 (ii) computer software designed and developed by the author or other creator of the

computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

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

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

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

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"

means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

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

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

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

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

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

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not 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 "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment"

under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or

1547 printed matter, other than a photocopy:

1548 (i) regardless of:

1549 (A) characteristics;

1550 (B) copyright;

1551 (C) form;

1552 (D) format;

1553 (E) method of reproduction; or

1554 (F) source; and

1555 (ii) made available in printed or electronic format.

1556 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1557 commission may by rule define the term "photocopy."

1558 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1559 (i) valued in money; and

1560 (ii) for which tangible personal property, a product transferred electronically, or

1561 services are:

1562 (A) sold;

1563 (B) leased; or

1564 (C) rented.

1565 (b) "Purchase price" and "sales price" include:

1566 (i) the seller's cost of the tangible personal property, a product transferred

1567 electronically, or services sold;

1568 (ii) expenses of the seller, including:

1569 (A) the cost of materials used;

1570 (B) a labor cost;

1571 (C) a service cost;

1572 (D) interest;

1573 (E) a loss;

1574 (F) the cost of transportation to the seller; or

1575 (G) a tax imposed on the seller;

1576 (iii) a charge by the seller for any service necessary to complete the sale; or

1577 (iv) consideration a seller receives from a person other than the purchaser if:

1578 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1579 and
1580 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
1581 price reduction or discount on the sale;
1582 (B) the seller has an obligation to pass the price reduction or discount through to the
1583 purchaser;
1584 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1585 the seller at the time of the sale to the purchaser; and
1586 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1587 seller to claim a price reduction or discount; and
1588 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1589 coupon, or other documentation with the understanding that the person other than the seller
1590 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
1591 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1592 organization allowed a price reduction or discount, except that a preferred customer card that is
1593 available to any patron of a seller does not constitute membership in a group or organization
1594 allowed a price reduction or discount; or
1595 (III) the price reduction or discount is identified as a third party price reduction or
1596 discount on the:
1597 (Aa) invoice the purchaser receives; or
1598 (Bb) certificate, coupon, or other documentation the purchaser presents.
1599 (c) "Purchase price" and "sales price" do not include:
1600 (i) a discount:
1601 (A) in a form including:
1602 (I) cash;
1603 (II) term; or
1604 (III) coupon;
1605 (B) that is allowed by a seller;
1606 (C) taken by a purchaser on a sale; and
1607 (D) that is not reimbursed by a third party; or
1608 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), the following if

separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

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

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

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

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

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

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

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

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

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

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

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

1640 (i) the establishment; or
1641 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1642 establishment.

1643 (102) "Regularly rented" means:
1644 (a) rented to a guest for value three or more times during a calendar year; or
1645 (b) advertised or held out to the public as a place that is regularly rented to guests for
1646 value.

1647 (103) "Rental" is as defined in Subsection (59).

1648 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1649 personal property" means:
1650 (i) a repair or renovation of tangible personal property that is not permanently attached
1651 to real property; or
1652 (ii) attaching tangible personal property or a product transferred electronically to other
1653 tangible personal property or detaching tangible personal property or a product transferred
1654 electronically from other tangible personal property if:
1655 (A) the other tangible personal property to which the tangible personal property or
1656 product transferred electronically is attached or from which the tangible personal property or
1657 product transferred electronically is detached is not permanently attached to real property; and
1658 (B) the attachment of tangible personal property or a product transferred electronically
1659 to other tangible personal property or detachment of tangible personal property or a product
1660 transferred electronically from other tangible personal property is made in conjunction with a
1661 repair or replacement of tangible personal property or a product transferred electronically.

1662 (b) "Repairs or renovations of tangible personal property" does not include:
1663 (i) attaching prewritten computer software to other tangible personal property if the
1664 other tangible personal property to which the prewritten computer software is attached is not
1665 permanently attached to real property; or
1666 (ii) detaching prewritten computer software from other tangible personal property if the
1667 other tangible personal property from which the prewritten computer software is detached is
1668 not permanently attached to real property.

1669 (105) "Research and development" means the process of inquiry or experimentation
1670 aimed at the discovery of facts, devices, technologies, or applications and the process of

1671 preparing those devices, technologies, or applications for marketing.

1672 (106) (a) "Residential telecommunications services" means a telecommunications
1673 service or an ancillary service that is provided to an individual for personal use:

1674 (i) at a residential address; or

1675 (ii) at an institution, including a nursing home or a school, if the telecommunications
1676 service or ancillary service is provided to and paid for by the individual residing at the
1677 institution rather than the institution.

1678 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1679 (i) apartment; or

1680 (ii) other individual dwelling unit.

1681 (107) "Residential use" means the use in or around a home, apartment building,
1682 sleeping quarters, and similar facilities or accommodations.

1683 (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1684 than:

1685 (a) resale;

1686 (b) sublease; or

1687 (c) subrent.

1688 (109) (a) "Retailer" means any person engaged in a regularly organized business in
1689 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1690 who is selling to the user or consumer and not for resale.

1691 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1692 engaged in the business of selling to users or consumers within the state.

1693 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1694 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1695 Subsection 59-12-103(1), for consideration.

1696 (b) "Sale" includes:

1697 (i) installment and credit sales;

1698 (ii) any closed transaction constituting a sale;

1699 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1700 chapter;

1701 (iv) any transaction if the possession of property is transferred but the seller retains the

1702 title as security for the payment of the price; and
1703 (v) any transaction under which right to possession, operation, or use of any article of
1704 tangible personal property is granted under a lease or contract and the transfer of possession
1705 would be taxable if an outright sale were made.
1706 (111) "Sale at retail" is as defined in Subsection (108).
1707 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1708 personal property or a product transferred electronically that is subject to a tax under this
1709 chapter is transferred:
1710 (a) by a purchaser-lessee;
1711 (b) to a lessor;
1712 (c) for consideration; and
1713 (d) if:
1714 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1715 of the tangible personal property or product transferred electronically;
1716 (ii) the sale of the tangible personal property or product transferred electronically to the
1717 lessor is intended as a form of financing:
1718 (A) for the tangible personal property or product transferred electronically; and
1719 (B) to the purchaser-lessee; and
1720 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1721 is required to:
1722 (A) capitalize the tangible personal property or product transferred electronically for
1723 financial reporting purposes; and
1724 (B) account for the lease payments as payments made under a financing arrangement.
1725 (113) "Sales price" is as defined in Subsection (99).
1726 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1727 amounts charged by a school:
1728 (i) sales that are directly related to the school's educational functions or activities
1729 including:
1730 (A) the sale of:
1731 (I) textbooks;
1732 (II) textbook fees;

1733 (III) laboratory fees;
1734 (IV) laboratory supplies; or
1735 (V) safety equipment;
1736 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1737 that:
1738 (I) a student is specifically required to wear as a condition of participation in a
1739 school-related event or school-related activity; and
1740 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1741 place of ordinary clothing;
1742 (C) sales of the following if the net or gross revenues generated by the sales are
1743 deposited into a school district fund or school fund dedicated to school meals:
1744 (I) food and food ingredients; or
1745 (II) prepared food; or
1746 (D) transportation charges for official school activities; or
1747 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1748 event or school-related activity.
1749 (b) "Sales relating to schools" does not include:
1750 (i) bookstore sales of items that are not educational materials or supplies;
1751 (ii) except as provided in Subsection (114)(a)(i)(B):
1752 (A) clothing;
1753 (B) clothing accessories or equipment;
1754 (C) protective equipment; or
1755 (D) sports or recreational equipment; or
1756 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1757 event or school-related activity if the amounts paid or charged are passed through to a person:
1758 (A) other than a:
1759 (I) school;
1760 (II) nonprofit organization authorized by a school board or a governing body of a
1761 private school to organize and direct a competitive secondary school activity; or
1762 (III) nonprofit association authorized by a school board or a governing body of a
1763 private school to organize and direct a competitive secondary school activity; and

1764 (B) that is required to collect sales and use taxes under this chapter.
1765 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1766 commission may make rules defining the term "passed through."
1767 (115) For purposes of this section and Section 59-12-104, "school":
1768 (a) means:
1769 (i) an elementary school or a secondary school that:
1770 (A) is a:
1771 (I) public school; or
1772 (II) private school; and
1773 (B) provides instruction for one or more grades kindergarten through 12; or
1774 (ii) a public school district; and
1775 (b) includes the Electronic High School as defined in Section 53A-15-1002.
1776 (116) "Seller" means a person that makes a sale, lease, or rental of:
1777 (a) tangible personal property;
1778 (b) a product transferred electronically; or
1779 (c) a service.
1780 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
1781 means tangible personal property or a product transferred electronically if the tangible personal
1782 property or product transferred electronically is:
1783 (i) used primarily in the process of:
1784 (A) (I) manufacturing a semiconductor;
1785 (II) fabricating a semiconductor; or
1786 (III) research or development of a:
1787 (Aa) semiconductor; or
1788 (Bb) semiconductor manufacturing process; or
1789 (B) maintaining an environment suitable for a semiconductor; or
1790 (ii) consumed primarily in the process of:
1791 (A) (I) manufacturing a semiconductor;
1792 (II) fabricating a semiconductor; or
1793 (III) research or development of a:
1794 (Aa) semiconductor; or

1795 (Bb) semiconductor manufacturing process; or
1796 (B) maintaining an environment suitable for a semiconductor.
1797 (b) "Semiconductor fabricating, processing, research, or development materials"
1798 includes:
1799 (i) parts used in the repairs or renovations of tangible personal property or a product
1800 transferred electronically described in Subsection (117)(a); or
1801 (ii) a chemical, catalyst, or other material used to:
1802 (A) produce or induce in a semiconductor a:
1803 (I) chemical change; or
1804 (II) physical change;
1805 (B) remove impurities from a semiconductor; or
1806 (C) improve the marketable condition of a semiconductor.
1807 (118) "Senior citizen center" means a facility having the primary purpose of providing
1808 services to the aged as defined in Section [62A-3-101](#).
1809 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
1810 means tangible personal property that:
1811 (i) a business that provides accommodations and services described in Subsection
1812 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
1813 to a purchaser;
1814 (ii) is intended to be consumed by the purchaser; and
1815 (iii) is:
1816 (A) included in the purchase price of the accommodations and services; and
1817 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1818 to the purchaser.
1819 (b) "Short-term lodging consumable" includes:
1820 (i) a beverage;
1821 (ii) a brush or comb;
1822 (iii) a cosmetic;
1823 (iv) a hair care product;
1824 (v) lotion;
1825 (vi) a magazine;

1826 (vii) makeup;
1827 (viii) a meal;
1828 (ix) mouthwash;
1829 (x) nail polish remover;
1830 (xi) a newspaper;
1831 (xii) a notepad;
1832 (xiii) a pen;
1833 (xiv) a pencil;
1834 (xv) a razor;
1835 (xvi) saline solution;
1836 (xvii) a sewing kit;
1837 (xviii) shaving cream;
1838 (xix) a shoe shine kit;
1839 (xx) a shower cap;
1840 (xxi) a snack item;
1841 (xxii) soap;
1842 (xxiii) toilet paper;
1843 (xxiv) a toothbrush;
1844 (xxv) toothpaste; or
1845 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
1846 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1847 Rulemaking Act.
1848 (c) "Short-term lodging consumable" does not include:
1849 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1850 property to be reused; or
1851 (ii) a product transferred electronically.
1852 (120) "Simplified electronic return" means the electronic return:
1853 (a) described in Section 318(C) of the agreement; and
1854 (b) approved by the governing board of the agreement.
1855 (121) "Solar energy" means the sun used as the sole source of energy for producing
1856 electricity.

1857 (122) (a) "Sports or recreational equipment" means an item:
1858 (i) designed for human use; and
1859 (ii) that is:
1860 (A) worn in conjunction with:
1861 (I) an athletic activity; or
1862 (II) a recreational activity; and
1863 (B) not suitable for general use.
1864 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1865 commission shall make rules:
1866 (i) listing the items that constitute "sports or recreational equipment"; and
1867 (ii) that are consistent with the list of items that constitute "sports or recreational
1868 equipment" under the agreement.
1869 (123) "State" means the state of Utah, its departments, and agencies.
1870 (124) "Storage" means any keeping or retention of tangible personal property or any
1871 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1872 sale in the regular course of business.
1873 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
1874 means personal property that:
1875 (i) may be:
1876 (A) seen;
1877 (B) weighed;
1878 (C) measured;
1879 (D) felt; or
1880 (E) touched; or
1881 (ii) is in any manner perceptible to the senses.
1882 (b) "Tangible personal property" includes:
1883 (i) electricity;
1884 (ii) water;
1885 (iii) gas;
1886 (iv) steam; or
1887 (v) prewritten computer software, regardless of the manner in which the prewritten

1888 computer software is transferred.

1889 (c) "Tangible personal property" includes the following regardless of whether the item
1890 is attached to real property:

1891 (i) a dishwasher;

1892 (ii) a dryer;

1893 (iii) a freezer;

1894 (iv) a microwave;

1895 (v) a refrigerator;

1896 (vi) a stove;

1897 (vii) a washer; or

1898 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
1899 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1900 Rulemaking Act.

1901 (d) "Tangible personal property" does not include a product that is transferred
1902 electronically.

1903 (e) "Tangible personal property" does not include the following if attached to real
1904 property, regardless of whether the attachment to real property is only through a line that
1905 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1906 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1907 Rulemaking Act:

1908 (i) a hot water heater;

1909 (ii) a water filtration system; or

1910 (iii) a water softener system.

1911 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1912 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
1913 primarily to enable or facilitate one or more of the following to function:

1914 (i) telecommunications switching or routing equipment, machinery, or software; or

1915 (ii) telecommunications transmission equipment, machinery, or software.

1916 (b) The following apply to Subsection (126)(a):

1917 (i) a pole;

1918 (ii) software;

- 1919 (iii) a supplementary power supply;
1920 (iv) temperature or environmental equipment or machinery;
1921 (v) test equipment;
1922 (vi) a tower; or
1923 (vii) equipment, machinery, or software that functions similarly to an item listed in
1924 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
1925 accordance with Subsection (126)(c).
- 1926 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1927 commission may by rule define what constitutes equipment, machinery, or software that
1928 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).
- 1929 (127) "Telecommunications equipment, machinery, or software required for 911
1930 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1931 Sec. 20.18.
- 1932 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1933 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1934 one or more of the following, regardless of whether the equipment, machinery, or software is
1935 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1936 following:
- 1937 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1938 (b) telecommunications switching or routing equipment, machinery, or software; or
1939 (c) telecommunications transmission equipment, machinery, or software.
- 1940 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
1941 transmission of audio, data, video, voice, or any other information or signal to a point, or
1942 among or between points.
- 1943 (b) "Telecommunications service" includes:
- 1944 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1945 processing application is used to act:
- 1946 (A) on the code, form, or protocol of the content;
1947 (B) for the purpose of electronic conveyance, routing, or transmission; and
1948 (C) regardless of whether the service:
1949 (I) is referred to as voice over Internet protocol service; or

1950 (II) is classified by the Federal Communications Commission as enhanced or value
1951 added;

1952 (ii) an 800 service;

1953 (iii) a 900 service;

1954 (iv) a fixed wireless service;

1955 (v) a mobile wireless service;

1956 (vi) a postpaid calling service;

1957 (vii) a prepaid calling service;

1958 (viii) a prepaid wireless calling service; or

1959 (ix) a private communications service.

1960 (c) "Telecommunications service" does not include:

1961 (i) advertising, including directory advertising;

1962 (ii) an ancillary service;

1963 (iii) a billing and collection service provided to a third party;

1964 (iv) a data processing and information service if:

1965 (A) the data processing and information service allows data to be:

1966 (I) (Aa) acquired;

1967 (Bb) generated;

1968 (Cc) processed;

1969 (Dd) retrieved; or

1970 (Ee) stored; and

1971 (II) delivered by an electronic transmission to a purchaser; and

1972 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1973 or information;

1974 (v) installation or maintenance of the following on a customer's premises:

1975 (A) equipment; or

1976 (B) wiring;

1977 (vi) Internet access service;

1978 (vii) a paging service;

1979 (viii) a product transferred electronically, including:

1980 (A) music;

1981 (B) reading material;
1982 (C) a ring tone;
1983 (D) software; or
1984 (E) video;
1985 (ix) a radio and television audio and video programming service:
1986 (A) regardless of the medium; and
1987 (B) including:
1988 (I) furnishing conveyance, routing, or transmission of a television audio and video
1989 programming service by a programming service provider;
1990 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1991 (III) audio and video programming services delivered by a commercial mobile radio
1992 service provider as defined in 47 C.F.R. Sec. 20.3;
1993 (x) a value-added nonvoice data service; or
1994 (xi) tangible personal property.
1995 (130) (a) "Telecommunications service provider" means a person that:
1996 (i) owns, controls, operates, or manages a telecommunications service; and
1997 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
1998 resale to any person of the telecommunications service.
1999 (b) A person described in Subsection (130)(a) is a telecommunications service provider
2000 whether or not the Public Service Commission of Utah regulates:
2001 (i) that person; or
2002 (ii) the telecommunications service that the person owns, controls, operates, or
2003 manages.
2004 (131) (a) "Telecommunications switching or routing equipment, machinery, or
2005 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
2006 primarily for switching or routing:
2007 (i) an ancillary service;
2008 (ii) data communications;
2009 (iii) voice communications; or
2010 (iv) telecommunications service.
2011 (b) The following apply to Subsection (131)(a):

2012 (i) a bridge;
2013 (ii) a computer;
2014 (iii) a cross connect;
2015 (iv) a modem;
2016 (v) a multiplexer;
2017 (vi) plug in circuitry;
2018 (vii) a router;
2019 (viii) software;
2020 (ix) a switch; or
2021 (x) equipment, machinery, or software that functions similarly to an item listed in
2022 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
2023 accordance with Subsection (131)(c).
2024 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2025 commission may by rule define what constitutes equipment, machinery, or software that
2026 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).
2027 (132) (a) "Telecommunications transmission equipment, machinery, or software"
2028 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
2029 sending, receiving, or transporting:
2030 (i) an ancillary service;
2031 (ii) data communications;
2032 (iii) voice communications; or
2033 (iv) telecommunications service.
2034 (b) The following apply to Subsection (132)(a):
2035 (i) an amplifier;
2036 (ii) a cable;
2037 (iii) a closure;
2038 (iv) a conduit;
2039 (v) a controller;
2040 (vi) a duplexer;
2041 (vii) a filter;
2042 (viii) an input device;

- 2043 (ix) an input/output device;
2044 (x) an insulator;
2045 (xi) microwave machinery or equipment;
2046 (xii) an oscillator;
2047 (xiii) an output device;
2048 (xiv) a pedestal;
2049 (xv) a power converter;
2050 (xvi) a power supply;
2051 (xvii) a radio channel;
2052 (xviii) a radio receiver;
2053 (xix) a radio transmitter;
2054 (xx) a repeater;
2055 (xxi) software;
2056 (xxii) a terminal;
2057 (xxiii) a timing unit;
2058 (xxiv) a transformer;
2059 (xxv) a wire; or
2060 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2061 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
2062 accordance with Subsection (132)(c).
- 2063 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2064 commission may by rule define what constitutes equipment, machinery, or software that
2065 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).
- 2066 (133) (a) "Textbook for a higher education course" means a textbook or other printed
2067 material that is required for a course:
- 2068 (i) offered by an institution of higher education; and
2069 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2070 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 2071 (134) "Tobacco" means:
2072 (a) a cigarette;
2073 (b) a cigar;

2074 (c) chewing tobacco;

2075 (d) pipe tobacco; or

2076 (e) any other item that contains tobacco.

2077 (135) "Unassisted amusement device" means an amusement device, skill device, or
2078 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2079 the amusement device, skill device, or ride device.

2080 (136) (a) "Use" means the exercise of any right or power over tangible personal
2081 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2082 incident to the ownership or the leasing of that tangible personal property, product transferred
2083 electronically, or service.

2084 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2085 property, a product transferred electronically, or a service in the regular course of business and
2086 held for resale.

2087 (137) "Value-added nonvoice data service" means a service:

2088 (a) that otherwise meets the definition of a telecommunications service except that a
2089 computer processing application is used to act primarily for a purpose other than conveyance,
2090 routing, or transmission; and

2091 (b) with respect to which a computer processing application is used to act on data or
2092 information:

2093 (i) code;

2094 (ii) content;

2095 (iii) form; or

2096 (iv) protocol.

2097 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
2098 required to be titled, registered, or titled and registered:

2099 (i) an aircraft as defined in Section 72-10-102;

2100 (ii) a vehicle as defined in Section 41-1a-102;

2101 (iii) an off-highway vehicle as defined in Section 41-22-2; or

2102 (iv) a vessel as defined in Section 41-1a-102.

2103 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2104 (i) a vehicle described in Subsection (138)(a); or

- 2105 (ii) (A) a locomotive;
2106 (B) a freight car;
2107 (C) railroad work equipment; or
2108 (D) other railroad rolling stock.
- 2109 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2110 exchanging a vehicle as defined in Subsection (138).
- 2111 (140) (a) "Vertical service" means an ancillary service that:
2112 (i) is offered in connection with one or more telecommunications services; and
2113 (ii) offers an advanced calling feature that allows a customer to:
2114 (A) identify a caller; and
2115 (B) manage multiple calls and call connections.
- 2116 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2117 conference bridging service.
- 2118 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
2119 receive, send, or store a recorded message.
- 2120 (b) "Voice mail service" does not include a vertical service that a customer is required
2121 to have in order to utilize a voice mail service.
- 2122 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
2123 facility that generates electricity:
2124 (i) using as the primary source of energy waste materials that would be placed in a
2125 landfill or refuse pit if it were not used to generate electricity, including:
2126 (A) tires;
2127 (B) waste coal;
2128 (C) oil shale; or
2129 (D) municipal solid waste; and
2130 (ii) in amounts greater than actually required for the operation of the facility.
- 2131 (b) "Waste energy facility" does not include a facility that incinerates:
2132 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
2133 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2134 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 2135 (144) "Wind energy" means wind used as the sole source of energy to produce

2136 electricity.

2137 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2138 location by the United States Postal Service.

2139 Section 7. Section **59-12-103** is amended to read:

2140 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2141 **tax revenues.**

2142 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2143 charged for the following transactions:

2144 (a) retail sales of tangible personal property made within the state;

2145 (b) amounts paid for:

2146 (i) telecommunications service, other than mobile telecommunications service, that
2147 originates and terminates within the boundaries of this state;

2148 (ii) mobile telecommunications service that originates and terminates within the
2149 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2150 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2151 (iii) an ancillary service associated with a:

2152 (A) telecommunications service described in Subsection (1)(b)(i); or

2153 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2154 (c) sales of the following for commercial use:

2155 (i) gas;

2156 (ii) electricity;

2157 (iii) heat;

2158 (iv) coal;

2159 (v) fuel oil; or

2160 (vi) other fuels;

2161 (d) sales of the following for residential use:

2162 (i) gas;

2163 (ii) electricity;

2164 (iii) heat;

2165 (iv) coal;

2166 (v) fuel oil; or

- 2167 (vi) other fuels;
- 2168 (e) sales of prepared food;
- 2169 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2170 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2171 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2172 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2173 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2174 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2175 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2176 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2177 exhibition, cultural, or athletic activity;
- 2178 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2179 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2180 (i) the tangible personal property; and
- 2181 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2182 in Subsection (1)(g)(i), regardless of whether:
- 2183 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 2184 property; or
- 2185 (B) the particular parts used in the repairs or renovations of that tangible personal
- 2186 property are exempt from a tax under this chapter;
- 2187 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2188 assisted cleaning or washing of tangible personal property;
- 2189 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2190 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2191 (j) amounts paid or charged for laundry or dry cleaning services;
- 2192 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2193 this state the tangible personal property is:
- 2194 (i) stored;
- 2195 (ii) used; or
- 2196 (iii) otherwise consumed;
- 2197 (l) amounts paid or charged for tangible personal property if within this state the

2198 tangible personal property is:

2199 (i) stored;

2200 (ii) used; or

2201 (iii) consumed; ~~and~~

2202 (m) amounts paid or charged for a sale:

2203 (i) (A) of a product transferred electronically; or

2204 (B) of a repair or renovation of a product transferred electronically; and

2205 (ii) regardless of whether the sale provides:

2206 (A) a right of permanent use of the product; or

2207 (B) a right to use the product that is less than a permanent use, including a right:

2208 (I) for a definite or specified length of time; and

2209 (II) that terminates upon the occurrence of a condition~~[-];~~ and

2210 (n) amounts paid or charged for a sale of a service by an establishment that is classified

2211 within one of the following NAICS codes of the 2012 North American Industry Classification

2212 System of the federal Executive Office of the President, Office of Management and Budget:

2213 (i) NAICS Subsector 522, Credit Intermediation and Related Activities;

2214 (ii) NAICS Subsector 523, Securities, Commodity, Contracts, and Other Financial

2215 Investments and Related Activities;

2216 (iii) NAICS Subsector 524, Insurance Carriers and Related Activities;

2217 (iv) NAICS Subsector 525, Funds, Trusts, and Other Financial Vehicles;

2218 (v) NAICS Sector 53, Real Estate and Rental Leasing;

2219 (vi) NAICS Sector 54, Professional, Scientific, and Technical Services;

2220 (vii) NAICS Sector 55, Management of Companies and Enterprise; or

2221 (viii) NAICS Subsector 56, Administrative and Support and Waste Management and

2222 Remediation Services.

2223 (2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local

2224 tax is imposed on a transaction described in Subsection (1) equal to the sum of:

2225 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2226 (A) ~~[4.70%]~~ 3.29%; and

2227 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

2228 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

2229 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
 2230 State Sales and Use Tax Act; and

2231 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
 2232 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 2233 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
 2234 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2235 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 2236 transaction under this chapter other than this part.

2237 (b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
 2238 tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2239 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2240 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 2241 transaction under this chapter other than this part.

2242 (c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
 2243 tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2244 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
 2245 a tax rate ~~[of 1.75%]~~ equal to the tax rate described in Subsection (2)(a)(i)(A); and

2246 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 2247 amounts paid or charged for food and food ingredients under this chapter other than this part.

2248 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on a
 2249 transaction described in Subsection (1)(n) at a tax rate equal to the tax rate described in
 2250 Subsection (2)(a)(i)(A).

2251 ~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
 2252 and tangible personal property other than food and food ingredients, a state tax and a local tax
 2253 is imposed on the entire bundled transaction equal to the sum of:

2254 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2255 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2256 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
 2257 Sales and Use Tax Act, if the location of the transaction as determined under Sections

2258 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
 2259 Additional State Sales and Use Tax Act; and

2260 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2261 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2262 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2263 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2264 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2265 described in Subsection (2)(a)(ii).

2266 (ii) If an optional computer software maintenance contract is a bundled transaction that
2267 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2268 similar billing document, the purchase of the optional computer software maintenance contract
2269 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2270 (iii) Subject to Subsection (2)(~~(d)~~)(e)(iv), for a bundled transaction other than a
2271 bundled transaction described in Subsection (2)(~~(d)~~)(e)(i) or (ii):

2272 (A) if the sales price of the bundled transaction is attributable to tangible personal
2273 property, a product, or a service that is subject to taxation under this chapter and tangible
2274 personal property, a product, or service that is not subject to taxation under this chapter, the
2275 entire bundled transaction is subject to taxation under this chapter unless:

2276 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2277 personal property, product, or service that is not subject to taxation under this chapter from the
2278 books and records the seller keeps in the seller's regular course of business; or

2279 (II) state or federal law provides otherwise; or

2280 (B) if the sales price of a bundled transaction is attributable to two or more items of
2281 tangible personal property, products, or services that are subject to taxation under this chapter
2282 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2283 higher tax rate unless:

2284 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2285 personal property, product, or service that is subject to taxation under this chapter at the lower
2286 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2287 (II) state or federal law provides otherwise.

2288 (iv) For purposes of Subsection (2)(~~(d)~~)(e)(iii), books and records that a seller keeps in
2289 the seller's regular course of business includes books and records the seller keeps in the regular
2290 course of business for nontax purposes.

2291 ~~[(e)]~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
2292 (2)~~[(e)]~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
2293 property, a product, or a service that is subject to taxation under this chapter, and the sale,
2294 lease, or rental of tangible personal property, other property, a product, or a service that is not
2295 subject to taxation under this chapter, the entire transaction is subject to taxation under this
2296 chapter unless the seller, at the time of the transaction:

2297 (A) separately states the portion of the transaction that is not subject to taxation under
2298 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2299 (B) is able to identify by reasonable and verifiable standards, from the books and
2300 records the seller keeps in the seller's regular course of business, the portion of the transaction
2301 that is not subject to taxation under this chapter.

2302 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2303 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2304 the transaction that is not subject to taxation under this chapter was not separately stated on an
2305 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2306 ignorance of the law; and

2307 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2308 and records the seller keeps in the seller's regular course of business, the portion of the
2309 transaction that is not subject to taxation under this chapter.

2310 (iii) For purposes of Subsections (2)~~[(e)]~~(f)(i) and (ii), books and records that a seller
2311 keeps in the seller's regular course of business includes books and records the seller keeps in
2312 the regular course of business for nontax purposes.

2313 ~~[(f)]~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
2314 tangible personal property, products, or services that are subject to taxation under this chapter
2315 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
2316 rate unless the seller, at the time of the transaction:

2317 (A) separately states the items subject to taxation under this chapter at each of the
2318 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2319 (B) is able to identify by reasonable and verifiable standards the tangible personal
2320 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2321 from the books and records the seller keeps in the seller's regular course of business.

2322 (ii) For purposes of Subsection (2)(~~f~~)(g)(i), books and records that a seller keeps in
 2323 the seller's regular course of business includes books and records the seller keeps in the regular
 2324 course of business for nontax purposes.

2325 ~~(g)~~ (h) Subject to Subsections (2)(~~h~~)(i) and ~~(i)~~ (j), a tax rate repeal or tax rate
 2326 change for a tax rate imposed under the following shall take effect on the first day of a calendar
 2327 quarter:

2328 (i) Subsection (2)(a)(i)(A);

2329 (ii) Subsection (2)(b)(i);

2330 (iii) Subsection (2)(c)(i); ~~or~~

2331 (iv) Subsection (2)(d); or

2332 ~~(iv)~~ (v) Subsection (2)(~~d~~)(e)(i)(A)(I).

2333 ~~(h)~~ (i) A tax rate increase takes effect on the first day of the first billing period that
 2334 begins on or after the effective date of the tax rate increase if the billing period for the
 2335 transaction begins before the effective date of a tax rate increase imposed under:

2336 (A) Subsection (2)(a)(i)(A);

2337 (B) Subsection (2)(b)(i);

2338 (C) Subsection (2)(c)(i); ~~or~~

2339 (D) Subsection (2)(d); or

2340 ~~(D)~~ (E) Subsection (2)(~~d~~)(e)(i)(A)(I).

2341 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 2342 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 2343 or the tax rate decrease imposed under:

2344 (A) Subsection (2)(a)(i)(A);

2345 (B) Subsection (2)(b)(i);

2346 (C) Subsection (2)(c)(i); ~~or~~

2347 (D) Subsection (2)(d); or

2348 ~~(D)~~ (E) Subsection (2)(~~d~~)(e)(i)(A)(I).

2349 ~~(i)~~ (j) (i) For a tax rate described in Subsection (2)(~~i~~)(j)(ii), if a tax due on a
 2350 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 2351 tax rate repeal or change in a tax rate takes effect:

2352 (A) on the first day of a calendar quarter; and

2353 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2354 (ii) Subsection (2)[~~(i)~~](j)(i) applies to the tax rates described in the following:

2355 (A) Subsection (2)(a)(i)(A);

2356 (B) Subsection (2)(b)(i);

2357 (C) Subsection (2)(c)(i); [~~or~~]

2358 (D) Subsection (2)(d); or

2359 [~~(D)~~] (E) Subsection (2)[~~(d)~~](e)(i)(A)(I).

2360 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

2361 the commission may by rule define the term "catalogue sale."

2362 (3) (a) The following state taxes shall be deposited into the General Fund:

2363 (i) the tax imposed by Subsection (2)(a)(i)(A);

2364 (ii) the tax imposed by Subsection (2)(b)(i);

2365 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~]

2366 (iv) Subsection (2)(d); or

2367 [~~(iv)~~] (v) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).

2368 (b) The following local taxes shall be distributed to a county, city, or town as provided

2369 in this chapter:

2370 (i) the tax imposed by Subsection (2)(a)(ii);

2371 (ii) the tax imposed by Subsection (2)(b)(ii);

2372 (iii) the tax imposed by Subsection (2)(c)(ii); and

2373 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).

2374 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2375 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

2376 through (g):

2377 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2378 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2379 (B) for the fiscal year; or

2380 (ii) \$17,500,000.

2381 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

2382 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

2383 Department of Natural Resources to:

2384 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2385 protect sensitive plant and animal species; or

2386 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2387 act, to political subdivisions of the state to implement the measures described in Subsections
2388 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2389 (ii) Money transferred to the Department of Natural Resources under Subsection
2390 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2391 person to list or attempt to have listed a species as threatened or endangered under the
2392 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2393 (iii) At the end of each fiscal year:

2394 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2395 Conservation and Development Fund created in Section 73-10-24;

2396 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2397 Program Subaccount created in Section 73-10c-5; and

2398 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2399 Program Subaccount created in Section 73-10c-5.

2400 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2401 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2402 created in Section 4-18-106.

2403 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2404 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2405 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2406 water rights.

2407 (ii) At the end of each fiscal year:

2408 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2409 Conservation and Development Fund created in Section 73-10-24;

2410 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2411 Program Subaccount created in Section 73-10c-5; and

2412 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2413 Program Subaccount created in Section 73-10c-5.

2414 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

2415 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2416 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2417 (ii) In addition to the uses allowed of the Water Resources Conservation and
2418 Development Fund under Section 73-10-24, the Water Resources Conservation and
2419 Development Fund may also be used to:

2420 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2421 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2422 quantifying surface and ground water resources and describing the hydrologic systems of an
2423 area in sufficient detail so as to enable local and state resource managers to plan for and
2424 accommodate growth in water use without jeopardizing the resource;

2425 (B) fund state required dam safety improvements; and

2426 (C) protect the state's interest in interstate water compact allocations, including the
2427 hiring of technical and legal staff.

2428 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2429 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2430 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2431 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2432 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2433 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2434 (i) provide for the installation and repair of collection, treatment, storage, and
2435 distribution facilities for any public water system, as defined in Section 19-4-102;

2436 (ii) develop underground sources of water, including springs and wells; and

2437 (iii) develop surface water sources.

2438 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2439 2006, the difference between the following amounts shall be expended as provided in this
2440 Subsection (5), if that difference is greater than \$1:

2441 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2442 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2443 (ii) \$17,500,000.

2444 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2445 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

2446 credits; and

2447 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2448 restoration.

2449 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2450 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2451 created in Section 73-10-24.

2452 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2453 remaining difference described in Subsection (5)(a) shall be:

2454 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2455 credits; and

2456 (B) expended by the Division of Water Resources for cloud-seeding projects
2457 authorized by Title 73, Chapter 15, Modification of Weather.

2458 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2459 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2460 created in Section 73-10-24.

2461 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2462 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2463 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2464 Division of Water Resources for:

2465 (i) preconstruction costs:

2466 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2467 26, Bear River Development Act; and

2468 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2469 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2470 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2471 Chapter 26, Bear River Development Act;

2472 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2473 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2474 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2475 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2476 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to

2477 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
2478 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2479 incurred for employing additional technical staff for the administration of water rights.

2480 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2481 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2482 Fund created in Section 73-10-24.

2483 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2484 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2485 (1) for the fiscal year shall be deposited as follows:

2486 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
2487 shall be deposited into the Transportation Investment Fund of 2005 created by Section
2488 72-2-124;

2489 (b) for fiscal year 2017-18 only:

2490 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
2491 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2492 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
2493 Water Infrastructure Restricted Account created by Section 73-10g-103;

2494 (c) for fiscal year 2018-19 only:

2495 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
2496 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2497 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
2498 Water Infrastructure Restricted Account created by Section 73-10g-103;

2499 (d) for fiscal year 2019-20 only:

2500 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
2501 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2502 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
2503 Water Infrastructure Restricted Account created by Section 73-10g-103;

2504 (e) for fiscal year 2020-21 only:

2505 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2506 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2507 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the

2508 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2509 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2510 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
2511 created by Section 73-10g-103.

2512 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2513 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2514 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2515 created by Section 72-2-124:

2516 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2517 the revenues collected from the following taxes, which represents a portion of the
2518 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2519 on vehicles and vehicle-related products:

2520 (A) the tax imposed by Subsection (2)(a)(i)(A);

2521 (B) the tax imposed by Subsection (2)(b)(i);

2522 (C) the tax imposed by Subsection (2)(c)(i); ~~and~~

2523 (D) the tax imposed by Subsection (2)(d); and

2524 ~~[(D)]~~ (E) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

2525 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2526 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2527 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2528 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2529 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2530 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2531 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2532 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2533 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2534 (7)(a) equal to the product of:

2535 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2536 previous fiscal year; and

2537 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2538 (7)(a)(i)(A) through (D) in the current fiscal year.

2539 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2540 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2541 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2542 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2543 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2544 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2545 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2546 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2547 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2548 current fiscal year under Subsection (7)(a).

2549 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
2550 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
2551 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2552 the Transportation Investment Fund of 2005 created by Section 72-2-124.

2553 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2554 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
2555 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2556 Transportation Investment Fund of 2005 created by Section 72-2-124.

2557 (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2558 Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of
2559 Finance shall annually deposit into the Transportation Investment Fund of 2005 created by
2560 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to
2561 3.68% of the revenues collected from the following taxes:

2562 (i) the tax imposed by Subsection (2)(a)(i)(A);

2563 (ii) the tax imposed by Subsection (2)(b)(i);

2564 (iii) the tax imposed by Subsection (2)(c)(i); ~~and~~

2565 (iv) the tax imposed by Subsection (2)(d); and

2566 ~~[(iv)]~~ (v) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I).

2567 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2568 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2569 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, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the

2601 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2602 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2603 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2604 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2605 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2606 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
2607 or deposited in accordance with Subsections (4) through (12) may not include an amount the
2608 Division of Finance deposits in accordance with Section 59-12-103.2.

2609 Section 8. Section 59-12-108 is amended to read:

2610 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
2611 **Certain amounts allocated to local taxing jurisdictions.**

2612 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
2613 chapter of \$50,000 or more for the previous calendar year shall:

2614 (i) file a return with the commission:

2615 (A) monthly on or before the last day of the month immediately following the month
2616 for which the seller collects a tax under this chapter; and

2617 (B) for the month for which the seller collects a tax under this chapter; and

2618 (ii) except as provided in Subsection (1)(b), remit with the return required by
2619 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
2620 fee, or charge described in Subsection (1)(c):

2621 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2622 than \$96,000, by any method permitted by the commission; or

2623 (B) if that seller's tax liability under this chapter for the previous calendar year is
2624 \$96,000 or more, by electronic funds transfer.

2625 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
2626 the amount the seller is required to remit to the commission for each tax, fee, or charge
2627 described in Subsection (1)(c) if that seller:

2628 (i) is required by Section 59-12-107 to file the return electronically; or

2629 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

2630 (B) files a simplified electronic return.

2631 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

- 2632 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
2633 (ii) a fee under Section 19-6-714;
2634 (iii) a fee under Section 19-6-805;
2635 (iv) a charge under Section 69-2-5;
2636 (v) a charge under Section 69-2-5.5;
2637 (vi) a charge under Section 69-2-5.6; or
2638 (vii) a tax under this chapter.

2639 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
2640 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
2641 for making same-day payments other than by electronic funds transfer if making payments by
2642 electronic funds transfer fails.

2643 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2644 commission shall establish by rule procedures and requirements for determining the amount a
2645 seller is required to remit to the commission under this Subsection (1).

2646 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
2647 seller described in Subsection (4) may retain each month the amount allowed by this
2648 Subsection (2).

2649 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
2650 each month 1.31% of any amounts the seller is required to remit to the commission:

2651 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
2652 and a local tax imposed in accordance with the following, for the month for which the seller is
2653 filing a return in accordance with Subsection (1):

- 2654 (A) Subsection 59-12-103(2)(a);
2655 (B) Subsection 59-12-103(2)(b); and
2656 (C) Subsection 59-12-103(2)(~~d~~)(c); and
2657 (ii) for an agreement sales and use tax.

2658 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
2659 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
2660 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
2661 accordance with Subsection 59-12-103(2)(c).

2662 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount

2663 equal to the sum of:

2664 (A) 1.31% of any amounts the seller is required to remit to the commission for:

2665 (I) the state tax and the local tax imposed in accordance with Subsection

2666 59-12-103(2)(c);

2667 (II) the month for which the seller is filing a return in accordance with Subsection (1);

2668 and

2669 (III) an agreement sales and use tax; and

2670 (B) 1.31% of the difference between:

2671 (I) the amounts the seller would have been required to remit to the commission:

2672 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject

2673 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

2674 (Bb) for the month for which the seller is filing a return in accordance with Subsection

2675 (1); and

2676 (Cc) for an agreement sales and use tax; and

2677 (II) the amounts the seller is required to remit to the commission for:

2678 (Aa) the state tax and the local tax imposed in accordance with Subsection

2679 59-12-103(2)(c);

2680 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);

2681 and

2682 (Cc) an agreement sales and use tax.

2683 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

2684 each month 1% of any amounts the seller is required to remit to the commission:

2685 (i) for the month for which the seller is filing a return in accordance with Subsection

2686 (1); and

2687 (ii) under:

2688 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2689 (B) Subsection 59-12-603(1)(a)(i)(A); or

2690 (C) Subsection 59-12-603(1)(a)(i)(B).

2691 (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

2692 each month 1.31% of any amounts the seller is required to remit to the commission:

2693 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax

2694 imposed in accordance with Subsection 59-12-103(2)(d), for the month for which the seller is
2695 filing a return in accordance with Subsection (1); and

2696 (ii) for an agreement sales and use tax.

2697 (3) A state government entity that is required to remit taxes monthly in accordance
2698 with Subsection (1) may not retain any amount under Subsection (2).

2699 (4) A seller that has a tax liability under this chapter for the previous calendar year of
2700 less than \$50,000 may:

2701 (a) voluntarily meet the requirements of Subsection (1); and

2702 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2703 amounts allowed by Subsection (2).

2704 (5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and
2705 remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to
2706 18% of any amounts the seller would otherwise remit to the commission:

2707 (i) if the seller obtains a license under Section 59-12-106 for the first time on or after
2708 January 1, 2014; and

2709 (ii) for:

2710 (A) an agreement sales and use tax; and

2711 (B) the time period for which the seller files a return in accordance with this section.

2712 (b) If a seller retains an amount under this Subsection (5), the seller may not retain any
2713 other amount under this section.

2714 (c) If a seller retains an amount under this Subsection (5), the commission may require
2715 the seller to file a return by:

2716 (i) electronic means; or

2717 (ii) a means other than electronic means.

2718 (d) A seller may not retain an amount under this Subsection (5) if the seller is required
2719 to collect or remit a tax under this section in accordance with Section 59-12-103.1.

2720 (6) Penalties for late payment shall be as provided in Section 59-1-401.

2721 (7) (a) Except as provided in Subsection (7)(c), for any amounts required to be
2722 remitted to the commission under this part, the commission shall each month calculate an
2723 amount equal to the difference between:

2724 (i) the total amount retained for that month by all sellers had the percentages listed

2725 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

2726 (ii) the total amount retained for that month by all sellers at the percentages listed
2727 under Subsections (2)(b) and (2)(c)(ii).

2728 (b) The commission shall each month allocate the amount calculated under Subsection
2729 (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
2730 tax that the commission distributes to each county, city, and town for that month compared to
2731 the total agreement sales and use tax that the commission distributes for that month to all
2732 counties, cities, and towns.

2733 (c) The amount the commission calculates under Subsection (7)(a) may not include an
2734 amount collected from a tax that:

2735 (i) the state imposes within a county, city, or town, including the unincorporated area
2736 of a county; and

2737 (ii) is not imposed within the entire state.

2738 Section 9. Section **59-12-204** is amended to read:

2739 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
2740 **tax revenues -- Commission requirement to retain an amount to be deposited into the**
2741 **Qualified Emergency Food Agencies Fund.**

2742 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
2743 transactions listed in ~~[Subsection]~~ Subsections **59-12-103(1)(a) through (m)**.

2744 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax
2745 upon every transaction listed in ~~[Subsection]~~ Subsections **59-12-103(1)(a) through (m)** made
2746 within a county, including areas contained within the cities and towns located in the county:

2747 (i) at the rate of 1% of the purchase price paid or charged; and

2748 (ii) if the location of the transaction is within the county as determined under Sections
2749 **59-12-211 through 59-12-215**.

2750 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
2751 include a provision prohibiting a county, city, or town from imposing a tax under this section
2752 on the sales and uses described in Section **59-12-104** to the extent the sales and uses are
2753 exempt from taxation under Section **59-12-104**.

2754 (3) Such tax ordinance shall include provisions substantially the same as those
2755 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 10. 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 the transactions described in [Subsection] Subsections 59-12-103(1)(a) through (m) located within the city or town.

2818 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
2819 section on:

2820 (i) the sale of:

2821 (A) a motor vehicle;

2822 (B) an aircraft;

2823 (C) a watercraft;

2824 (D) a modular home;

2825 (E) a manufactured home; or

2826 (F) a mobile home;

2827 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2828 are exempt from taxation under Section 59-12-104; and

2829 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2830 food ingredients.

2831 (c) For purposes of this Subsection (1), the location of a transaction shall be
2832 determined in accordance with Sections 59-12-211 through 59-12-215.

2833 (d) A city or town imposing a tax under this section shall impose the tax on amounts
2834 paid or charged for food and food ingredients if the food and food ingredients are sold as part
2835 of a bundled transaction attributable to food and food ingredients and tangible personal
2836 property other than food and food ingredients.

2837 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2838 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2839 the state from its collection fees received in connection with the implementation of Subsection
2840 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2841 provided for in Subsection (1).

2842 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2843 those cities and towns according to the amount of revenue the respective cities and towns
2844 generate in that year through imposition of that tax.

2845 (3) (a) Subject to Section 63H-1-203, the military installation development authority
2846 created in Section 63H-1-201 may impose a tax under this section on the transactions described
2847 in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within a project area
2848 described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military

2849 Installation Development Authority Act, as though the authority were a city or a town.

2850 (b) For purposes of calculating the permanent census population within a project area,
2851 the board as defined in Section 63H-1-102 shall:

2852 (i) use the actual number of permanent residents within the project area as determined
2853 by the board;

2854 (ii) adopt a resolution verifying the population number; and

2855 (iii) provide the commission any information required in Section 59-12-405.

2856 (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may
2857 impose the sales and use tax under this section if there are no permanent residents.

2858 Section 11. Section 59-12-402 is amended to read:

2859 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**

2860 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**

2861 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**

2862 **development authority.**

2863 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
2864 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
2865 66% of the municipality's permanent census population may, in addition to the sales tax
2866 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
2867 amount that is less than or equal to .5% on the transactions described in [Subsection]
2868 Subsections 59-12-103(1)(a) through (m) located within the municipality.

2869 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
2870 impose a tax under this section on:

2871 (i) the sale of:

2872 (A) a motor vehicle;

2873 (B) an aircraft;

2874 (C) a watercraft;

2875 (D) a modular home;

2876 (E) a manufactured home; or

2877 (F) a mobile home;

2878 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses

2879 are exempt from taxation under Section 59-12-104; and

2880 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2881 food ingredients.

2882 (c) For purposes of this Subsection (1), the location of a transaction shall be
2883 determined in accordance with Sections 59-12-211 through 59-12-215.

2884 (d) A municipality imposing a tax under this section shall impose the tax on amounts
2885 paid or charged for food and food ingredients if the food and food ingredients are sold as part
2886 of a bundled transaction attributable to food and food ingredients and tangible personal
2887 property other than food and food ingredients.

2888 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2889 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2890 the state from its collection fees received in connection with the implementation of Subsection
2891 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2892 provided for in Subsection (1).

2893 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2894 those cities and towns according to the amount of revenue the respective cities and towns
2895 generate in that year through imposition of that tax.

2896 (3) To impose an additional resort communities sales tax under this section, the
2897 governing body of the municipality shall:

2898 (a) pass a resolution approving the tax; and

2899 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2900 in Subsection (4).

2901 (4) To obtain voter approval for an additional resort communities sales tax under
2902 Subsection (3)(b), a municipality shall:

2903 (a) hold the additional resort communities sales tax election during:

2904 (i) a regular general election; or

2905 (ii) a municipal general election; and

2906 (b) publish notice of the election:

2907 (i) 15 days or more before the day on which the election is held; and

2908 (ii) (A) in a newspaper of general circulation in the municipality; and

2909 (B) as required in Section 45-1-101.

2910 (5) An ordinance approving an additional resort communities sales tax under this

section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Section 12. Section 59-12-402.1 is amended to read:

59-12-402.1. State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.

(1) As used in this section, "new state correctional facility" means a new prison in the state:

- (a) that is operated by the Department of Corrections;
- (b) the construction of which begins on or after May 12, 2015; and
- (c) that provides a capacity of 2,500 or more inmate beds.

(2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.

(3) For purposes of this section, the tax rate may not exceed .5%.

(4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within the city or town.

(5) A city or town may not impose a tax under this section on:

- (a) the sale of:
 - (i) a motor vehicle;
 - (ii) an aircraft;

2942 (iii) a watercraft;
2943 (iv) a modular home;
2944 (v) a manufactured home; or
2945 (vi) a mobile home;
2946 (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2947 are exempt under Section 59-12-104; and

2948 (c) except as provided in Subsection (7), amounts paid or charged for food and food
2949 ingredients.

2950 (6) For purposes of this section, the location of a transaction shall be determined in
2951 accordance with Sections 59-12-211 through 59-12-215.

2952 (7) A city or town that imposes a tax under this section shall impose the tax on
2953 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
2954 as part of a bundled transaction attributable to food and food ingredients and tangible personal
2955 property other than food and food ingredients.

2956 (8) A city or town may impose a tax under this section by majority vote of the
2957 members of the city or town legislative body.

2958 (9) A city or town that imposes a tax under this section is not subject to Section
2959 59-12-405.

2960 (10) A military installation development authority may not impose a tax under this
2961 section.

2962 Section 13. Section 59-12-703 is amended to read:

2963 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**
2964 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**
2965 **-- Notice requirements.**

2966 (1) (a) Subject to the other provisions of this section, a county legislative body may
2967 submit an opinion question to the residents of that county, by majority vote of all members of
2968 the legislative body, so that each resident of the county, except residents in municipalities that
2969 have already imposed a sales and use tax under Part 14, City or Town Option Funding for
2970 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
2971 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
2972 .1% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m)

located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; 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 county), 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 county legislative body may not impose a tax under this section on:

(i) 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;

(ii) sales and uses within a municipality 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; and

(iii) except as provided in Subsection (1)(e), 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 county 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) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(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

3004 majority vote of all members of the legislative body on the transactions:

3005 (i) described in Subsection (1); and

3006 (ii) within the county, including the cities and towns located in the county, except those
3007 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3008 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
3009 Facilities.

3010 (b) A county legislative body may revise county ordinances to reflect statutory changes
3011 to the distribution formula or eligible recipients of revenue generated from a tax imposed under
3012 Subsection (2)(a) without submitting an opinion question to residents of the county.

3013 (3) Subject to Section [59-12-704](#), revenue collected from a tax imposed under
3014 Subsection (2) shall be expended:

3015 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
3016 within the county or a city or town located in the county, except a city or town that has already
3017 imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical,
3018 Cultural, Recreational, and Zoological Organizations or Facilities;

3019 (b) to fund ongoing operating expenses of:

3020 (i) recreational facilities described in Subsection (3)(a);

3021 (ii) botanical organizations, cultural organizations, and zoological organizations within
3022 the county; and

3023 (iii) rural radio stations within the county; and

3024 (c) as stated in the opinion question described in Subsection (1).

3025 (4) (a) A tax authorized under this part shall be:

3026 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3027 accordance with:

3028 (A) the same procedures used to administer, collect, and enforce the tax under:

3029 (I) Part 1, Tax Collection; or

3030 (II) Part 2, Local Sales and Use Tax Act; and

3031 (B) Chapter 1, General Taxation Policies; and

3032 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3033 period in accordance with this section.

3034 (b) A tax under this part is not subject to Subsections [59-12-205](#)(2) through (7).

3035 (5) (a) For purposes of this Subsection (5):

3036 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
3037 County Annexation.

3038 (ii) "Annexing area" means an area that is annexed into a county.

3039 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3040 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3041 (A) on the first day of a calendar quarter; and

3042 (B) after a 90-day period beginning on the date the commission receives notice meeting
3043 the requirements of Subsection (5)(b)(ii) from the county.

3044 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3045 (A) that the county will enact or repeal a tax under this part;

3046 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3047 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3048 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3049 tax.

3050 (c) (i) If the billing period for a transaction begins before the effective date of the
3051 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3052 the first billing period that begins on or after the effective date of the enactment of the tax.

3053 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3054 period is produced on or after the effective date of the repeal of the tax imposed under this
3055 section.

3056 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3057 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3058 Subsection (5)(b)(i) takes effect:

3059 (A) on the first day of a calendar quarter; and

3060 (B) beginning 60 days after the effective date of the enactment or repeal under
3061 Subsection (5)(b)(i).

3062 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3063 commission may by rule define the term "catalogue sale."

3064 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3065 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

3066 part for an annexing area, the enactment or repeal shall take effect:

3067 (A) on the first day of a calendar quarter; and

3068 (B) after a 90-day period beginning on the date the commission receives notice meeting
3069 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3070 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3071 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3072 repeal of a tax under this part for the annexing area;

3073 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3074 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3075 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3076 (f) (i) If the billing period for a transaction begins before the effective date of the
3077 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3078 the first billing period that begins on or after the effective date of the enactment of the tax.

3079 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3080 period is rendered on or after the effective date of the repeal of the tax imposed under this
3081 section.

3082 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3083 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3084 Subsection (5)(e)(i) takes effect:

3085 (A) on the first day of a calendar quarter; and

3086 (B) beginning 60 days after the effective date of the enactment or repeal under
3087 Subsection (5)(e)(i).

3088 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3089 commission may by rule define the term "catalogue sale."

3090 Section 14. Section **59-12-802** is amended to read:

3091 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
3092 **tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax --**
3093 **Administrative charge.**

3094 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
3095 may impose a sales and use tax of up to 1% on the transactions described in [Subsection]
3096 Subsections 59-12-103(1)(a) through (m) located within the county.

3097 (b) Subject to Subsection (3), the money collected from a tax under this section may be
3098 used to fund:

3099 (i) for a county of the third or fourth class, rural county health care facilities in that
3100 county; or

3101 (ii) for a county of the fifth or sixth class:

3102 (A) rural emergency medical services in that county;

3103 (B) federally qualified health centers in that county;

3104 (C) freestanding urgent care centers in that county;

3105 (D) rural county health care facilities in that county;

3106 (E) rural health clinics in that county; or

3107 (F) a combination of Subsections (1)(b)(ii)(A) through (E).

3108 (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
3109 under this section on:

3110 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3111 are exempt from taxation under Section 59-12-104;

3112 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3113 a city that imposes a tax under Section 59-12-804; and

3114 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
3115 food ingredients.

3116 (d) For purposes of this Subsection (1), the location of a transaction shall be
3117 determined in accordance with Sections 59-12-211 through 59-12-215.

3118 (e) A county legislative body imposing a tax under this section shall impose the tax on
3119 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3120 as part of a bundled transaction attributable to food and food ingredients and tangible personal
3121 property other than food and food ingredients.

3122 (2) (a) Before imposing a tax under Subsection (1), a county legislative body shall
3123 obtain approval to impose the tax from a majority of the:

3124 (i) members of the county's legislative body; and

3125 (ii) county's registered voters voting on the imposition of the tax.

3126 (b) The county legislative body shall conduct the election according to the procedures
3127 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3128 (3) (a) The money collected from a tax imposed under Subsection (1) by a county
3129 legislative body of a county of the third or fourth class may only be used for the financing of:
3130 (i) ongoing operating expenses of a rural county health care facility within that county;
3131 (ii) the acquisition of land for a rural county health care facility within that county; or
3132 (iii) the design, construction, equipping, or furnishing of a rural county health care
3133 facility within that county.

3134 (b) The money collected from a tax imposed under Subsection (1) by a county of the
3135 fifth or sixth class may only be used to fund:

3136 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3137 (1)(b)(ii) within that county;

3138 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3139 (1)(b)(ii) within that county;

3140 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3141 described in Subsection (1)(b)(ii) within that county; or

3142 (iv) rural emergency medical services within that county.

3143 (4) (a) A tax under this section shall be:

3144 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3145 accordance with:

3146 (A) the same procedures used to administer, collect, and enforce the tax under:

3147 (I) Part 1, Tax Collection; or

3148 (II) Part 2, Local Sales and Use Tax Act; and

3149 (B) Chapter 1, General Taxation Policies; and

3150 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3151 period by the county legislative body as provided in Subsection (1).

3152 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3153 (c) A county legislative body shall distribute money collected from a tax under this
3154 section quarterly.

3155 (5) The commission shall retain and deposit an administrative charge in accordance
3156 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

3157 Section 15. Section 59-12-804 is amended to read:

3158 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**

3159 **collection, and enforcement of tax -- Administrative charge.**

3160 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3161 (i) on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through
3162 (m) located within the city; and

3163 (ii) to fund rural city hospitals in that city.

3164 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
3165 under this section on:

3166 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3167 exempt from taxation under Section 59-12-104; and

3168 (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
3169 ingredients.

3170 (c) For purposes of this Subsection (1), the location of a transaction shall be
3171 determined in accordance with Sections 59-12-211 through 59-12-215.

3172 (d) A city legislative body imposing a tax under this section shall impose the tax on
3173 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3174 as part of a bundled transaction attributable to food and food ingredients and tangible personal
3175 property other than food and food ingredients.

3176 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
3177 obtain approval to impose the tax from a majority of the:

3178 (i) members of the city legislative body; and

3179 (ii) city's registered voters voting on the imposition of the tax.

3180 (b) The city legislative body shall conduct the election according to the procedures and
3181 requirements of Title 11, Chapter 14, Local Government Bonding Act.

3182 (3) The money collected from a tax imposed under Subsection (1) may only be used to
3183 fund:

3184 (a) ongoing operating expenses of a rural city hospital;

3185 (b) the acquisition of land for a rural city hospital; or

3186 (c) the design, construction, equipping, or furnishing of a rural city hospital.

3187 (4) (a) A tax under this section shall be:

3188 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3189 accordance with:

3190 (A) the same procedures used to administer, collect, and enforce the tax under:
3191 (I) Part 1, Tax Collection; or
3192 (II) Part 2, Local Sales and Use Tax Act; and
3193 (B) Chapter 1, General Taxation Policies; and
3194 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3195 period by the city legislative body as provided in Subsection (1).

3196 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3197 (5) The commission shall retain and deposit an administrative charge in accordance
3198 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

3199 Section 16. Section 59-12-1102 is amended to read:

3200 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
3201 **Administration -- Administrative charge -- Commission requirement to retain an amount**
3202 **to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal**
3203 **of tax -- Effective date -- Notice requirements.**

3204 (1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax
3205 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
3206 of .25% upon the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through
3207 (m).

3208 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
3209 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3210 exempt from taxation under Section 59-12-104.

3211 (b) For purposes of this Subsection (1), the location of a transaction shall be
3212 determined in accordance with Sections 59-12-211 through 59-12-215.

3213 (c) The county option sales and use tax under this section shall be imposed:

3214 (i) upon transactions that are located within the county, including transactions that are
3215 located within municipalities in the county; and

3216 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
3217 January:

3218 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
3219 ordinance is adopted on or before May 25; or

3220 (B) of the second calendar year after adoption of the ordinance imposing the tax if the

3221 ordinance is adopted after May 25.

3222 (d) The county option sales and use tax under this section shall be imposed:

3223 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
3224 September 4, 1997; or

3225 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
3226 but after September 4, 1997.

3227 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
3228 county shall hold two public hearings on separate days in geographically diverse locations in
3229 the county.

3230 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
3231 time of no earlier than 6 p.m.

3232 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
3233 days after the day the first advertisement required by Subsection (2)(c) is published.

3234 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
3235 shall advertise:

3236 (A) its intent to adopt a county option sales and use tax;

3237 (B) the date, time, and location of each public hearing; and

3238 (C) a statement that the purpose of each public hearing is to obtain public comments
3239 regarding the proposed tax.

3240 (ii) The advertisement shall be published:

3241 (A) in a newspaper of general circulation in the county once each week for the two
3242 weeks preceding the earlier of the two public hearings; and

3243 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for two weeks
3244 preceding the earlier of the two public hearings.

3245 (iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8
3246 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch
3247 border.

3248 (iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that
3249 portion of the newspaper where legal notices and classified advertisements appear.

3250 (v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

3251 (A) the advertisement shall appear in a newspaper that is published at least five days a

week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

- 3283 (i) the same procedures used to administer, collect, and enforce the tax under:
3284 (A) Part 1, Tax Collection; or
3285 (B) Part 2, Local Sales and Use Tax Act; and
3286 (ii) Chapter 1, General Taxation Policies.
- 3287 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
3288 (c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an
3289 administrative charge in accordance with Section 59-1-306 from the revenue the commission
3290 collects from a tax under this part.
- 3291 (ii) Notwithstanding Section 59-1-306, the administrative charge described in
3292 Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of
3293 the distribution amounts resulting after:
- 3294 (A) the applicable distribution calculations under Subsection (3) have been made; and
3295 (B) the commission retains the amount required by Subsection (5).
- 3296 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion
3297 of the sales and use tax collected under this part as provided in this Subsection (5).
3298 (b) For a county that imposes a tax under this part, the commission shall calculate a
3299 percentage each month by dividing the sales and use tax collected under this part for that
3300 month within the boundaries of that county by the total sales and use tax collected under this
3301 part for that month within the boundaries of all of the counties that impose a tax under this part.
- 3302 (c) For a county that imposes a tax under this part, the commission shall retain each
3303 month an amount equal to the product of:
- 3304 (i) the percentage the commission determines for the month under Subsection (5)(b)
3305 for the county; and
3306 (ii) \$6,354.
- 3307 (d) The commission shall deposit an amount the commission retains in accordance
3308 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section
3309 35A-8-1009.
- 3310 (e) An amount the commission deposits into the Qualified Emergency Food Agencies
3311 Fund shall be expended as provided in Section 35A-8-1009.
- 3312 (6) (a) For purposes of this Subsection (6):
3313 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County

3314 Consolidations and Annexations.

3315 (ii) "Annexing area" means an area that is annexed into a county.

3316 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a
3317 county enacts or repeals a tax under this part:

3318 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

3319 (II) the repeal shall take effect on the first day of a calendar quarter; and

3320 (B) after a 90-day period beginning on the date the commission receives notice meeting
3321 the requirements of Subsection (6)(b)(ii) from the county.

3322 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

3323 (A) that the county will enact or repeal a tax under this part;

3324 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

3325 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

3326 (D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the
3327 tax.

3328 (c) (i) If the billing period for a transaction begins before the effective date of the
3329 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day
3330 of the first billing period that begins on or after the effective date of the enactment of the tax.

3331 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3332 period is produced on or after the effective date of the repeal of the tax imposed under
3333 Subsection (1).

3334 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3335 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3336 Subsection (6)(b)(i) takes effect:

3337 (A) on the first day of a calendar quarter; and

3338 (B) beginning 60 days after the effective date of the enactment or repeal under
3339 Subsection (6)(b)(i).

3340 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3341 commission may by rule define the term "catalogue sale."

3342 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
3343 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3344 part for an annexing area, the enactment or repeal shall take effect:

3345 (A) on the first day of a calendar quarter; and
3346 (B) after a 90-day period beginning on the date the commission receives notice meeting
3347 the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.
3348 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
3349 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
3350 repeal of a tax under this part for the annexing area;
3351 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
3352 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
3353 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
3354 (f) (i) If the billing period for a transaction begins before the effective date of the
3355 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day
3356 of the first billing period that begins on or after the effective date of the enactment of the tax.
3357 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3358 period is produced on or after the effective date of the repeal of the tax imposed under
3359 Subsection (1).
3360 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3361 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3362 Subsection (6)(e)(i) takes effect:
3363 (A) on the first day of a calendar quarter; and
3364 (B) beginning 60 days after the effective date of the enactment or repeal under
3365 Subsection (6)(e)(i).
3366 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3367 commission may by rule define the term "catalogue sale."
3368 Section 17. Section **59-12-1302** is amended to read:
3369 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
3370 **rate change -- Effective date -- Notice requirements -- Administration, collection, and**
3371 **enforcement of tax -- Administrative charge.**
3372 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
3373 tax as provided in this part in an amount that does not exceed 1%.
3374 (2) A town may impose a tax as provided in this part if the town imposed a license fee
3375 or tax on businesses based on gross receipts under Section **10-1-203** on or before January 1,

3376 1996.

3377 (3) A town imposing a tax under this section shall:

3378 (a) except as provided in Subsection (4), impose the tax on the transactions described
3379 in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) located within the town; and

3380 (b) provide an effective date for the tax as provided in Subsection (5).

3381 (4) (a) A town may not impose a tax under this section on:

3382 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3383 are exempt from taxation under Section 59-12-104; and

3384 (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food
3385 ingredients.

3386 (b) For purposes of this Subsection (4), the location of a transaction shall be
3387 determined in accordance with Sections 59-12-211 through 59-12-215.

3388 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
3389 charged for food and food ingredients if the food and food ingredients are sold as part of a
3390 bundled transaction attributable to food and food ingredients and tangible personal property
3391 other than food and food ingredients.

3392 (5) (a) For purposes of this Subsection (5):

3393 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3394 Annexation.

3395 (ii) "Annexing area" means an area that is annexed into a town.

3396 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3397 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3398 or change shall take effect:

3399 (A) on the first day of a calendar quarter; and

3400 (B) after a 90-day period beginning on the date the commission receives notice meeting
3401 the requirements of Subsection (5)(b)(ii) from the town.

3402 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3403 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3404 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3405 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3406 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

3407 (5)(b)(ii)(A), the rate of the tax.

3408 (c) (i) If the billing period for the transaction begins before the effective date of the
3409 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3410 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
3411 on or after the effective date of the enactment of the tax or the tax rate increase.

3412 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3413 statement for the billing period is produced on or after the effective date of the repeal of the tax
3414 or the tax rate decrease imposed under Subsection (1).

3415 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3416 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3417 a tax described in Subsection (5)(b)(i) takes effect:

3418 (A) on the first day of a calendar quarter; and

3419 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3420 rate of the tax under Subsection (5)(b)(i).

3421 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3422 commission may by rule define the term "catalogue sale."

3423 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3424 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3425 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3426 effect:

3427 (A) on the first day of a calendar quarter; and

3428 (B) after a 90-day period beginning on the date the commission receives notice meeting
3429 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3430 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3431 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
3432 repeal, or change in the rate of a tax under this part for the annexing area;

3433 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3434 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3435 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3436 (5)(e)(ii)(A), the rate of the tax.

3437 (f) (i) If the billing period for a transaction begins before the effective date of the

enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the 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) The repeal of a tax or a tax rate decrease 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 or the tax rate decrease 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, repeal, or change in the rate 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, repeal, or change in the rate of the tax 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."

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

Section 18. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- 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 section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the

3531 tax shall be levied for a period of 10 years.

3532 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or
3533 after July 1, 2011, the tax shall be reauthorized for a ten-year period.

3534 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3535 (5) (a) For purposes of this Subsection (5):

3536 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3537 4, Annexation.

3538 (ii) "Annexing area" means an area that is annexed into a city or town.

3539 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3540 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3541 (A) on the first day of a calendar quarter; and

3542 (B) after a 90-day period beginning on the date the commission receives notice meeting
3543 the requirements of Subsection (5)(b)(ii) from the city or town.

3544 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3545 (A) that the city or town will enact or repeal a tax under this part;

3546 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3547 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3548 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
3549 the tax.

3550 (c) (i) If the billing period for a transaction begins before the effective date of the
3551 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3552 the first billing period that begins on or after the effective date of the enactment of the tax.

3553 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3554 period is produced on or after the effective date of the repeal of the tax imposed under this
3555 section.

3556 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3557 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3558 Subsection (5)(b)(i) takes effect:

3559 (A) on the first day of a calendar quarter; and

3560 (B) beginning 60 days after the effective date of the enactment or repeal under
3561 Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the 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 city or town 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 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 produced 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."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written

notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(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; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the 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 19. 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

3655 taxation under Section 59-12-104.

3656 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
3657 accordance with Sections 59-12-211 through 59-12-215.

3658 (4) Revenues collected from the sales and use tax imposed by this section, after
3659 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
3660 into the General Fund.

3661 Section 20. Section 59-12-2003 is amended to read:

3662 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
3663 **transit districts.**

3664 (1) Subject to the other provisions of this section and except as provided in Subsection
3665 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
3666 transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within a city,
3667 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,
3668 there is a public transit district within any portion of that county of the first or second class.

3669 (2) The state may not impose a tax under this part within a county of the first or second
3670 class if within all of the cities, towns, and the unincorporated area of the county of the first or
3671 second class there is imposed a sales and use tax of:

3672 (a) .30% under Section 59-12-2213;

3673 (b) .30% under Section 59-12-2215; or

3674 (c) .30% under Section 59-12-2216.

3675 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
3676 rate imposed within a city, town, or the unincorporated area of a county of the first or second
3677 class is a percentage equal to the difference between:

3678 (i) .30%; and

3679 (ii) (A) for a city within the county of the first or second class, the highest tax rate
3680 imposed within that city under:

3681 (I) Section 59-12-2213;

3682 (II) Section 59-12-2215; or

3683 (III) Section 59-12-2216;

3684 (B) for a town within the county of the first or second class, the highest tax rate
3685 imposed within that town under:

3686 (I) Section 59-12-2213;
3687 (II) Section 59-12-2215; or
3688 (III) Section 59-12-2216; or
3689 (C) for the unincorporated area of the county of the first or second class, the highest tax
3690 rate imposed within that unincorporated area under:
3691 (I) Section 59-12-2213;
3692 (II) Section 59-12-2215; or
3693 (III) Section 59-12-2216.
3694 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
3695 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,
3696 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the
3697 first or second class is .30%, the state may not impose a tax under this part within that city,
3698 town, or unincorporated area.
3699 (4) (a) The state may not impose a tax under this part on:
3700 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3701 are exempt from taxation under Section 59-12-104; or
3702 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food
3703 ingredients.
3704 (b) The state shall impose a tax under this part on amounts paid or charged for food
3705 and food ingredients if the food and food ingredients are sold as part of a bundled transaction
3706 attributable to food and ingredients and tangible personal property other than food and food
3707 ingredients.
3708 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
3709 accordance with Sections 59-12-211 through 59-12-215.
3710 (6) The commission shall distribute the revenues the state collects from the sales and
3711 use tax under this part, after subtracting amounts a seller retains in accordance with Section
3712 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:
3713 (a) within which the state imposes a tax under this part; and
3714 (b) in proportion to the revenues collected from the sales and use tax under this part
3715 within each city, town, and unincorporated area within which the state imposes a tax under this
3716 part.

Section 21. Section **59-12-2103** is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection **59-12-205(4)(a)**, the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

(i) described in ~~[Subsection]~~ Subsections **59-12-103(1)(a)** through (m); and

(ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

(c) 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**.

(2) (a) A city or town legislative body may not impose a tax under this section on: (i) 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

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) 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.

(3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

3748 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or
3749 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before
3750 March 31, 2016, the city or town legislative body obtains approval from a majority vote of the
3751 members of the city or town legislative body to continue to impose the tax.

3752 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of
3753 the members of the city or town legislative body to continue to impose a tax under this part on
3754 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

3755 (4) The commission shall transmit revenue collected within a city or town from a tax
3756 under this part:

3757 (a) to the city or town legislative body;

3758 (b) monthly; and

3759 (c) by electronic funds transfer.

3760 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
3761 collect, and enforce a tax under this part in accordance with:

3762 (i) the same procedures used to administer, collect, and enforce the tax under:

3763 (A) Part 1, Tax Collection; or

3764 (B) Part 2, Local Sales and Use Tax Act; and

3765 (ii) Chapter 1, General Taxation Policies.

3766 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3767 (6) The commission shall retain and deposit an administrative charge in accordance
3768 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

3769 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
3770 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
3771 repeal, or change shall take effect:

3772 (A) on the first day of a calendar quarter; and

3773 (B) after a 90-day period beginning on the date the commission receives notice meeting
3774 the requirements of Subsection (7)(a)(i) from the city or town.

3775 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

3776 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
3777 this part;

3778 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

3779 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

3780 (D) if the city or town enacts the tax or changes the rate of the tax described in

3781 Subsection (7)(a)(ii)(A), the rate of the tax.

3782 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
3783 the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes
3784 effect on the first day of the first billing period that begins on or after the effective date of the
3785 enactment of the tax or the tax rate increase.

3786 (ii) If the billing period for a transaction begins before the effective date of the repeal
3787 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3788 rate decrease applies to a billing period if the billing statement for the billing period is rendered
3789 on or after the effective date of the repeal of the tax or the tax rate decrease.

3790 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3791 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3792 described in Subsection (7)(a)(i) takes effect:

3793 (A) on the first day of a calendar quarter; and

3794 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3795 rate of the tax under Subsection (7)(a)(i).

3796 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3797 commission may by rule define the term "catalogue sale."

3798 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
3799 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
3800 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3801 effect:

3802 (A) on the first day of a calendar quarter; and

3803 (B) after a 90-day period beginning on the date the commission receives notice meeting
3804 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3805 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3806 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
3807 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3808 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3809 (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 22. 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 23. 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 24. 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 25. 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 sales and use tax of up to .30% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within the county, including the cities and towns within the

3903 county.

3904 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
3905 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the
3906 percentage of revenues the county will receive from the sales and use tax under this section that
3907 will be allocated to fund one or more of the following:

3908 (a) a project or service relating to a fixed guideway for the portion of the project or
3909 service that is performed within the county;

3910 (b) a project or service relating to a system for public transit, except for a fixed
3911 guideway, for the portion of the project or service that is performed within the county;

3912 (c) the following relating to a state highway within the county:

3913 (i) a project within the county if the project:

3914 (A) begins on or after the day on which a county legislative body imposes a tax under
3915 this section; and

3916 (B) involves an environmental study, an improvement, new construction, or a
3917 renovation;

3918 (ii) debt service on a project described in Subsection (2)(c)(i); or

3919 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

3920 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
3921 to a highway that is:

3922 (i) a principal arterial highway or minor arterial highway;

3923 (ii) included in a metropolitan planning organization's regional transportation plan; and

3924 (iii) not a state highway.

3925 (3) A county legislative body shall in the resolution described in Subsection (2)
3926 allocate 100% of the revenues the county will receive from the sales and use tax under this
3927 section for one or more of the purposes described in Subsection (2).

3928 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section
3929 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
3930 section.

3931 (5) The revenues collected from a sales and use tax under this section shall be:

3932 (a) allocated in accordance with the allocations specified in the resolution under
3933 Subsection (2); and

3934 (b) expended as provided in this section.

3935 (6) If a county legislative body allocates revenues collected from a sales and use tax
3936 under this section for a state highway project described in Subsection (2)(c)(i), before
3937 beginning the state highway project within the county, the county legislative body shall:

3938 (a) obtain approval from the Transportation Commission to complete the project; and

3939 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter
3940 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

3941 (7) If after a county legislative body imposes a sales and use tax under this section the
3942 county legislative body seeks to change an allocation specified in the resolution under
3943 Subsection (2), the county legislative body may change the allocation by:

3944 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage
3945 of revenues the county will receive from the sales and use tax under this section that will be
3946 allocated to fund one or more of the items described in Subsection (2);

3947 (b) obtaining approval to change the allocation of the sales and use tax by a majority of
3948 all of the members of the county legislative body; and

3949 (c) subject to Subsection (8):

3950 (i) in accordance with Section [59-12-2208](#), submitting an opinion question to the
3951 county's registered voters voting on changing the allocation so that each registered voter has the
3952 opportunity to express the registered voter's opinion on whether the allocation should be
3953 changed; and

3954 (ii) in accordance with Section [59-12-2208](#), obtaining approval to change the allocation
3955 from a majority of the county's registered voters voting on changing the allocation.

3956 (8) Notwithstanding Section [59-12-2208](#), the opinion question required by Subsection
3957 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
3958 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
3959 (7)(b).

3960 (9) Revenues collected from a sales and use tax under this section that a county
3961 allocates for a purpose described in Subsection (2)(c) shall be:

3962 (a) deposited into the Highway Projects Within Counties Fund created by Section
3963 [72-2-121.1](#); and

3964 (b) expended as provided in Section [72-2-121.1](#).

(10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation if the transfer of the revenues is required under an interlocal agreement:

(i) entered into on or before January 1, 2010; and

(ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) The Department of Transportation shall expend the revenues described in Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

Section 26. Section 59-12-2217 is amended to read:

59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25% on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7); and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service described in Subsection (2)(a) as provided in Subsection (8); or

(c) debt service or bond issuance costs related to a project or service described in

3996 Subsection (2)(a)(i) or (ii).

3997 (3) If a project or service described in Subsection (2) is for:

3998 (a) a principal arterial highway or a minor arterial highway in a county of the first or
3999 second class or a collector road in a county of the second class, that project or service shall be
4000 part of the:

4001 (i) county and municipal master plan; and

4002 (ii) (A) statewide long-range plan; or

4003 (B) regional transportation plan of the area metropolitan planning organization if a
4004 metropolitan planning organization exists for the area; or

4005 (b) a fixed guideway or an airport, that project or service shall be part of the regional
4006 transportation plan of the area metropolitan planning organization if a metropolitan planning
4007 organization exists for the area.

4008 (4) In a county of the first or second class, a regionally significant transportation
4009 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
4010 designation on a Statewide Transportation Improvement Program and Transportation
4011 Improvement Program if the project or service described in Subsection (2)(a)(i) is:

4012 (a) a principal arterial highway;

4013 (b) a minor arterial highway;

4014 (c) a collector road in a county of the second class; or

4015 (d) a major collector highway in a rural area.

4016 (5) Of the revenues collected from a sales and use tax imposed under this section
4017 within a county of the first or second class, 25% or more shall be expended for the purpose
4018 described in Subsection (2)(b).

4019 (6) (a) As provided in this Subsection (6), a council of governments shall:

4020 (i) develop a written prioritization process for the prioritization of projects to be funded
4021 by revenues collected from a sales and use tax under this section;

4022 (ii) create a priority list of regionally significant transportation facility projects or
4023 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

4024 (iii) present the priority list to the county legislative body for approval in accordance
4025 with Subsection (7).

4026 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:

4027 (i) a definition of the type of projects to which the written prioritization process
4028 applies;

4029 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the
4030 council of governments will use to rank proposed projects and how that weighted criteria
4031 system will be used to determine which proposed projects will be prioritized;

4032 (iii) the specification of data that is necessary to apply the weighted criteria system;

4033 (iv) application procedures for a project to be considered for prioritization by the
4034 council of governments; and

4035 (v) any other provision the council of governments considers appropriate.

4036 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the
4037 following:

4038 (i) the cost effectiveness of a project;

4039 (ii) the degree to which a project will mitigate regional congestion;

4040 (iii) the compliance requirements of applicable federal laws or regulations;

4041 (iv) the economic impact of a project;

4042 (v) the degree to which a project will require tax revenues to fund maintenance and
4043 operation expenses; and

4044 (vi) any other provision the council of governments considers appropriate.

4045 (d) A council of governments of a county of the first or second class shall submit the
4046 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations
4047 Committee for approval prior to taking final action on:

4048 (i) the written prioritization process; or

4049 (ii) any proposed amendment to the written prioritization process.

4050 (7) (a) A council of governments shall use the weighted criteria system adopted in the
4051 written prioritization process developed in accordance with Subsection (6) to create a priority
4052 list of regionally significant transportation facility projects or services for which revenues
4053 collected from a sales and use tax under this section may be expended.

4054 (b) Before a council of governments may finalize a priority list or the funding level of a
4055 project, the council of governments shall conduct a public meeting on:

4056 (i) the written prioritization process; and

4057 (ii) the merits of the projects that are prioritized as part of the written prioritization

4058 process.

4059 (c) A council of governments shall make the weighted criteria system ranking for each
4060 project prioritized as part of the written prioritization process publicly available before the
4061 public meeting required by Subsection (7)(b) is held.

4062 (d) If a council of governments prioritizes a project over another project with a higher
4063 rank under the weighted criteria system, the council of governments shall:

4064 (i) identify the reasons for prioritizing the project over another project with a higher
4065 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
4066 and

4067 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

4068 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
4069 priority list in accordance with this Subsection (7), the council of governments shall:

4070 (i) submit the priority list to the county legislative body for approval; and

4071 (ii) obtain approval of the priority list from a majority of the members of the county
4072 legislative body.

4073 (f) A council of governments may only submit one priority list per calendar year to the
4074 county legislative body.

4075 (g) A county legislative body may only consider and approve one priority list submitted
4076 under Subsection (7)(e) per calendar year.

4077 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use
4078 tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall
4079 be:

4080 (i) deposited in or transferred to the Local Transportation Corridor Preservation Fund
4081 created by Section 72-2-117.5; and

4082 (ii) expended as provided in Section 72-2-117.5.

4083 (b) In a county of the first class, revenues collected from a sales and use tax under this
4084 section that a county allocates for a purpose described in Subsection (2)(b) shall be:

4085 (i) deposited in or transferred to the County of the First Class Highway Projects Fund
4086 created by Section 72-2-121; and

4087 (ii) expended as provided in Section 72-2-121.

4088 Section 27. Section 59-12-2218 is amended to read:

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in ~~[Subsection]~~ Subsections 59-12-103(1)(a) through (m):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in

4120 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
4121 tax under this section.

4122 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4123 county, city, or town legislative body that imposes a sales and use tax under this section may
4124 impose the tax at a rate of:

4125 (a) .10%; or

4126 (b) .25%.

4127 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
4128 expended as determined by the county, city, or town legislative body as follows:

4129 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4130 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4131 Section 72-2-121.2;

4132 (b) expended for a project or service relating to an airport facility for the portion of the
4133 project or service that is performed within the county, city, or town within which the tax is
4134 imposed:

4135 (i) for a county legislative body that imposes the sales and use tax, if that airport
4136 facility is part of the regional transportation plan of the area metropolitan planning organization
4137 if a metropolitan planning organization exists for the area; or

4138 (ii) for a city or town legislative body that imposes the sales and use tax, if:

4139 (A) that city or town owns or operates the airport facility; and

4140 (B) an airline is headquartered in that city or town; or

4141 (c) deposited or expended for a combination of Subsections (3)(a) and (b).

4142 (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate
4143 described in Subsection (2)(b) shall be expended as determined by the county, city, or town
4144 legislative body as follows:

4145 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4146 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4147 Section 72-2-121.2;

4148 (b) expended for:

4149 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

4150 (ii) a local highway that is a principal arterial highway, minor arterial highway, major

4151 collector highway, or minor collector road; or
4152 (iii) a combination of Subsections (4)(b)(i) and (ii);
4153 (c) expended for a project or service relating to a system for public transit for the
4154 portion of the project or service that is performed within the county, city, or town within which
4155 the sales and use tax is imposed;
4156 (d) expended for a project or service relating to an airport facility for the portion of the
4157 project or service that is performed within the county, city, or town within which the sales and
4158 use tax is imposed:
4159 (i) for a county legislative body that imposes the sales and use tax, if that airport
4160 facility is part of the regional transportation plan of the area metropolitan planning organization
4161 if a metropolitan planning organization exists for the area; or
4162 (ii) for a city or town legislative body that imposes the sales and use tax, if:
4163 (A) that city or town owns or operates the airport facility; and
4164 (B) an airline is headquartered in that city or town;
4165 (e) expended for:
4166 (i) a class B road, as defined in Section 72-3-103;
4167 (ii) a class C road, as defined in Section 72-3-104; or
4168 (iii) a combination of Subsections (4)(e)(i) and (ii);
4169 (f) expended for traffic and pedestrian safety, including:
4170 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
4171 Section 72-3-104, for:
4172 (A) a sidewalk;
4173 (B) curb and gutter;
4174 (C) a safety feature;
4175 (D) a traffic sign;
4176 (E) a traffic signal;
4177 (F) street lighting; or
4178 (G) a combination of Subsections (4)(f)(i)(A) through (F);
4179 (ii) the construction of an active transportation facility that:
4180 (A) is for nonmotorized vehicles and multimodal transportation; and
4181 (B) connects an origin with a destination; or

4182 (iii) a combination of Subsections (4)(f)(i) and (ii); or
4183 (g) deposited or expended for a combination of Subsections (4)(a) through (f).
4184 (5) A county, city, or town legislative body may not expend revenue collected within a
4185 county, city, or town from a tax under this section for a purpose described in Subsections (4)(b)
4186 through (f) unless the purpose is recommended by:
4187 (a) for a county that is part of a metropolitan planning organization, the metropolitan
4188 planning organization of which the county is a part; or
4189 (b) for a county that is not part of a metropolitan planning organization, the council of
4190 governments of which the county is a part.
4191 (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes
4192 a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05%
4193 as provided in Subsection (9)(b)(i) into the Local Transportation Corridor Preservation Fund
4194 created by Section 72-2-117.5.
4195 (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and
4196 distributed in accordance with Section 72-2-117.5.
4197 (b) A county, city, or town is not required to make the deposit required by Subsection
4198 (6)(a)(i) if the county, city, or town:
4199 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
4200 (ii) has continuously imposed a tax described in Subsection (2)(b):
4201 (A) beginning after July 1, 2010; and
4202 (B) for a five-year period.
4203 (7) (a) Subject to the other provisions of this Subsection (7), a city or town within
4204 which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
4205 (i) expend the revenues in accordance with Subsection (4); or
4206 (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
4207 (A) that city or town owns or operates an airport facility; and
4208 (B) an airline is headquartered in that city or town.
4209 (b) (i) A city or town legislative body of a city or town within which a sales and use tax
4210 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected
4211 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4212 .25% for a purpose described in Subsection (7)(b)(ii) if:

4213 (A) that city or town owns or operates an airport facility; and

4214 (B) an airline is headquartered in that city or town.

4215 (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected
4216 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of
4217 .25% for:

4218 (A) a project or service relating to the airport facility; and

4219 (B) the portion of the project or service that is performed within the city or town
4220 imposing the sales and use tax.

4221 (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to
4222 expend the revenues collected from a tax rate of greater than .10% but not to exceed the
4223 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
4224 as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use
4225 tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or
4226 service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as
4227 follows:

4228 (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4229 into the County of the Second Class State Highway Projects Fund created by Section
4230 72-2-121.2 and expended as provided in Section 72-2-121.2; and

4231 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c)
4232 into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and
4233 expended and distributed in accordance with Section 72-2-117.5.

4234 (d) A city or town legislative body that expends the revenues collected from a sales and
4235 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
4236 (7)(b) and (c):

4237 (i) shall, on or before the date the city or town legislative body provides the notice
4238 described in Section 59-12-2209 to the commission stating that the city or town will enact a
4239 sales and use tax under this section:

4240 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4241 exceed .25%, the collections from which the city or town legislative body will expend for a
4242 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4243 (B) notify the commission in writing of the tax rate the city or town legislative body

4244 determines in accordance with Subsection (7)(d)(i)(A);

4245 (ii) shall, on or before the April 1 immediately following the date the city or town
4246 legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

4247 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4248 exceed .25%, the collections from which the city or town legislative body will expend for a
4249 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4250 (B) notify the commission in writing of the tax rate the city or town legislative body
4251 determines in accordance with Subsection (7)(d)(ii)(A);

4252 (iii) shall, on or before April 1 of each year after the April 1 described in Subsection
4253 (7)(d)(ii):

4254 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4255 exceed .25%, the collections from which the city or town legislative body will expend for a
4256 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4257 (B) notify the commission in writing of the tax rate the city or town legislative body
4258 determines in accordance with Subsection (7)(d)(iii)(A); and

4259 (iv) may not change the tax rate the city or town legislative body determines in
4260 accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by
4261 Subsections (7)(d)(i) through (iii).

4262 (8) Before a city or town legislative body may impose a sales and use tax under this
4263 section, the city or town legislative body shall provide a copy of the notice described in Section
4264 59-12-2209 that the city or town legislative body provides to the commission:

4265 (a) to the county legislative body within which the city or town is located; and

4266 (b) at the same time as the city or town legislative body provides the notice to the
4267 commission.

4268 (9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the
4269 commission shall transmit revenues collected within a county, city, or town from a tax under
4270 this part that will be expended for a purpose described in Subsection (3)(b) or Subsections
4271 (4)(b) through (f) to the county, city, or town legislative body in accordance with Section
4272 59-12-2206.

4273 (b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the
4274 commission shall deposit revenues collected within a county, city, or town from a sales and use

4275 tax under this section that:

4276 (i) are required to be expended for a purpose described in Subsection (6)(a) into the
4277 Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

4278 (ii) a county, city, or town legislative body determines to expend for a purpose
4279 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
4280 Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body
4281 provides written notice to the commission requesting the deposit.

4282 (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice
4283 to the commission in accordance with Subsection (7)(d), the commission shall:

4284 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
4285 town legislative body monthly by electronic funds transfer; and

4286 (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with
4287 Subsection (7)(c).

4288 (d) (i) If a city or town legislative body provides the notice described in Subsection
4289 (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected
4290 from the sales and use tax:

4291 (A) in accordance with Subsection (9)(c);

4292 (B) beginning on the date the city or town legislative body enacts the sales and use tax;
4293 and

4294 (C) ending on the earlier of the June 30 immediately following the date the city or town
4295 legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the
4296 date the city or town legislative body repeals the sales and use tax.

4297 (ii) If a city or town legislative body provides the notice described in Subsection
4298 (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
4299 collected from the sales and use tax:

4300 (A) in accordance with Subsection (9)(c);

4301 (B) beginning on the July 1 immediately following the date the city or town legislative
4302 body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

4303 (C) ending on the earlier of the June 30 of the year after the date the city or town
4304 legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission
4305 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 28. 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 sales and use tax of .25% on the transactions described in ~~[Subsection]~~ Subsections [59-12-103\(1\)\(a\) through \(m\)](#) within the county, including the cities and towns within the

4337 county.

4338 (3) The commission shall distribute sales and use tax revenue collected under this
4339 section as provided in Subsections (4) through (10).

4340 (4) If the entire boundary of a county that imposes a sales and use tax under this section
4341 is annexed into a single public transit district, the commission shall distribute the sales and use
4342 tax revenue collected within the county as follows:

4343 (a) .10% shall be transferred to the public transit district in accordance with Section
4344 59-12-2206;

4345 (b) .10% shall be distributed as provided in Subsection (8); and

4346 (c) .05% shall be distributed to the county legislative body.

4347 (5) If the entire boundary of a county that imposes a sales and use tax under this section
4348 is not annexed into a single public transit district, but a city or town within the county is
4349 annexed into a single public transit district that also has a county of the first class annexed into
4350 the same public transit district, the commission shall distribute the sales and use tax revenue
4351 collected within the county as follows:

4352 (a) for a city or town within the county that is annexed into a single public transit
4353 district, the commission shall distribute the sales and use tax revenue collected within that city
4354 or town as follows:

4355 (i) .10% shall be transferred to the public transit district in accordance with Section
4356 59-12-2206;

4357 (ii) .10% shall be distributed as provided in Subsection (8); and

4358 (iii) .05% shall be distributed to the county legislative body;

4359 (b) for an eligible political subdivision within the county, the commission shall
4360 distribute the sales and use tax revenue collected within that eligible political subdivision as
4361 follows:

4362 (i) .10% shall be transferred to the eligible political subdivision in accordance with
4363 Section 59-12-2206;

4364 (ii) .10% shall be distributed as provided in Subsection (8); and

4365 (iii) .05% shall be distributed to the county legislative body; and

4366 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4367 and use tax revenue described in Subsections (5)(a) and (b), as follows:

4368 (i) .10% shall be distributed as provided in Subsection (8); and

4369 (ii) .15% shall be distributed to the county legislative body.

4370 (6) For a county not described in Subsection (4) or (5), if the entire boundary of a
4371 county of the first or second class that imposes a sales and use tax under this section is not
4372 annexed into a single public transit district, or if there is not a public transit district within the
4373 county, the commission shall distribute the sales and use tax revenue collected within the
4374 county as follows:

4375 (a) for a city or town within the county that is annexed into a single public transit
4376 district, the commission shall distribute the sales and use tax revenue collected within that city
4377 or town as follows:

4378 (i) .10% shall be transferred to the public transit district in accordance with Section
4379 [59-12-2206](#);

4380 (ii) .10% shall be distributed as provided in Subsection (8); and

4381 (iii) .05% shall be distributed to the county legislative body;

4382 (b) for an eligible political subdivision within the county, the commission shall
4383 distribute the sales and use tax revenue collected within that eligible political subdivision as
4384 follows:

4385 (i) .10% shall be transferred to the eligible political subdivision in accordance with
4386 Section [59-12-2206](#);

4387 (ii) .10% shall be distributed as provided in Subsection (8); and

4388 (iii) .05% shall be distributed to the county legislative body; and

4389 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4390 and use tax revenue described in Subsections (6)(a) and (b), as follows:

4391 (i) .10% shall be distributed as provided in Subsection (8); and

4392 (ii) .15% shall be distributed to the county legislative body.

4393 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a
4394 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this
4395 section is not annexed into a single public transit district, or if there is not a public transit
4396 district within the county, the commission shall distribute the sales and use tax revenue
4397 collected within the county as follows:

4398 (a) for a city or town within the county that is annexed into a single public transit

4399 district, the commission shall distribute the sales and use tax revenue collected within that city
4400 or town as follows:

4401 (i) .10% shall be distributed as provided in Subsection (8);

4402 (ii) .10% shall be distributed as provided in Subsection (9); and

4403 (iii) .05% shall be distributed to the county legislative body;

4404 (b) for an eligible political subdivision within the county, the commission shall
4405 distribute the sales and use tax revenue collected within that eligible political subdivision as
4406 follows:

4407 (i) .10% shall be distributed as provided in Subsection (8);

4408 (ii) .10% shall be distributed as provided in Subsection (9); and

4409 (iii) .05% shall be distributed to the county legislative body; and

4410 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4411 and use tax revenue described in Subsections (7)(a) and (b), as follows:

4412 (i) .10% shall be distributed as provided in Subsection (8); and

4413 (ii) .15% shall be distributed to the county legislative body.

4414 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions
4415 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),
4416 (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

4417 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4418 (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
4419 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4420 cities, and towns within those counties on the basis of the percentage that the population of
4421 each unincorporated area, city, or town bears to the total population of all of the counties that
4422 impose a tax under this section; and

4423 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4424 (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
4425 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4426 cities, and towns within those counties on the basis of the location of the transaction as
4427 determined under Sections 59-12-211 through 59-12-215.

4428 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
4429 of the most recent official census or census estimate of the United States Census Bureau.

4430 (ii) If a needed population estimate is not available from the United States Census
4431 Bureau, population figures shall be derived from an estimate from the Utah Population
4432 Estimates Committee created by executive order of the governor.

4433 (9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative
4434 body:

4435 (A) for a county that obtained approval from a majority of the county's registered
4436 voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016,
4437 may, in consultation with any cities, towns, or eligible political subdivisions within the county,
4438 and in compliance with the requirements for changing an allocation under Subsection (9)(e),
4439 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4440 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4441 public transit district or an eligible political subdivision; or

4442 (B) for a county that obtains approval from a majority of the county's registered voters
4443 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
4444 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
4445 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4446 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4447 public transit district or an eligible political subdivision.

4448 (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under
4449 Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission
4450 shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

4451 (A) a public transit district for a city or town within the county that is annexed into a
4452 single public transit district; or

4453 (B) an eligible political subdivision within the county.

4454 (b) If a county legislative body allocates the revenue as described in Subsection
4455 (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under
4456 Subsection (7)(a)(ii) or (7)(b)(ii) to:

4457 (i) a public transit district for a city or town within the county that is annexed into a
4458 single public transit district; or

4459 (ii) an eligible political subdivision within the county.

4460 (c) Notwithstanding Section [59-12-2208](#), the opinion question required by Section

4461 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
4462 Subsection (9).

4463 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or
4464 (7)(b)(ii) as follows:

4465 (i) the percentage specified by a county legislative body shall be distributed in
4466 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an
4467 eligible political subdivision or a public transit district within the county; and

4468 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates
4469 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district
4470 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or
4471 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection
4472 (9)(a) shall be distributed as follows:

4473 (A) 50% of the revenue as provided in Subsection (8); and

4474 (B) 50% of the revenue to the county legislative body.

4475 (e) If a county legislative body seeks to change an allocation specified in a resolution
4476 under Subsection (9)(a), the county legislative body may change the allocation by:

4477 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage
4478 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit
4479 district or an eligible political subdivision;

4480 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of
4481 all the members of the county legislative body; and

4482 (iii) subject to Subsection (9)(f):

4483 (A) in accordance with Section 59-12-2208, submitting an opinion question to the
4484 county's registered voters voting on changing the allocation so that each registered voter has the
4485 opportunity to express the registered voter's opinion on whether the allocation should be
4486 changed; and

4487 (B) in accordance with Section 59-12-2208, obtaining approval to change the
4488 allocation from a majority of the county's registered voters voting on changing the allocation.

4489 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
4490 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
4491 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection

4492 (9)(e)(ii).

4493 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
4494 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
4495 take effect on the first distribution the commission makes under this section after a 90-day
4496 period that begins on the date the commission receives written notice meeting the requirements
4497 of Subsection (9)(g)(ii) from the county.

4498 (ii) The notice described in Subsection (9)(g)(i) shall state:

4499 (A) that the county will make or change the percentage of an allocation under
4500 Subsection (9)(a) or (e); and

4501 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be
4502 allocated to a public transit district or an eligible political subdivision.

4503 (10) (a) If a public transit district is organized after the date a county legislative body
4504 first imposes a tax under this section, a change in a distribution required by this section may
4505 not take effect until the first distribution the commission makes under this section after a
4506 90-day period that begins on the date the commission receives written notice from the public
4507 transit district of the organization of the public transit district.

4508 (b) If an eligible political subdivision intends to provide public transit service within a
4509 county after the date a county legislative body first imposes a tax under this section, a change
4510 in a distribution required by this section may not take effect until the first distribution the
4511 commission makes under this section after a 90-day period that begins on the date the
4512 commission receives written notice from the eligible political subdivision stating that the
4513 eligible political subdivision intends to provide public transit service within the county.

4514 (11) A county, city, or town may expend revenue collected from a tax under this
4515 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
4516 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

4517 (a) a class B road;

4518 (b) a class C road;

4519 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

4520 (i) a sidewalk;

4521 (ii) curb and gutter;

4522 (iii) a safety feature;

4523 (iv) a traffic sign;
4524 (v) a traffic signal;
4525 (vi) street lighting; or
4526 (vii) a combination of Subsections (11)(c)(i) through (vi);
4527 (d) the construction, maintenance, or operation of an active transportation facility that
4528 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
4529 destination;

4530 (e) public transit system services; or

4531 (f) a combination of Subsections (11)(a) through (e).

4532 (12) A public transit district or an eligible political subdivision may expend revenue
4533 the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i)
4534 for capital expenses and service delivery expenses of the public transit district or eligible
4535 political subdivision.

4536 (13) (a) Revenue collected from a sales and use tax under this section may not be used
4537 to supplant existing general fund appropriations that a county, city, or town has budgeted for
4538 transportation as of the date the tax becomes effective for a county, city, or town.

4539 (b) The limitation under Subsection (13)(a) does not apply to a designated
4540 transportation capital or reserve account a county, city, or town may have established prior to
4541 the date the tax becomes effective.

4542 Section 29. Section **63N-2-502** is amended to read:

4543 **63N-2-502. Definitions.**

4544 As used in this part:

4545 (1) "Agreement" means an agreement described in Section **63N-2-503**.

4546 (2) "Base taxable value" means the value of hotel property before the construction on a
4547 qualified hotel begins, as that value is established by the county in which the hotel property is
4548 located, using a reasonable valuation method that may include the value of the hotel property
4549 on the county assessment rolls the year before the year during which construction on the
4550 qualified hotel begins.

4551 (3) "Certified claim" means a claim that the office has approved and certified as
4552 provided in Section **63N-2-505**.

4553 (4) "Claim" means a written document submitted by a qualified hotel owner or host

4554 local government to request a convention incentive.

4555 (5) "Claimant" means the qualified hotel owner or host local government that submits a
4556 claim under Subsection 63N-2-505(1)(a) for a convention incentive.

4557 (6) "Commission" means the [Utah] State Tax Commission.

4558 (7) "Community reinvestment agency" means the same as that term is defined in
4559 Section 17C-1-102.

4560 (8) "Construction revenue" means revenue generated from state taxes and local taxes
4561 imposed on transactions occurring during the eligibility period as a result of the construction of
4562 the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

4563 (9) "Convention incentive" means an incentive for the development of a qualified
4564 hotel, in the form of payment from the incentive fund as provided in this part, as authorized in
4565 an agreement.

4566 (10) "Eligibility period" means:

4567 (a) the period that:

4568 (i) begins the date construction of a qualified hotel begins; and

4569 (ii) ends:

4570 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
4571 qualified hotel; or

4572 (B) for purposes of the local portion and incremental property tax revenue, 25 years
4573 after the date of initial occupancy of that hotel; or

4574 (b) as provided in an agreement between the office and a qualified hotel owner or host
4575 local government, a period that:

4576 (i) begins no earlier than the date construction of a qualified hotel begins; and

4577 (ii) is shorter than the period described in Subsection (10)(a).

4578 (11) "Endorsement letter" means a letter:

4579 (a) from the county in which a qualified hotel is located or is proposed to be located;

4580 (b) signed by the county executive; and

4581 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
4582 all the county's criteria for receiving the county's endorsement.

4583 (12) "Host agency" means the community reinvestment agency of the host local
4584 government.

4585 (13) "Host local government" means:

4586 (a) a county that enters into an agreement with the office for the construction of a
4587 qualified hotel within the unincorporated area of the county; or

4588 (b) a city or town that enters into an agreement with the office for the construction of a
4589 qualified hotel within the boundary of the city or town.

4590 (14) "Hotel property" means a qualified hotel and any property that is included in the
4591 same development as the qualified hotel, including convention, exhibit, and meeting space,
4592 retail shops, restaurants, parking, and other ancillary facilities and amenities.

4593 (15) "Incentive fund" means the Convention Incentive Fund created in Section
4594 63N-2-503.5.

4595 (16) "Incremental property tax revenue" means the amount of property tax revenue
4596 generated from hotel property that equals the difference between:

4597 (a) the amount of property tax revenue generated in any tax year by all taxing entities
4598 from hotel property, using the current assessed value of the hotel property; and

4599 (b) the amount of property tax revenue that would be generated that tax year by all
4600 taxing entities from hotel property, using the hotel property's base taxable value.

4601 (17) "Local portion" means the portion of new tax revenue that is generated by local
4602 taxes.

4603 (18) "Local taxes" means a tax imposed under:

4604 (a) Section 59-12-204;

4605 (b) Section 59-12-301;

4606 (c) Sections 59-12-352 and 59-12-353;

4607 (d) Subsection 59-12-603(1)(a)(i)(A);

4608 (e) Subsection 59-12-603(1)(a)(i)(B);

4609 (f) Subsection 59-12-603(1)(a)(ii);

4610 (g) Subsection 59-12-603(1)(a)(iii); or

4611 (h) Section 59-12-1102.

4612 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite
4613 revenue.

4614 (20) "Offsite revenue" means revenue generated from state taxes and local taxes
4615 imposed on transactions by a third-party seller occurring other than on hotel property during the

4616 eligibility period, if:

4617 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax
4618 Act; and

4619 (b) the third-party seller voluntarily consents to the disclosure of information to the
4620 office, as provided in Subsection 63N-2-505(2)(b)(i)(E).

4621 (21) "Onsite revenue" means revenue generated from state taxes and local taxes
4622 imposed on transactions occurring on hotel property during the eligibility period.

4623 (22) "Public infrastructure" means:

4624 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
4625 systems and lines;

4626 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
4627 transportation facilities; and

4628 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

4629 (23) "Qualified hotel" means a full-service hotel development constructed in the state
4630 on or after July 1, 2014 that:

4631 (a) requires a significant capital investment;

4632 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
4633 room; and

4634 (c) is located within 1,000 feet of a convention center that contains at least 500,000
4635 square feet of convention, exhibit, and meeting space.

4636 (24) "Qualified hotel owner" means a person who owns a qualified hotel.

4637 (25) "Review committee" means the independent review committee established under
4638 Section 63N-2-504.

4639 (26) "Significant capital investment" means an amount of at least \$200,000,000.

4640 (27) "State portion" means the portion of new tax revenue that is generated by state
4641 taxes.

4642 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i),
4643 (2)(c)(i), (2)(d), or (2)(~~d~~)(e)(i)(A).

4644 (29) "Third-party seller" means a person who is a seller in a transaction:

4645 (a) occurring other than on hotel property;

4646 (b) that is:

4647 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
4648 facilities on hotel property; or

4649 (ii) the sale of tangible personal property or a service that is part of a bundled
4650 transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in
4651 Subsection (29)(b)(i); and

4652 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

4653 Section 30. **Effective date.**

4654 This bill takes effect on January 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel