

TAX AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title and the Rural Health Services chapter.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the Utah Tax Review Commission to include the chairs of the Revenue and Taxation Interim Committee;

- ▶ repeals a repeal date for tax credits for research activities in the state;

- ▶ increases the percentage of expenses or payments that serve as the basis for calculating tax credits for research activities in the state;

- ▶ provides a nonrefundable tax credit equal to 5% of a taxpayer's qualified research expenses for the current taxable year in addition to other tax credits for research activities in the state allowed under current statute;

- ▶ provides that the tax credits for qualified research expenses may not be carried forward;

- ▶ requires a review of the tax credits for research activities in the state by the Utah Tax Review Commission;

- ▶ extends the availability of the renewable energy tax credit;

- ▶ provides for the Utah Tax Review Commission to review the renewable energy tax credit;

- ▶ expands the renewable energy tax credit to include some geothermal sources;

- ▶ makes the renewable energy tax credit on commercial energy systems a refundable tax credit;

- 30 ▶ changes the calculation of the tax credit for commercial energy systems;
- 31 ▶ removes language reimbursing the Uniform School Fund for renewable energy tax
- 32 credits taken;
- 33 ▶ provides that a tax under the Individual Income Tax Act that is imposed on the basis
- 34 of graduated brackets and rates may not be imposed for taxable years beginning on
- 35 or after January 1, 2008;
- 36 ▶ provides and modifies definitions;
- 37 ▶ reduces the single rate individual income tax rate from 5.35% to 5%;
- 38 ▶ enacts a nonrefundable tax credit under the Single Rate Individual Income Tax Act
- 39 allowed on the basis of:
 - 40 • the deductions a person claims; and
 - 41 • personal exemptions;
- 42 ▶ enacts nonrefundable retirement tax credits under the Single Rate Individual Income
- 43 Tax Act;
- 44 ▶ phases out the above nonrefundable tax credits under the Single Rate Individual
- 45 Income Tax Act at certain income levels;
- 46 ▶ requires the apportionment of the above nonrefundable tax credits under the Single
- 47 Rate Individual Income Tax Act for a nonresident individual or part-year resident
- 48 individual;
- 49 ▶ modifies the definition of "prosthetic device," the sale of which is exempt from
- 50 sales and use taxation, to include a dental prosthesis;
- 51 ▶ reduces the state sales and use tax rate from 4.75% to 4.65%;
- 52 ▶ reduces the state sales and use tax rate imposed on food and food ingredients,
- 53 except with respect to certain bundled transactions;
- 54 ▶ provides a sales and use tax exemption for certain machinery, equipment, or repair
- 55 or replacement parts purchased or leased by certain establishments relating to
- 56 mining that are listed under the North American Industry Classification System;
- 57 ▶ modifies State Tax Commission rulemaking authority;

- 58 ▶ authorizes certain counties, cities, or towns to increase certain tax rates from .25%
- 59 to .30% and exempts those tax rate increases from voter approval requirements;
- 60 ▶ provides that food and food ingredients are not subject to certain local sales and use
- 61 taxes, except with respect to certain bundled transactions;
- 62 ▶ addresses State Tax Commission notice requirements to enact, repeal, or change the
- 63 tax rate of certain local sales and use taxes;
- 64 ▶ creates a restricted special revenue fund to distribute monies to fund rural health
- 65 care facilities and services that are impacted by providing that food and food
- 66 ingredients are not generally subject to local sales and use taxes for rural health care
- 67 facilities and services, including:
 - 68 • addressing the distribution and expenditure of fund revenues; and
 - 69 • providing that unexpended monies remaining in the fund at the end of a fiscal
 - 70 year lapse into the General Fund;
- 71 ▶ requires the State Tax Commission to provide data to the executive director of the
- 72 Department of Health;
- 73 ▶ increases the maximum tax rate for the resort communities local sales and use tax
- 74 from 1% to 1.1%;
- 75 ▶ enacts an additional state sales and use tax and provides that the revenues collected
- 76 from the tax shall be deposited into the General Fund;
- 77 ▶ provides a nonrefundable tax credit under the Multi-Channel Video or Audio
- 78 Service Tax Act for a multi-channel video or audio service provider;
- 79 ▶ requires a multi-channel video or audio service provider to pass through an amount
- 80 equal to the tax credit to purchasers located within the state;
- 81 ▶ provides that a tax on amounts paid or charged for multi-channel video or audio
- 82 service may not be reduced as a result of the amount a multi-channel video or audio
- 83 service provider passes through to its customers within the state;
- 84 ▶ requires a Revenue and Taxation Interim Committee study on repealing the state
- 85 individual income tax imposed on the basis of graduated brackets and rates; and

86 ▶ makes technical changes.

87 **Monies Appropriated in this Bill:**

88 This bill appropriates:

89 ▶ for fiscal year 2007-08 only, \$277,500 from the General Fund to the Rural Health

90 Care Facilities Fund; and

91 ▶ as an ongoing appropriation subject to future budget constraints, \$555,000 from the

92 General Fund for fiscal year 2008-09 to the Rural Health Care Facilities Fund.

93 **Other Special Clauses:**

94 This bill provides effective dates and provides for retrospective operation.

95 This bill provides revisor instructions.

96 This bill coordinates with H.B. 27, Sales and Use Tax Modifications, by merging

97 substantive amendments.

98 **Utah Code Sections Affected:**

99 AMENDS:

100 **59-1-210**, as last amended by Chapter 271, Laws of Utah 1995

101 **59-1-901**, as last amended by Chapter 243, Laws of Utah 1996

102 **59-7-612**, as last amended by Chapter 9, Laws of Utah 2001

103 **59-10-104**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session

104 **59-10-1012**, as renumbered and amended by Chapter 223, Laws of Utah 2006

105 **59-10-1014**, as renumbered and amended by Chapter 223, Laws of Utah 2006

106 **59-10-1202**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session

107 **59-10-1203**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session

108 **59-12-102**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session

109 **59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session

110 **59-12-104**, as last amended by Chapters 181, 182, 217, 218, 219, 220, 246, 268 and

111 346, Laws of Utah 2006

112 **59-12-401**, as last amended by Chapter 253, Laws of Utah 2006

113 **59-12-402**, as last amended by Chapter 253, Laws of Utah 2006

- 114 **59-12-403**, as last amended by Chapter 253, Laws of Utah 2006
- 115 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2006
- 116 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006
- 117 **59-12-504**, as last amended by Chapter 253, Laws of Utah 2006
- 118 **59-12-703**, as last amended by Chapter 253, Laws of Utah 2006
- 119 **59-12-802**, as last amended by Chapters 253 and 302, Laws of Utah 2006
- 120 **59-12-804**, as last amended by Chapter 253, Laws of Utah 2006
- 121 **59-12-1001**, as last amended by Chapter 253, Laws of Utah 2006
- 122 **59-12-1302**, as last amended by Chapter 253, Laws of Utah 2006
- 123 **59-12-1402**, as last amended by Chapter 253, Laws of Utah 2006
- 124 **59-12-1503**, as last amended by Chapter 253, Laws of Utah 2006
- 125 **59-12-1703**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 126 **59-26-102**, as enacted by Chapter 300, Laws of Utah 2004
- 127 **59-26-103**, as enacted by Chapter 300, Laws of Utah 2004

128 ENACTS:

- 129 **26-9-4**, Utah Code Annotated 1953
- 130 **59-10-1106**, Utah Code Annotated 1953
- 131 **59-10-1206.1**, Utah Code Annotated 1953
- 132 **59-10-1206.2**, Utah Code Annotated 1953
- 133 **59-10-1206.9**, Utah Code Annotated 1953
- 134 **59-12-1801**, Utah Code Annotated 1953
- 135 **59-12-1802**, Utah Code Annotated 1953
- 136 **59-12-1803**, Utah Code Annotated 1953
- 137 **59-26-104.5**, Utah Code Annotated 1953

138 REPEALS AND REENACTS:

- 139 **59-7-614**, as last amended by Chapter 223, Laws of Utah 2006

140 **Uncodified Material Affected:**

141 ENACTS UNCODIFIED MATERIAL

142

143 *Be it enacted by the Legislature of the state of Utah:*144 Section 1. Section **26-9-4** is enacted to read:145 **26-9-4. Rural Health Care Facilities Fund -- Source of revenues -- Interest --**146 **Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into**
147 **the General Fund.**

148 (1) As used in this section:

149 (a) "Emergency medical services" is as defined in Section 26-8a-102.150 (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.151 (c) "Fiscal year" means a one-year period beginning on July 1 of each year.152 (d) "Freestanding urgent care center" is as defined in Section 59-12-801.153 (e) "Fund" means the Rural Health Care Facilities Fund created by this section.154 (f) "Nursing care facility" is as defined in Section 26-21-2.155 (g) "Rural city hospital" is as defined in Section 59-12-801.156 (h) "Rural county health care facility" is as defined in Section 59-12-801.157 (i) "Rural county hospital" is as defined in Section 59-12-801.158 (j) "Rural county nursing care facility" is as defined in Section 59-12-801.159 (k) "Rural emergency medical services" is as defined in Section 59-12-801.160 (l) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.161 (2) There is created a restricted special revenue fund known as the Rural Health Care
162 Facilities Fund.163 (3) (a) The fund shall be funded by amounts appropriated by the Legislature.164 (b) Any interest earned on the fund shall be deposited into the General Fund.165 (4) Subject to Subsection (5), the executive director shall for a fiscal year distribute
166 monies deposited into the fund to each:167 (a) county legislative body of a county that, on January 1, 2007, imposes a tax in
168 accordance with Section 59-12-802; or169 (b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance

170 with Section 59-12-804.

171 (5) (a) For purposes of the distribution required by Subsection (4), the executive
172 director shall:

173 (i) estimate for each county and city described in Subsection (4) the amount by which
174 the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for
175 fiscal year 2005-06 would have been reduced had:

176 (A) the amendments made by this bill to Sections 59-12-802 and 59-12-804 been in
177 effect for fiscal year 2005-06; and

178 (B) each county and city described in Subsection (4) imposed the tax under Sections
179 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

180 (ii) calculate a percentage for each county and city described in Subsection (4) by
181 dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i)
182 by \$555,000; and

183 (iii) distribute to each county and city described in Subsection (4) an amount equal to
184 the product of:

185 (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

186 (B) the amount appropriated by the Legislature to the fund for the fiscal year.

187 (b) The executive director shall make the estimations, calculations, and distributions
188 required by Subsection (5)(a) on the basis of data provided to the executive director by the
189 State Tax Commission.

190 (6) (a) Subject to Subsection (6)(b), a county legislative body shall distribute the
191 monies the county legislative body receives in accordance with Subsection (5):

192 (i) for a county of the third, fourth, or fifth class, to fund rural county health care
193 facilities in that county; and

194 (ii) for a county of the sixth class, to fund:

195 (A) emergency medical services in that county;

196 (B) federally qualified health centers in that county;

197 (C) freestanding urgent care centers in that county;

- 198 (D) rural county health care facilities in that county;
- 199 (E) rural health clinics in that county; or
- 200 (F) a combination of Subsections (6)(a)(ii)(A) through (E).

201 (b) A county legislative body shall distribute a percentage of the monies the county
202 legislative body receives in accordance with Subsection (5) to each center, clinic, facility, or
203 service described in Subsection (6)(a) equal to the same percentage that the county legislative
204 body distributes to that center, clinic, facility, or service in accordance with Section 59-12-803
205 for the calendar year ending on the December 31 immediately preceding the first day of the
206 fiscal year for which the county legislative body receives the distribution in accordance with
207 Subsection (5).

208 (c) A center, clinic, facility, or service that receives a distribution in accordance with
209 this Subsection (6) shall expend that distribution for the same purposes for which monies
210 generated by a tax under Section 59-12-802 may be expended.

211 (7) (a) Subject to Subsection (7)(b), a city legislative body shall distribute the monies
212 the city legislative body receives in accordance with Subsection (5) to fund rural city hospitals
213 in that city.

214 (b) A city legislative body shall distribute a percentage of the monies the city
215 legislative body receives in accordance with Subsection (5) to each rural city hospital described
216 in Subsection (7)(a) equal to the same percentage that the city legislative body distributes to
217 that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on
218 the December 31 immediately preceding the first day of the fiscal year for which the city
219 legislative body receives the distribution in accordance with Subsection (5).

220 (c) A rural city hospital that receives a distribution in accordance with this Subsection
221 (7) shall expend that distribution for the same purposes for which monies generated by a tax
222 under Section 59-12-804 may be expended.

223 (8) Any monies remaining in the Rural Health Care Facilities Fund at the end of a
224 fiscal year after the executive director makes the distributions required by this section shall
225 lapse into the General Fund.

226 Section 2. Section **59-1-210** is amended to read:

227 **59-1-210. General powers and duties.**

228 The powers and duties of the commission are as follows:

229 (1) to sue and be sued in its own name;

230 (2) to adopt rules and policies consistent with the Constitution and laws of this state to
231 govern the commission, executive director, division directors, and commission employees in
232 the performance of their duties;

233 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to
234 govern county boards and officers in the performance of any duty relating to assessment,
235 equalization, and collection of taxes;

236 (4) to prescribe the use of forms relating to the assessment of property for state or local
237 taxation, the equalization of those assessments, the reporting of property or income for state or
238 local taxation purposes, or for the computation of those taxes and the reporting of any
239 information, statistics, or data required by the commission;

240 (5) to administer and supervise the tax laws of the state;

241 (6) to prepare and maintain from year to year a complete record of all lands subject to
242 taxation in this state, and all machinery used in mining and all property or surface
243 improvements upon or appurtenant to mines or mining claims;

244 (7) to exercise general supervision over assessors and county boards of equalization
245 including the authority to enforce Section 59-2-303.1, and over other county officers in the
246 performance of their duties relating to the assessment of property and collection of taxes, so
247 that all assessments of property are just and equal, according to fair market value, and that the
248 tax burden is distributed without favor or discrimination;

249 (8) to reconvene any county board of equalization which, when reconvened, may only
250 address business approved by the commission and extend the time for which any county board
251 of equalization may sit for the equalization of assessments;

252 (9) to confer with, advise, and direct county treasurers, assessors, and other county
253 officers in matters relating to the assessment and equalization of property for taxation and the

254 collection of taxes;

255 (10) to provide for and hold annually at such time and place as may be convenient a
256 district or state convention of county assessors, auditors, and other county officers to consider
257 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative
258 to taxation and methods of assessment, to which county assessors and other officers called to
259 attend shall attend at county expense;

260 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the
261 penalties, liabilities, and punishments of public officers, persons, and officers or agents of
262 corporations for failure or neglect to comply with the statutes governing the reporting,
263 assessment, and taxation of property;

264 (12) to cause complaints to be made in the proper court seeking removal from office of
265 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing
266 officers, who are guilty of official misconduct or neglect of duty;

267 (13) to require county attorneys to immediately institute and prosecute actions and
268 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the
269 laws relating to the assessment and taxation of property in their respective counties;

270 (14) to require any person to furnish any information required by the commission to
271 ascertain the value and the relative burden borne by all kinds of property in the state, and to
272 require from all state and local officers any information necessary for the proper discharge of
273 the duties of the commission;

274 (15) to examine all records relating to the valuation of property of any person;

275 (16) to subpoena witnesses to appear and give testimony and produce records relating
276 to any matter before the commission;

277 (17) to cause depositions of witnesses to be taken as in civil actions at the request of
278 the commission or any party to any matter or proceeding before the commission;

279 (18) to authorize any member or employee of the commission to administer oaths and
280 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the
281 commission;

282 (19) to visit periodically each county of the state, to investigate and direct the work and
283 methods of local assessors and other officials in the assessment, equalization, and taxation of
284 property, and to ascertain whether the law requiring the assessment of all property not exempt
285 from taxation, and the collection of taxes, have been properly administered and enforced;

286 (20) to carefully examine all cases where evasion or violation of the laws for
287 assessment and taxation of property is alleged, to ascertain whether existing laws are defective
288 or improperly administered;

289 (21) to furnish to the governor from time to time such assistance and information as the
290 governor requires;

291 (22) to transmit to the governor and to each member of the Legislature
292 recommendations as to legislation which will correct or eliminate defects in the operation of
293 the tax laws and will equalize the burden of taxation within the state;

294 (23) to correct any error in any assessment made by it at any time before the tax is due
295 and report the correction to the county auditor, who shall enter the corrected assessment upon
296 the assessment roll;

297 (24) to compile and publish statistics relating to taxation in the state and prepare and
298 submit an annual budget to the governor for inclusion in the state budget to be submitted to the
299 Legislature;

300 (25) to perform any further duties imposed by law, and exercise all powers necessary in
301 the performance of its duties;

302 (26) to adopt a schedule of fees assessed for services provided by the commission,
303 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the
304 cost of services provided. Each fee established in this manner shall be submitted to and
305 approved by the Legislature as part of the commission's annual appropriations request. The
306 commission may not charge or collect any fee proposed in this manner without approval by the
307 Legislature; ~~and~~

308 (27) to comply with the procedures and requirements of Title 63, Chapter 46b,
309 Administrative Procedures Act, in its adjudicative proceedings[-]; and

310 (28) to provide data to the executive director of the Department of Health for purposes
311 of the distributions required by Section 26-9-4.

312 Section 3. Section **59-1-901** is amended to read:

313 **59-1-901. Creation -- Members -- Terms.**

314 (1) There is created a state commission to be known as the Utah Tax Review
315 Commission.

316 (2) (a) The [~~review commission~~] Utah Tax Review Commission shall be composed of
317 [~~14~~] 16 members as follows:

318 (i) [~~Two~~] two members shall be appointed by the speaker of the House of
319 Representatives from the House of Representatives, not more than one of whom may be from
320 the same political party[-];

321 (ii) [~~Two~~] two members shall be appointed by the president of the Senate from the
322 Senate, not more than one of whom may be from the same political party[-];

323 (iii) [~~Five~~] five members shall be appointed by the governor, not more than three of
324 whom may be from the same political party[-];

325 (iv) [~~A~~] one member who is a member of the State Tax Commission, appointed by the
326 State Tax Commission, shall be an ex officio member of the [~~review commission~~] Utah Tax
327 Review Commission;

328 (v) one member who is the House of Representatives chair of the Revenue and
329 Taxation Interim Committee shall be an ex officio member of the Utah Tax Review
330 Commission; and

331 (vi) one member who is the Senate chair of the Revenue and Taxation Interim
332 Committee shall be an ex officio member of the Utah Tax Review Commission.

333 (b) The [~~ten~~] 12 members appointed under Subsection (2)(a) shall then select four
334 additional members with consideration to be given to achieving ethnic, cultural, and gender
335 diversity, representation from the major geographical areas of the state, and equal bipartisan
336 representation.

337 (3) (a) Except for members appointed under Subsections (2)(a)(i) [~~and~~], (ii), (v), and

338 (vi), and except as required by Subsection (3)(b), members shall be appointed to four-year
 339 terms.

340 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
 341 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 342 commission members are staggered so that approximately half of the commission is appointed
 343 every two years.

344 Section 4. Section **59-7-612** is amended to read:

345 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
 346 **forward -- Commission to report modification or repeal of certain federal provisions --**
 347 **Utah Tax Review Commission study.**

348 (1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~
 349 ~~December 31, 2010, a~~] A taxpayer meeting the requirements of this section [shall qualify for]
 350 may claim the following nonrefundable tax credits [~~for increasing research activities in this~~
 351 ~~state]~~:

352 (i) a research tax credit of [~~6%~~] 7% of the taxpayer's qualified research expenses for
 353 the current taxable year that exceed the base amount provided for under Subsection (4); [~~and]~~

354 (ii) a tax credit for payments to qualified organizations for basic research as provided
 355 in Section 41(e), Internal Revenue Code, of [~~6%~~] 7% for the current taxable year that exceed
 356 the base amount provided for under Subsection (4)[~~]; and~~

357 (iii) a tax credit equal to 5% of the taxpayer's qualified research expenses for the
 358 current taxable year.

359 [~~(b) If a taxpayer qualifying for a credit under Subsection (1)(a) seeks to claim the~~
 360 ~~credit, the taxpayer shall:]~~

361 (b) (i) Except as provided in Subsection (1)(b)(ii), a taxpayer may:

362 [~~(i)~~] (A) claim the tax credit or a portion of the tax credit for the taxable year
 363 immediately following the taxable year for which the taxpayer qualifies for the tax credit;

364 [~~(ii)~~] (B) carry forward the tax credit or a portion of the tax credit [~~forward~~] as
 365 provided in Subsection [~~(4)(f)~~] (5); or

366 [(iii)] (C) claim a portion of the tax credit and carry forward a portion of the tax credit
367 as provided in Subsections (1)(b)(i)(A) and [(ii)] (B).

368 (ii) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

369 (c) The tax credits provided for in this section do not include the alternative
370 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

371 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
372 in Section 59-7-101 is considered to be one taxpayer.

373 (3) Except as specifically provided for in this section:

374 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
375 Section 41, Internal Revenue Code; and

376 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
377 the tax credits authorized under Subsection (1).

378 (4) For purposes of this section:

379 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
380 Internal Revenue Code, except that:

381 (i) the base amount does not include the calculation of the alternative incremental
382 credit provided for in Section 41(c)(4), Internal Revenue Code;

383 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
384 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah
385 UDITPA Provisions; and

386 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
387 the base amount, a taxpayer:

388 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
389 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
390 and

391 (B) may not revoke an election to be treated as a start-up company under Subsection
392 (4)(a)(iii)(A);

393 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except

394 that the term includes only basic research conducted in this state;

395 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
 396 that the term includes only qualified research conducted in this state;

397 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
 398 Revenue Code, except that the term includes only ~~[those expenses incurred in conducting~~
 399 ~~qualified research in this state;]~~;

400 (i) in-house research expenses incurred in this state; and

401 (ii) contract research expenses incurred in this state; and

402 (e) ~~[notwithstanding the provisions of Section 41(h), Internal Revenue Code, the~~
 403 ~~credits] a tax credit~~ provided for in this section ~~[shall] is not [terminate] terminated~~ if ~~[the~~
 404 ~~credits terminate] a credit terminates~~ under Section 41, Internal Revenue Code~~[-and]~~.

405 ~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~
 406 ~~governing the carry forward and carry back of federal tax credits, if]~~

407 (5) If the amount of a tax credit claimed by a taxpayer under ~~[this section]~~ Subsection
 408 (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the
 409 amount of the tax credit exceeding the tax liability:

410 ~~[(i)]~~ (a) may be carried forward for a period that does not exceed the next 14 taxable
 411 years; and

412 ~~[(ii)]~~ (b) may not be carried back to a taxable year preceding the current taxable year.

413 ~~[(5)]~~ (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
 414 Act, the commission may make rules for purposes of this section prescribing a certification
 415 process for qualified organizations to ensure that amounts paid to the qualified organizations
 416 are for basic research conducted in this state.

417 ~~[(6)]~~ (7) If a ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code,
 418 is modified or repealed, the commission shall report the modification or repeal to the Utah Tax
 419 Review Commission within 60 days after the day on which the modification or repeal becomes
 420 effective.

421 ~~[(7)]~~ (8) (a) ~~[Except as provided in Subsection (7)(b), the]~~ The Utah Tax Review

422 Commission shall review the tax credits provided for in this section on or before [~~the earlier of:~~
 423 ~~(i)~~] October 1 of the year after the year in which the commission reports under Subsection [~~(6)~~
 424 ~~(7)~~] a modification or repeal of a [~~federal tax credit under~~] provision of Section 41, Internal
 425 Revenue Code[; ~~or (ii) October 1, 2004~~].

426 (b) Notwithstanding Subsection [~~(7)~~] ~~(8)~~(a), the Utah Tax Review Commission is not
 427 required to review the tax credits provided for in this section if the only modification to a
 428 [~~federal tax credit under~~] provision of Section 41, Internal Revenue Code, is the extension of
 429 the termination date provided for in Section 41(h), Internal Revenue Code.

430 (c) The Utah Tax Review Commission shall address in a review under this section
 431 [~~the~~]:

432 (i) the cost of the [credit] tax credits provided for in this section;
 433 (ii) the purpose and effectiveness of the [credit] tax credits provided for in this section;
 434 (iii) whether the [credit benefits] tax credits provided for in this section benefit the
 435 state; and

436 (iv) whether the [credit] tax credits provided for in this section should be:

437 (A) continued;
 438 (B) modified; or
 439 (C) repealed.

440 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
 441 section, the Utah Tax Review Commission shall report its findings to the Revenue and
 442 Taxation Interim Committee on or before the November interim meeting of the year in which
 443 the Utah Tax Review Commission reviews the tax credits.

444 Section 5. Section **59-7-614** is repealed and reenacted to read:

445 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
 446 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
 447 **authority.**

448 (1) As used in this section:

449 (a) "Active solar system":

450 (i) means a system of equipment capable of collecting and converting incident solar
451 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
452 by a separate apparatus to storage or to the point of use; and

453 (ii) includes water heating, space heating or cooling, and electrical or mechanical
454 energy generation.

455 (b) "Biomass system" means any system of apparatus and equipment for use in
456 converting material into biomass energy, as defined in Section 59-12-102, and transporting that
457 energy by separate apparatus to the point of use or storage.

458 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
459 association, corporation, cooperative, or other entity under which business is conducted or
460 transacted.

461 (d) "Commercial energy system" means any active solar, passive solar, geothermal
462 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
463 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

464 (e) "Commercial enterprise" means a business entity whose purpose is to produce
465 electrical, mechanical, or thermal energy for sale from a commercial energy system.

466 (f) (i) "Commercial unit" means any building or structure that a business entity uses to
467 transact its business.

468 (ii) Notwithstanding Subsection (1)(f)(i):

469 (A) in the case of an active solar system used for agricultural water pumping or a wind
470 system, each individual energy generating device shall be a commercial unit; and

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

473 (g) "Direct-use geothermal system" means a system of apparatus and equipment
474 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,
475 that is contained in the earth to meet energy needs, including heating a building, an industrial
476 process, and aquaculture.

477 (h) "Geothermal electricity" means energy contained in heat that continuously flows

478 outward from the earth that is used as a sole source of energy to produce electricity.

479 (i) "Geothermal heat-pump system" means a system of apparatus and equipment
480 enabling the use of thermal properties contained in the earth at temperatures well below 100
481 degrees Fahrenheit to help meet heating and cooling needs of a structure.

482 (j) "Hydroenergy system" means a system of apparatus and equipment capable of
483 intercepting and converting kinetic water energy into electrical or mechanical energy and
484 transferring this form of energy by separate apparatus to the point of use or storage.

485 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
486 59-10-103 and an individual as defined in Section 59-10-103.

487 (l) "Passive solar system":

488 (i) means a direct thermal system that utilizes the structure of a building and its
489 operable components to provide for collection, storage, and distribution of heating or cooling
490 during the appropriate times of the year by utilizing the climate resources available at the site;
491 and

492 (ii) includes those portions and components of a building that are expressly designed
493 and required for the collection, storage, and distribution of solar energy.

494 (m) "Residential energy system" means any active solar, passive solar, biomass,
495 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
496 supply energy to or for any residential unit.

497 (n) "Residential unit" means any house, condominium, apartment, or similar dwelling
498 unit that serves as a dwelling for a person, group of persons, or a family but does not include
499 property subject to a fee under:

500 (i) Section 59-2-404;

501 (ii) Section 59-2-405;

502 (iii) Section 59-2-405.1;

503 (iv) Section 59-2-405.2; or

504 (v) Section 59-2-405.3.

505 (o) "Utah Geological Survey" means the Utah Geological Survey established in Section

506 63-73-5.

507 (p) "Wind system" means a system of apparatus and equipment capable of intercepting
508 and converting wind energy into mechanical or electrical energy and transferring these forms of
509 energy by a separate apparatus to the point of use, sale, or storage.

510 (2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that
511 purchases and completes or participates in the financing of a residential energy system to
512 supply all or part of the energy required for a residential unit owned or used by the business
513 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
514 Subsection (2)(a).

515 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs
516 of each residential energy system installed with respect to each residential unit it owns or uses,
517 including installation costs, against any tax due under this chapter for the taxable year in which
518 the energy system is completed and placed in service.

519 (B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000
520 per residential unit.

521 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
522 completed and placed in service on or after January 1, 2007.

523 (iii) If a business entity sells a residential unit to an individual taxpayer before making
524 a claim for the tax credit under this Subsection (2)(a), the business entity may:

525 (A) assign its right to this tax credit to the individual taxpayer; and

526 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
527 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
528 individual taxpayer had completed or participated in the costs of the residential energy system
529 under Section 59-10-1014.

530 (b) (i) For taxable years beginning on or after January 1, 2007, a business entity that
531 purchases or participates in the financing of a commercial energy system situated in Utah is
532 entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial
533 energy system does not use wind, geothermal electricity, or biomass equipment capable of

534 producing a total of 660 or more kilowatts of electricity, and:

535 (A) the commercial energy system supplies all or part of the energy required by
536 commercial units owned or used by the business entity; or

537 (B) the business entity sells all or part of the energy produced by the commercial
538 energy system as a commercial enterprise.

539 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs
540 of any commercial energy system installed, including installation costs, against any tax due
541 under this chapter for the taxable year in which the commercial energy system is completed and
542 placed in service.

543 (B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this
544 Subsection (2)(b) may not exceed \$50,000 per commercial unit.

545 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
546 system completed and placed in service on or after January 1, 2007.

547 (iii) A business entity that leases a commercial energy system installed on a
548 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
549 confirm that the lessor irrevocably elects not to claim the credit.

550 (iv) Only the principal recovery portion of the lease payments, which is the cost
551 incurred by a business entity in acquiring a commercial energy system, excluding interest
552 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

553 (v) A business entity that leases a commercial energy system is eligible to use the tax
554 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
555 of the lease.

556 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or
557 carried back.

558 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that
559 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
560 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
561 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

562 (A) the commercial energy system supplies all or part of the energy required by
563 commercial units owned or used by the business entity; or

564 (B) the business entity sells all or part of the energy produced by the commercial
565 energy system as a commercial enterprise.

566 (ii) (A) A business entity is entitled to a tax credit under this section equal to the
567 product of:

568 (I) 0.35 cents; and

569 (II) the kilowatt hours of electricity produced and either used or sold during the taxable
570 year.

571 (B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for
572 production occurring during a period of 48 months beginning with the month in which the
573 commercial energy system is placed in commercial service.

574 (II) The credit allowed by this Subsection (2)(c) for each year may not be carried
575 forward or carried back.

576 (C) The credit under this Subsection (2)(c) is allowed for any commercial energy
577 system completed and placed in service on or after January 1, 2007.

578 (iii) A business entity that leases a commercial energy system installed on a
579 commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can
580 confirm that the lessor irrevocably elects not to claim the credit.

581 (d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year
582 in which the energy system is completed and placed in service.

583 (ii) Additional energy systems or parts of energy systems may be claimed for
584 subsequent years.

585 (iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax
586 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
587 may be carried forward for a period which does not exceed the next four taxable years.

588 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
589 credits provided under the laws or rules and regulations of the United States.

590 (b) (i) The Utah Geological Survey may set standards for residential and commercial
591 energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety,
592 reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems
593 eligible for the tax credit use the state's renewable and nonrenewable energy resources in an
594 appropriate and economic manner.

595 (ii) The Utah Geological Survey may set standards for residential and commercial
596 energy systems that establish the reasonable costs of an energy system, as used in Subsections
597 (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

598 (iii) A tax credit may not be taken under Subsection (2) until the Utah Geological
599 Survey has certified that the energy system has been completely installed and is a viable system
600 for saving or production of energy from renewable resources.

601 (c) The Utah Geological Survey and the commission may make rules in accordance
602 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
603 implement this section.

604 (4) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
605 Review Commission shall review each tax credit provided by this section and make
606 recommendations to the Revenue and Taxation Interim Committee concerning whether the
607 credit should be continued, modified, or repealed.

608 (b) The Utah Tax Review Commission's report under Subsection (4)(a) shall include
609 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
610 the state's benefit from the credit.

611 Section 6. Section **59-10-104** is amended to read:

612 **59-10-104. Tax basis -- Rates -- Adjustment for changes in the consumer price**
613 **index -- Exemption.**

614 (1) Except as provided in Subsection (5) or Part 12, Single Rate Individual Income Tax
615 Act, for taxable years beginning on or after January 1, 2006, but beginning on or before
616 December 31, 2007, a tax is imposed on the state taxable income of every resident individual
617 as provided in this section.

618 (2) For an individual, other than a husband and wife or head of household required to
619 use the tax table under Subsection (3), the tax under this section is imposed in accordance with
620 the following income brackets:

621 If the state taxable income is:	The tax is:
622 Less than or equal to \$1,000	2.3% of the state taxable income
623 Greater than \$1,000 but less than 624 or equal to \$2,000	\$23, plus 3.3% of state taxable income greater than \$1,000
625 Greater than \$2,000 but less than 626 or equal to \$3,000	\$56, plus 4.2% of state taxable income greater than \$2,000
627 Greater than \$3,000 but less than 628 or equal to \$4,000	\$98, plus 5.2% of state taxable income greater than \$3,000
629 Greater than \$4,000 but less than 630 or equal to \$5,500	\$150, plus 6% of state taxable income greater than \$4,000
631 Greater than \$5,500	\$240, plus 6.98% of state taxable 632 income greater than \$5,500

633 (3) For a husband and wife filing a single return jointly, or a head of household as
634 defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section
635 is imposed in accordance with the following income brackets:

636 If the state taxable income is:	The tax is:
637 Less than or equal to \$2,000	2.3% of the state taxable income
638 Greater than \$2,000 but less than 639 or equal to \$4,000	\$46, plus 3.3% of state taxable income greater than \$2,000
640 Greater than \$4,000 but less than 641 or equal to \$6,000	\$112, plus 4.2% of state taxable income greater than \$4,000
642 Greater than \$6,000 but less than 643 or equal to \$8,000	\$196, plus 5.2% of state taxable income greater than \$6,000
644 Greater than \$8,000 but less than 645 or equal to \$11,000	\$300, plus 6% of state taxable income greater than \$8,000

646 Greater than \$11,000 \$480, plus 6.98% of state taxable
647 income greater than \$11,000

648 (4) (a) For taxable years beginning on or after January 1, 2009, the commission shall:
649 (i) make the following adjustments to the income brackets under Subsection (2):
650 (A) increase or decrease the income brackets under Subsection (2) by a percentage
651 equal to the percentage difference between the consumer price index for the preceding calendar
652 year and the consumer price index for the calendar year 2007; and
653 (B) after making an increase or decrease under Subsection (4)(a)(i)(A), round the
654 income brackets under Subsection (2) to the nearest whole dollar;
655 (ii) after making the adjustments described in Subsection (4)(a)(i) to the income
656 brackets under Subsection (2), adjust the income brackets under Subsection (3) so that for each
657 income bracket under Subsection (2) there is a corresponding income bracket under Subsection
658 (3) that is equal to the product of:
659 (A) each income bracket under Subsection (2); and
660 (B) two; and
661 (iii) to the extent necessary to reflect an adjustment under Subsection (4)(a)(i) or (ii):
662 (A) increase or decrease the amount of tax under Subsection (2) or (3) prior to adding
663 in the portion of the tax calculated as a percentage of state taxable income; and
664 (B) after making an increase or decrease under Subsection (4)(a)(iii)(A), round the
665 amount of tax under Subsection (2) or (3) to the nearest whole dollar.
666 (b) The commission may not increase or decrease the tax rate percentages provided in
667 Subsection (2) or (3).
668 (c) For purposes of Subsection (4)(a)(i), the commission shall calculate the consumer
669 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
670 (5) This section does not apply to a resident individual exempt from taxation under
671 Section 59-10-104.1.

672 Section 7. Section **59-10-1012** is amended to read:
673 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**

674 forward -- Commission to report modification or repeal of certain federal provisions --
675 Utah Tax Review Commission study.

676 (1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~
677 ~~December 31, 2010, a~~ A claimant, estate, or trust meeting the requirements of this section
678 [~~shall qualify for~~] may claim the following nonrefundable tax credits [~~for increasing research~~
679 ~~activities in this state~~]:

680 (i) a research tax credit of [~~6%~~] 7% of the claimant's, estate's, or trust's qualified
681 research expenses for the current taxable year that exceed the base amount provided for under
682 Subsection [~~(4)~~] (3); [~~and~~]

683 (ii) a tax credit for payments to qualified organizations for basic research as provided
684 in Section 41(e), Internal Revenue Code of [~~6%~~] 7% for the current taxable year that exceed
685 the base amount provided for under Subsection [~~(4)~~] (3); and

686 (iii) a tax credit equal to 5% of the claimant's, estate's, or trust's qualified research
687 expenses for the current taxable year.

688 (b) (i) [~~If a claimant, estate, or trust qualifying for a tax credit under Subsection (1)(a)~~
689 ~~seeks to claim the tax credit, the~~] Except as provided in Subsection (1)(b)(ii), a claimant, estate,
690 or trust [~~shall~~] may:

691 [~~(i)~~] (A) claim the tax credit or a portion of the tax credit for the taxable year
692 immediately following the taxable year for which the claimant, estate, or trust qualifies for the
693 tax credit;

694 [~~(ii)~~] (B) carry forward the tax credit or a portion of the tax credit [~~forward~~] as
695 provided in Subsection (4)[~~(f)~~]; or

696 [~~(iii)~~] (C) claim a portion of the tax credit and carry forward a portion of the tax credit
697 as provided in Subsections (1)(b)(i)(A) and [~~(ii)~~] (B).

698 (ii) A claimant, estate, or trust may not carry forward the tax credit allowed by
699 Subsection (1)(a)(iii).

700 (c) The tax credits provided for in this section do not include the alternative
701 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

702 ~~[(2) For purposes of claiming a tax credit under this section, a unitary group as defined~~
703 ~~in Section 59-7-101 is considered to be one claimant.]~~

704 ~~[(3)]~~ (2) Except as specifically provided for in this section:

705 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
706 Section 41, Internal Revenue Code; and

707 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
708 the tax credits authorized under Subsection (1).

709 ~~[(4)]~~ (3) For purposes of this section:

710 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
711 Internal Revenue Code, except that:

712 (i) the base amount does not include the calculation of the alternative incremental
713 credit provided for in Section 41(c)(4), Internal Revenue Code;

714 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
715 attributable to sources within this state as provided in Section 59-10-118; and

716 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
717 the base amount, a claimant, estate, or trust:

718 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
719 regardless of whether the claimant, estate, or trust meets the requirements of Section
720 41(c)(3)(B)(i)(I) or (II); and

721 (B) may not revoke an election to be treated as a start-up company under Subsection
722 ~~[(4)]~~ (3)(a)(iii)(A);

723 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
724 that the term includes only basic research conducted in this state;

725 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
726 that the term includes only qualified research conducted in this state;

727 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
728 Revenue Code, except that the term includes only ~~[those expenses incurred in conducting~~
729 ~~qualified research in this state;]~~;

730 (i) in-house research expenses incurred in this state; and
731 (ii) contract research expenses incurred in this state; and
732 (e) ~~[notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax~~
733 ~~credits] a tax credit provided for in this section [shall] is not [terminate] terminated if [the~~
734 ~~credits terminate] a credit terminates under Section 41, Internal Revenue Code[; and].~~

735 ~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~
736 ~~governing the carry forward and carry back of federal tax credits, if]~~

737 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under [this
738 section] Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under
739 this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

740 [(i)] (a) may be carried forward for a period that does not exceed the next 14 taxable
741 years; and

742 [(ii)] (b) may not be carried back to a taxable year preceding the current taxable year.

743 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
744 commission may make rules for purposes of this section prescribing a certification process for
745 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
746 research conducted in this state.

747 (6) If a ~~[federal credit under] provision of~~ Section 41, Internal Revenue Code, is
748 modified or repealed, the commission shall report the modification or repeal to the Utah Tax
749 Review Commission within 60 days after the day on which the modification or repeal becomes
750 effective.

751 (7) (a) The Utah Tax Review Commission shall review the tax credits provided for in
752 this section on or before October 1 of the year after the year in which the commission reports
753 under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue
754 Code.

755 (b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not
756 required to review the tax credits provided for in this section if the only modification to a
757 provision of Section 41, Internal Revenue Code, is the extension of the termination date

758 provided for in Section 41(h), Internal Revenue Code.

759 (c) The Utah Tax Review Commission shall address in a review under this section:

760 (i) the cost of the tax credits provided for in this section;

761 (ii) the purpose and effectiveness of the tax credits provided for in this section;

762 (iii) whether the tax credits provided for in this section benefit the state; and

763 (iv) whether the tax credits provided for in this section should be:

764 (A) continued;

765 (B) modified; or

766 (C) repealed.

767 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this

768 section, the Utah Tax Review Commission shall report its findings to the Revenue and

769 Taxation Interim Committee on or before the November interim meeting of the year in which

770 the Utah Tax Review Commission reviews the tax credits.

771 Section 8. Section **59-10-1014** is amended to read:

772 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**

773 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**

774 **authority.**

775 (1) As used in this part:

776 (a) "Active solar system":

777 (i) means a system of equipment capable of collecting and converting incident solar
778 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
779 by a separate apparatus to storage or to the point of use; and

780 (ii) includes water heating, space heating or cooling, and electrical or mechanical
781 energy generation.

782 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
783 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
784 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
785 in converting material into biomass energy, as defined in Section 59-12-102, and transporting

786 that energy by separate apparatus to the point of use or storage.

787 (c) "Business entity" means any entity under which business is conducted or transacted.

788 [~~(d) "Commercial energy system" means any active solar, passive solar, wind,~~
789 ~~hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial~~
790 ~~enterprise.]~~

791 [~~(e) "Commercial enterprise" means a business entity whose purpose is to produce~~
792 ~~electrical, mechanical, or thermal energy for sale from a commercial energy system.]~~

793 [~~(f) (i) "Commercial unit" means any building or structure which that a business entity~~
794 ~~uses to transact its business, except as provided in Subsection (1)(f)(ii); and]~~

795 [~~(ii) (A) in the case of an active solar system used for agricultural water pumping or a~~
796 ~~wind system, each individual energy generating device shall be a commercial unit; and]~~

797 [~~(B) if an energy system is the building or structure which a business entity uses to~~
798 ~~transact its business, a commercial unit is the complete energy system itself.]~~

799 (d) "Direct-use geothermal system" means a system of apparatus and equipment
800 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,
801 that is contained in the earth to meet energy needs, including heating a building, an industrial
802 process, and aquaculture.

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

805 (f) "Geothermal heat-pump system" means a system of apparatus and equipment
806 enabling the use of thermal properties contained in the earth at temperatures well below 100
807 degrees Fahrenheit to help meet heating and cooling needs of a structure.

808 (g) "Hydroenergy system" means a system of apparatus and equipment capable of
809 intercepting and converting kinetic water energy into electrical or mechanical energy and
810 transferring this form of energy by separate apparatus to the point of use or storage.

811 (h) "Passive solar system":

812 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its
813 operable components to provide for collection, storage, and distribution of heating or cooling

814 during the appropriate times of the year by utilizing the climate resources available at the site;
815 and

816 (ii) includes those portions and components of a building that are expressly designed
817 and required for the collection, storage, and distribution of solar energy.

818 (i) "Residential energy system" means any active solar, passive solar, biomass,
819 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
820 supply energy to or for any residential unit.

821 (j) "Residential unit" means any house, condominium, apartment, or similar dwelling
822 unit ~~[which]~~ that serves as a dwelling for a person, group of persons, or a family but does not
823 include property subject to a fee under:

824 (i) Section 59-2-404;

825 (ii) Section 59-2-405;

826 (iii) Section 59-2-405.1;

827 (iv) Section 59-2-405.2; or

828 (v) Section 59-2-405.3.

829 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section
830 63-73-5.

831 (l) "Wind system" means a system of apparatus and equipment capable of intercepting
832 and converting wind energy into mechanical or electrical energy and transferring these forms of
833 energy by a separate apparatus to the point of use or storage.

834 (2) For taxable years beginning on or after January 1, ~~[2001]~~ 2007, ~~[but beginning on~~
835 ~~or before December 31, 2006;]~~ a claimant, estate, or trust may claim a nonrefundable tax credit
836 as provided in this section if:

837 (a) a claimant, estate, or trust that is not a business entity purchases and completes or
838 participates in the financing of a residential energy system to supply all or part of the energy for
839 the claimant's, estate's, or trust's residential unit in the state; or

840 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to
841 another claimant, estate, or trust that is not a business entity ~~[prior to]~~ before making a claim

842 for a tax credit under Subsection (6) or Section 59-7-614; and

843 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit
844 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or
845 Subsection 59-7-614(2)(a)(iii).

846 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable
847 costs of ~~[the]~~ each residential energy system, including installation costs, against any income
848 tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the
849 residential energy system is completed and placed in service.

850 (b) The total amount of ~~[the]~~ each tax credit under this section may not exceed \$2,000
851 per residential unit.

852 (c) The tax credit under this section is allowed for any residential energy system
853 completed and placed in service on or after January 1, ~~[2001]~~ 2007~~[, but on or before~~
854 ~~December 31, 2006]~~.

855 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
856 taxable year in which the residential energy system is completed and placed in service.

857 (b) Additional residential energy systems or parts of residential energy systems may be
858 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
859 does not exceed \$2,000 per residential unit.

860 (c) If the amount of the tax credit under this section exceeds the income tax liability of
861 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then
862 the amount not used may be carried over for a period ~~[which]~~ that does not exceed the next
863 four taxable years.

864 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential
865 energy system installed on a residential unit is eligible for the residential energy tax ~~[credits]~~
866 credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the
867 tax credit.

868 (b) Only the principal recovery portion of the lease payments, which is the cost
869 incurred by the claimant, estate, or trust in acquiring the residential energy system excluding

870 interest charges and maintenance expenses, is eligible for the tax credits.

871 (c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits
872 for a period that does not exceed seven years from the initiation of the lease.

873 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes
874 or participates in the financing of a residential energy system to supply all or part of the energy
875 required for a residential unit owned or used by the claimant, estate, or trust that is a business
876 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
877 Subsection (6).

878 (b) (i) For taxable years beginning on or after January 1, ~~[2001]~~ 2007, ~~[but beginning~~
879 ~~on or before December 31, 2006;]~~ a claimant, estate, or trust that is a business entity is entitled
880 to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy
881 system installed with respect to each residential unit it owns or uses, including installation
882 costs, against any tax due under this chapter for the taxable year in which the energy system is
883 completed and placed in service.

884 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000
885 per residential unit.

886 (iii) The tax credit under this Subsection (6) is allowed for any residential energy
887 system completed and placed in service on or after January 1, ~~[2001]~~ 2007, ~~[but on or before~~
888 ~~December 31, 2006]~~.

889 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a
890 claimant, estate, or trust that is not a business entity ~~[prior to]~~ before making a claim for the tax
891 credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

892 (i) assign its right to this tax credit to the claimant, estate, or trust that is not a business
893 entity; and

894 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax
895 credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the
896 claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,
897 estate, or trust that is not a business entity had completed or participated in the costs of the

898 residential energy system under this section.

899 ~~[(7) (a) A claimant, estate, or trust that is a business entity that purchases or~~
900 ~~participates in the financing of a commercial energy system is entitled to a nonrefundable tax~~
901 ~~credit as provided in this Subsection (7) if:]~~

902 ~~[(i) the commercial energy system supplies all or part of the energy required by~~
903 ~~commercial units owned or used by the claimant, estate, or trust that is a business entity; or]~~

904 ~~[(ii) the claimant, estate, or trust that is a business entity sells all or part of the energy~~
905 ~~produced by the commercial energy system as a commercial enterprise.]~~

906 ~~[(b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit~~
907 ~~equal to 10% of the costs of any commercial energy system installed, including installation~~
908 ~~costs, against any tax due under this chapter for the taxable year in which the commercial~~
909 ~~energy system is completed and placed in service.]~~

910 ~~[(ii) The total amount of the tax credit under this Subsection (7) may not exceed~~
911 ~~\$50,000 per commercial unit.]~~

912 ~~[(iii) The tax credit under this Subsection (7) is allowed for any commercial energy~~
913 ~~system completed and placed in service on or after January 1, 2001, but on or before~~
914 ~~December 31, 2006.]~~

915 ~~[(c) A claimant, estate, or trust that is a business entity that leases a commercial energy~~
916 ~~system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if~~
917 ~~the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax~~
918 ~~credit.]~~

919 ~~[(d) Only the principal recovery portion of the lease payments, which is the cost~~
920 ~~incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial~~
921 ~~energy system, excluding interest charges and maintenance expenses, is eligible for the tax~~
922 ~~credit under this Subsection (7).]~~

923 ~~[(e) A claimant, estate, or trust that is a business entity that leases a commercial energy~~
924 ~~system is eligible to use the tax credit under this Subsection (7) for a period that does not~~
925 ~~exceed seven years from the initiation of the lease.]~~

926 ~~[(8)]~~ (7) (a) A tax credit under this section may be claimed for the taxable year in
927 which the residential energy system is completed and placed in service.

928 (b) Additional residential energy systems or parts of residential energy systems may be
929 claimed for subsequent years.

930 (c) If the amount of a tax credit under this section exceeds the tax liability of the
931 claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount
932 of the tax credit exceeding the tax liability may be carried over for a period which does not
933 exceed the next four taxable years.

934 ~~[(9)]~~ (8) The tax credits provided for under this section are in addition to any tax
935 credits provided under the laws or rules and regulations of the United States.

936 ~~[(10)]~~ (9) (a) The Utah Geological Survey may set standards for residential ~~[and~~
937 ~~commercial]~~ energy systems that cover the safety, reliability, efficiency, leasing, and technical
938 feasibility of the systems to ensure that the systems eligible for the tax credit use the state's
939 renewable and nonrenewable energy resources in an appropriate and economic manner.

940 (b) The Utah Geological Survey may set standards for residential and commercial
941 energy systems that establish the reasonable costs of an energy system, as used in Subsections
942 (3)(a) and (6)(b)(i), as an amount per unit of energy production.

943 ~~[(b)]~~ (c) A tax credit may not be taken under this section until the Utah Geological
944 Survey has certified that the energy system has been completely installed and is a viable system
945 for saving or production of energy from renewable resources.

946 ~~[(11)]~~ (10) The Utah Geological Survey and the commission ~~[are authorized to~~
947 ~~promulgate]~~ may make rules in accordance with Title 63, Chapter 46a, Utah Administrative
948 Rulemaking Act, ~~[which]~~ that are necessary to implement this section.

949 ~~[(12) The Uniform School Fund shall be reimbursed by transfers from the General~~
950 ~~Fund for any tax credits taken under this section.]~~

951 (11) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
952 Review Commission shall review each tax credit provided by this section and make
953 recommendations to the Revenue and Taxation Interim Committee concerning whether the

954 credit should be continued, modified, or repealed.

955 (b) The Utah Tax Review Commission's report under Subsection (11)(a) shall include
956 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
957 the state's benefit from the credit.

958 Section 9. Section **59-10-1106** is enacted to read:

959 **59-10-1106. Renewable energy tax credit.**

960 (1) As used in this section:

961 (a) "Active solar system" is as defined in Section 59-10-1014.

962 (b) "Biomass system" is as defined in Section 59-10-1014.

963 (c) "Business entity" is as defined in Section 59-10-1014.

964 (d) "Commercial energy system" means any active solar, passive solar, geothermal
965 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
966 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

967 (e) "Commercial enterprise" means a business entity whose purpose is to produce
968 electrical, mechanical, or thermal energy for sale from a commercial energy system.

969 (f) (i) "Commercial unit" means any building or structure that a business entity uses to
970 transact its business.

971 (ii) Notwithstanding Subsection (1)(f)(i):

972 (A) in the case of an active solar system used for agricultural water pumping or a wind
973 system, each individual energy generating device shall be a commercial unit; and

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

976 (g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

977 (h) "Geothermal electricity" is as defined in Section 59-10-1014.

978 (i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

979 (j) "Hydroenergy system" is as defined in Section 59-10-1014.

980 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
981 59-10-103 and an individual as defined in Section 59-10-103.

982 (l) "Passive solar system" is as defined in Section 59-10-1014.

983 (m) "Utah Geological Survey" means the Utah Geological Survey established in
984 Section 63-73-5.

985 (n) "Wind system" is as defined in Section 59-10-1014.

986 (2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that
987 purchases or participates in the financing of a commercial energy system situated in Utah is
988 entitled to a refundable tax credit as provided in this Subsection (2)(a) if the commercial energy
989 system does not use wind, geothermal electricity, or biomass equipment capable of producing a
990 total of 660 or more kilowatts of electricity and:

991 (A) the commercial energy system supplies all or part of the energy required by
992 commercial units owned or used by the business entity; or

993 (B) the business entity sells all or part of the energy produced by the commercial
994 energy system as a commercial enterprise.

995 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs
996 of any commercial energy system installed, including installation costs, against any tax due
997 under this chapter for the taxable year in which the commercial energy system is completed and
998 placed in service.

999 (B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this
1000 Subsection (2)(a) may not exceed \$50,000 per commercial unit.

1001 (C) The credit under this Subsection (2)(a) is allowed for any commercial energy
1002 system completed and placed in service on or after January 1, 2007.

1003 (iii) A business entity that leases a commercial energy system installed on a
1004 commercial unit is eligible for the tax credit under this Subsection (2)(a) if the lessee can
1005 confirm that the lessor irrevocably elects not to claim the credit.

1006 (iv) Only the principal recovery portion of the lease payments, which is the cost
1007 incurred by a business entity in acquiring a commercial energy system, excluding interest
1008 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(a).

1009 (v) A business entity that leases a commercial energy system is eligible to use the tax

1010 credit under this Subsection (2)(a) for a period no greater than seven years from the initiation of
1011 the lease.

1012 (b) (i) For taxable years beginning on or after January 1, 2007, a business entity that
1013 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
1014 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
1015 entitled to a refundable tax credit as provided in this section if:

1016 (A) the commercial energy system supplies all or part of the energy required by
1017 commercial units owned or used by the business entity; or

1018 (B) the business entity sells all or part of the energy produced by the commercial
1019 energy system as a commercial enterprise.

1020 (ii) A business entity is entitled to a tax credit under this Subsection (2)(b) equal to the
1021 product of:

1022 (A) 0.35 cents; and

1023 (B) the kilowatt hours of electricity produced and either used or sold during the taxable
1024 year.

1025 (iii) The credit allowed by this Subsection (2)(b):

1026 (A) may be claimed for production occurring during a period of 48 months beginning
1027 with the month in which the commercial energy system is placed in service; and

1028 (B) may not be carried forward or back.

1029 (iv) A business entity that leases a commercial energy system installed on a
1030 commercial unit is eligible for the tax credit under this section if the lessee can confirm that the
1031 lessor irrevocably elects not to claim the credit.

1032 (3) The tax credits provided for under this section are in addition to any tax credits
1033 provided under the laws or rules and regulations of the United States.

1034 (4) (a) The Utah Geological Survey may set standards for commercial energy systems
1035 claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency,
1036 leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax
1037 credit use the state's renewable and nonrenewable energy resources in an appropriate and

1038 economic manner.

1039 (b) A tax credit may not be taken under this section until the Utah Geological Survey
1040 has certified that the commercial energy system has been completely installed and is a viable
1041 system for saving or production of energy from renewable resources.

1042 (5) The Utah Geological Survey and the commission may make rules in accordance
1043 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
1044 implement this section.

1045 (6) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
1046 Review Commission shall review each tax credit provided by this section and make
1047 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1048 credit should be continued, modified, or repealed.

1049 (b) The Utah Tax Review Commission's report under Subsection (6)(a) shall include
1050 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
1051 the state's benefit from the credit.

1052 Section 10. Section **59-10-1202** is amended to read:

1053 **59-10-1202. Definitions.**

1054 As used in this part:

1055 (1) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

1056 (2) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

1057 (3) "State income tax percentage for a nonresident individual" means a percentage
1058 equal to a nonresident individual's adjusted gross income for the taxable year received from
1059 Utah sources, as determined under Section 59-10-117, divided by the difference between:

1060 (a) the nonresident individual's total adjusted gross income for that taxable year; and

1061 (b) if the nonresident individual described in Subsection (3)(a) is a servicemember, the
1062 compensation the servicemember receives for military service if the servicemember is serving
1063 in compliance with military orders.

1064 (4) "State income tax percentage for a part-year resident individual" means, for a
1065 taxable year, a fraction:

1066 (a) the numerator of which is the sum of:
 1067 (i) for the time period during the taxable year that the part-year resident individual is a
 1068 resident, the part-year resident individual's total adjusted gross income for that time period; and
 1069 (ii) for the time period during the taxable year that the part-year resident individual is a
 1070 nonresident, the part-year resident individual's adjusted gross income for that time period
 1071 received from Utah sources, as determined under Section 59-10-117; and
 1072 (b) the denominator of which is the difference between:
 1073 (i) the part-year resident individual's total adjusted gross income for that taxable year;
 1074 and
 1075 (ii) if the part-year resident individual is a servicemember, any compensation the
 1076 servicemember receives for military service during the portion of the taxable year that the
 1077 servicemember is a nonresident if the servicemember is serving in compliance with military
 1078 orders.

1079 [~~(4)~~] (5) "State taxable income" means a resident or nonresident individual's adjusted
 1080 gross income after making the:

- 1081 (a) additions and subtractions required by Section 59-10-1204; and
- 1082 (b) adjustments required by Section 59-10-1205.

1083 [~~(5)~~] (6) "Unapportioned state tax" means the product of the:

- 1084 (a) difference between:
 - 1085 (i) a nonresident individual's state taxable income; and
 - 1086 (ii) if the nonresident individual described in Subsection [~~(5)~~] (6)(a)(i) is a
 - 1087 servicemember, compensation the servicemember receives for military service if the
 - 1088 servicemember is serving in compliance with military orders; and
- 1089 (b) percentage listed in Subsection 59-10-1203(2)(a)(i)(B).

1090 Section 11. Section **59-10-1203** is amended to read:

1091 **59-10-1203. Single rate tax for resident or nonresident individual -- Tax rate --**
 1092 **Contributions -- Exemption -- Amended returns.**

1093 (1) [~~For taxable years beginning on or after January 1, 2007, a~~] A resident or

1094 nonresident individual may calculate and pay a tax under this section as provided in this part.

1095 (2) (a) A resident individual that calculates and pays a tax under this section:

1096 (i) shall pay for a taxable year an amount equal to the product of:

1097 (A) the resident individual's state taxable income for that taxable year; and

1098 (B) [~~5.35%~~] 5%; and

1099 (ii) is exempt from paying the tax imposed by Section 59-10-104.

1100 (b) A nonresident individual that calculates and pays a tax under this section:

1101 (i) shall pay for a taxable year an amount equal to the product of the nonresident

1102 individual's:

1103 (A) unapportioned state tax; and

1104 (B) state income tax percentage for the nonresident individual; and

1105 (ii) is exempt from paying the tax imposed by Section 59-10-116.

1106 (3) Except as required by Section 59-10-1204 or 59-10-1205, a resident or nonresident

1107 individual that calculates and pays a tax under this section may not make any addition or

1108 adjustment to or subtraction from adjusted gross income.

1109 (4) A resident or nonresident individual that calculates and pays a tax under this

1110 section may designate on the resident or nonresident individual's individual income tax return

1111 for a taxable year a contribution allowed by:

1112 (a) Section 59-10-530;

1113 (b) Section 59-10-530.5;

1114 (c) Section 59-10-547;

1115 (d) Section 59-10-549;

1116 (e) Section 59-10-550;

1117 (f) Section 59-10-550.1; or

1118 (g) Section 59-10-550.2.

1119 (5) This section does not apply to a resident or nonresident individual exempt from

1120 taxation under Section 59-10-104.1.

1121 (6) (a) A resident or nonresident individual may determine for each taxable year for

1122 which the resident or nonresident individual files an individual income tax return under this
1123 chapter whether to calculate and pay a tax under this section as provided in this part.

1124 (b) If a resident or nonresident individual files an amended return for a taxable year
1125 beginning on or after January 1, 2007, the resident or nonresident individual may determine
1126 whether to calculate and pay a tax under this section as provided in this part for that taxable
1127 year.

1128 Section 12. Section **59-10-1206.1** is enacted to read:

1129 **59-10-1206.1. Definitions -- Nonrefundable taxpayer tax credits.**

1130 (1) As used in this section:

1131 (a) "Claimant" means a resident or nonresident individual that has state taxable income
1132 under this part.

1133 (b) "Head of household filing status" means a head of household, as defined in Section
1134 2(b), Internal Revenue Code, who files a single return.

1135 (c) "Joint filing status" means:

1136 (i) a husband and wife who file a single return jointly; or

1137 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
1138 single return.

1139 (d) "Single filing status" means:

1140 (i) a single individual who files a single return; or

1141 (ii) a married individual who:

1142 (A) does not file a single return jointly with that individual's spouse; and

1143 (B) files a single return.

1144 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) through
1145 (5), for taxable years beginning on or after January 1, 2008, a claimant may claim a
1146 nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

1147 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1148 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1149 allowed as the standard deduction on the claimant's federal individual income tax return for

1150 that taxable year; or

1151 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1152 tax return for the taxable year, the product of:

1153 (A) the difference between:

1154 (I) the amount the claimant deducts as allowed as an itemized deduction on the
1155 claimant's federal individual income tax return for that taxable year; and

1156 (II) any amount of state or local income taxes the claimant deducts as allowed as an
1157 itemized deduction on the claimant's federal individual income tax return for that taxable year;
1158 and

1159 (B) 6%; and

1160 (b) 6% of the total amount the claimant would have been allowed to claim as a
1161 personal exemption deduction on the claimant's state individual income tax return had the
1162 claimant filed an individual income tax return under Part 1, Determination and Reporting of
1163 Tax Liability and Information, for the taxable year.

1164 (3) A claimant may not carry forward or carry back a tax credit under this section.

1165 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1166 by which a claimant's state taxable income exceeds:

1167 (a) for a claimant who has a single filing status, \$12,000;
1168 (b) for a claimant who has a head of household filing status, \$18,000; or
1169 (c) for a claimant who has a joint filing status, \$24,000.

1170 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall
1171 increase or decrease the following dollar amounts by a percentage equal to the percentage
1172 difference between the consumer price index for the preceding calendar year and the consumer
1173 price index for calendar year 2007:

1174 (i) the dollar amount listed in Subsection (4)(a); and

1175 (ii) the dollar amount listed in Subsection (4)(b).

1176 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1177 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the

1178 nearest whole dollar.

1179 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1180 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1181 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1182 (i) the dollar amount listed in Subsection (4)(a); and

1183 (ii) two.

1184 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1185 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1186 Section 13. Section **59-10-1206.2** is enacted to read:

1187 **59-10-1206.2. Definitions -- Nonrefundable retirement tax credits.**

1188 (1) As used in this section:

1189 (a) "Eligible age 65 or older retiree" means a resident or nonresident individual,
1190 regardless of whether that individual is retired, who:

1191 (i) is 65 years of age or older;

1192 (ii) was born on or before December 31, 1952; and

1193 (iii) has state taxable income under this part.

1194 (b) (i) "Eligible retirement income" means income received by an eligible under age 65
1195 retiree as a pension or annuity if that pension or annuity is:

1196 (A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under
1197 age 65 retiree; and

1198 (B) (I) paid from an annuity contract purchased by an employer under a plan that meets
1199 the requirements of Section 404(a)(2), Internal Revenue Code;

1200 (II) purchased by an employee under a plan that meets the requirements of Section 408,
1201 Internal Revenue Code; or

1202 (III) paid by:

1203 (Aa) the United States;

1204 (Bb) a state or a political subdivision of a state; or

1205 (Cc) the District of Columbia.

1206 (ii) "Eligible retirement income" does not include amounts received by the spouse of a
1207 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
1208 employed in a community property state.

1209 (c) "Eligible under age 65 retiree" means a resident or nonresident individual,
1210 regardless of whether that individual is retired, who:

1211 (i) is younger than 65 years of age;

1212 (ii) was born on or before December 31, 1952;

1213 (iii) has eligible retirement income for the taxable year for which a tax credit is claimed
1214 under this section; and

1215 (iv) has state taxable income under this part.

1216 (d) "Head of household filing status" is as defined in Section 59-10-1206.1.

1217 (e) "Joint filing status" is as defined in Section 59-10-1206.1.

1218 (f) "Married filing separately status" means a married individual who:

1219 (i) does not file a single return jointly with that individual's spouse; and

1220 (ii) files a single return.

1221 (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older
1222 retiree's or eligible under age 65 retiree's:

1223 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1224 this section; and

1225 (ii) any interest income that is not included in adjusted gross income for the taxable
1226 year described in Subsection (1)(g)(i).

1227 (h) "Single filing status" means a single individual who files a single return.

1228 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) through
1229 (6), for taxable years beginning on or after January 1, 2008:

1230 (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450
1231 against taxes otherwise due under this part; or

1232 (b) each eligible under age 65 retiree may claim a nonrefundable tax credit against
1233 taxes otherwise due under this part in an amount equal to the lesser of:

1234 (i) \$288; or
1235 (ii) the product of:
1236 (A) the eligible under age 65 retiree's eligible retirement income for the taxable year for
1237 which the eligible under age 65 retiree claims a tax credit under this section; and
1238 (B) 6%.
1239 (3) A tax credit under this section may not be carried forward or carried back.
1240 (4) The sum of the tax credits allowed by Subsection (2)(a) claimed on one return filed
1241 under this part shall be reduced by \$.025 for each dollar by which an eligible age 65 or older
1242 retiree's modified adjusted gross income exceeds:
1243 (a) for an eligible age 65 or older retiree who has a married filing separately status,
1244 \$16,000;
1245 (b) for an eligible age 65 or older retiree who has a single filing status, \$25,000; or
1246 (c) for an eligible age 65 or older retiree who has a head of household filing status or a
1247 joint filing status, \$32,000.
1248 (5) The sum of the tax credits allowed by Subsection (2)(b) claimed on one return filed
1249 under this part shall be reduced by \$.025 for each dollar by which an eligible under age 65
1250 retiree's modified adjusted gross income exceeds:
1251 (a) for an eligible under age 65 retiree who has a married filing separately status,
1252 \$16,000;
1253 (b) for an eligible under age 65 retiree who has a single filing status, \$25,000; or
1254 (c) for an eligible under age 65 retiree who has a head of household filing status or a
1255 joint filing status, \$32,000.
1256 (6) For purposes of determining the ownership of items of retirement income under this
1257 section, common law doctrine shall be applied in all cases even though some items of
1258 retirement income may have originated from service or investments in a community property
1259 state.

1260 Section 14. Section **59-10-1206.9** is enacted to read:

1261 **59-10-1206.9. Apportionment of tax credits.**

1262 A nonresident individual or a part-year resident individual that claims a tax credit in
1263 accordance with Section 59-10-1206.1 or 59-10-1206.2 may only claim an apportioned amount
1264 of the tax credit equal to:

1265 (1) for a nonresident individual, the product of:
1266 (a) the state income tax percentage for the nonresident individual; and
1267 (b) the amount of the tax credit that the nonresident individual would have been
1268 allowed to claim but for the apportionment requirements of this section; or

1269 (2) for a part-year resident individual, the product of:
1270 (a) the state income tax percentage for the part-year resident individual; and
1271 (b) the amount of the tax credit that the part-year resident individual would have been
1272 allowed to claim but for the apportionment requirements of this section.

1273 Section 15. Section **59-12-102** is amended to read:

1274 **59-12-102. Definitions.**

1275 As used in this chapter:

1276 (1) (a) "Admission or user fees" includes season passes.
1277 (b) "Admission or user fees" does not include annual membership dues to private
1278 organizations.

1279 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
1280 Section 59-12-102.1.

1281 (3) "Agreement combined tax rate" means the sum of the tax rates:

1282 (a) listed under Subsection (4); and
1283 (b) that are imposed within a local taxing jurisdiction.

1284 (4) "Agreement sales and use tax" means a tax imposed under:

1285 (a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);
1286 (b) Section 59-12-204;
1287 (c) Section 59-12-401;
1288 (d) Section 59-12-402;
1289 (e) Section 59-12-501;

- 1290 (f) Section 59-12-502;
- 1291 (g) Section 59-12-703;
- 1292 (h) Section 59-12-802;
- 1293 (i) Section 59-12-804;
- 1294 (j) Section 59-12-1001;
- 1295 (k) Section 59-12-1102;
- 1296 (l) Section 59-12-1302;
- 1297 (m) Section 59-12-1402; [~~or~~]
- 1298 (n) Section 59-12-1503[~~;~~]; or
- 1299 (o) Section 59-12-1703.
- 1300 (5) "Aircraft" is as defined in Section 72-10-102.
- 1301 (6) "Alcoholic beverage" means a beverage that:
- 1302 (a) is suitable for human consumption; and
- 1303 (b) contains .5% or more alcohol by volume.
- 1304 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 1305 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 1306 device that is started and stopped by an individual:
- 1307 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 1308 device, skill device, or ride device; and
- 1309 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 1310 or ride device.
- 1311 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 1312 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 1313 by an individual:
- 1314 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 1315 property; and
- 1316 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 1317 property.

1318 (10) "Authorized carrier" means:
1319 (a) in the case of vehicles operated over public highways, the holder of credentials
1320 indicating that the vehicle is or will be operated pursuant to both the International Registration
1321 Plan and the International Fuel Tax Agreement;

1322 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1323 certificate or air carrier's operating certificate; or

1324 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1325 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1326 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
1327 following that is used as the primary source of energy to produce fuel or electricity:

1328 (i) material from a plant or tree; or

1329 (ii) other organic matter that is available on a renewable basis, including:

1330 (A) slash and brush from forests and woodlands;

1331 (B) animal waste;

1332 (C) methane produced:

1333 (I) at landfills; or

1334 (II) as a byproduct of the treatment of wastewater residuals;

1335 (D) aquatic plants; and

1336 (E) agricultural products.

1337 (b) "Biomass energy" does not include:

1338 (i) black liquor;

1339 (ii) treated woods; or

1340 (iii) biomass from municipal solid waste other than methane produced:

1341 (A) at landfills; or

1342 (B) as a byproduct of the treatment of wastewater residuals.

1343 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
1344 property if:

1345 (i) one or more of the items of tangible personal property is food and food ingredients;

1346 and

1347 (ii) the items of tangible personal property are:

1348 (A) distinct and identifiable; and

1349 (B) sold for one price that is not itemized.

1350 (b) "Bundled transaction" does not include the sale of tangible personal property if the
1351 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
1352 tangible personal property included in the transaction.

1353 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
1354 and identifiable does not include:

1355 (i) packaging that:

1356 (A) accompanies the sale of the tangible personal property; and

1357 (B) is incidental or immaterial to the sale of the tangible personal property;

1358 (ii) tangible personal property provided free of charge with the purchase of another
1359 item of tangible personal property; or

1360 (iii) an item of tangible personal property included in the definition of "purchase
1361 price."

1362 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
1363 provided free of charge with the purchase of another item of tangible personal property if the
1364 sales price of the purchased item of tangible personal property does not vary depending on the
1365 inclusion of the tangible personal property provided free of charge.

1366 (13) "Certified automated system" means software certified by the governing board of
1367 the agreement in accordance with Section 59-12-102.1 that:

1368 (a) calculates the agreement sales and use tax imposed within a local taxing
1369 jurisdiction:

1370 (i) on a transaction; and

1371 (ii) in the states that are members of the agreement;

1372 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1373 member of the agreement; and

- 1374 (c) maintains a record of the transaction described in Subsection (13)(a)(i).
1375 (14) "Certified service provider" means an agent certified:
1376 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
1377 and
1378 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1379 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
1380 own purchases.
- 1381 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
1382 suitable for general use.
1383 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1384 commission shall make rules:
1385 (i) listing the items that constitute "clothing"; and
1386 (ii) that are consistent with the list of items that constitute "clothing" under the
1387 agreement.
- 1388 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
1389 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1390 fuels that does not constitute industrial use under Subsection [~~(39)~~] (40) or residential use
1391 under Subsection [~~(76)~~] (77).
- 1392 (18) (a) "Common carrier" means a person engaged in or transacting the business of
1393 transporting passengers, freight, merchandise, or other property for hire within this state.
1394 (b) (i) "Common carrier" does not include a person who, at the time the person is
1395 traveling to or from that person's place of employment, transports a passenger to or from the
1396 passenger's place of employment.
1397 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
1398 Utah Administrative Rulemaking Act, the commission may make rules defining what
1399 constitutes a person's place of employment.
- 1400 (19) "Component part" includes:
1401 (a) poultry, dairy, and other livestock feed, and their components;

- 1402 (b) baling ties and twine used in the baling of hay and straw;
- 1403 (c) fuel used for providing temperature control of orchards and commercial
- 1404 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 1405 off-highway type farm machinery; and
- 1406 (d) feed, seeds, and seedlings.
- 1407 (20) "Computer" means an electronic device that accepts information:
- 1408 (a) (i) in digital form; or
- 1409 (ii) in a form similar to digital form; and
- 1410 (b) manipulates that information for a result based on a sequence of instructions.
- 1411 (21) "Computer software" means a set of coded instructions designed to cause:
- 1412 (a) a computer to perform a task; or
- 1413 (b) automatic data processing equipment to perform a task.
- 1414 (22) "Construction materials" means any tangible personal property that will be
- 1415 converted into real property.
- 1416 (23) "Delivered electronically" means delivered to a purchaser by means other than
- 1417 tangible storage media.
- 1418 (24) (a) "Delivery charge" means a charge:
- 1419 (i) by a seller of:
- 1420 (A) tangible personal property; or
- 1421 (B) services; and
- 1422 (ii) for preparation and delivery of the tangible personal property or services described
- 1423 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 1424 (b) "Delivery charge" includes a charge for the following:
- 1425 (i) transportation;
- 1426 (ii) shipping;
- 1427 (iii) postage;
- 1428 (iv) handling;
- 1429 (v) crating; or

- 1430 (vi) packing.
- 1431 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
- 1432 (i) a bridge;
- 1433 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 1434 (iii) a denture;
- 1435 (iv) an implant;
- 1436 (v) an orthodontic device designed to:
- 1437 (A) retain the position or spacing of teeth; and
- 1438 (B) replace a missing tooth;
- 1439 (vi) a partial denture; or
- 1440 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 1441 (b) "Dental prosthesis" does not include an appliance or device, other than a device
- 1442 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
- 1443 apply force to the teeth and their supporting structures to:
- 1444 (i) produce changes in their relationship to each other; and
- 1445 (ii) control their growth and development.
- 1446 [~~25~~] (26) "Dietary supplement" means a product, other than tobacco, that:
- 1447 (a) is intended to supplement the diet;
- 1448 (b) contains one or more of the following dietary ingredients:
- 1449 (i) a vitamin;
- 1450 (ii) a mineral;
- 1451 (iii) an herb or other botanical;
- 1452 (iv) an amino acid;
- 1453 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1454 dietary intake; or
- 1455 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1456 described in Subsections [~~25~~] (26)(b)(i) through (v);
- 1457 (c) (i) except as provided in Subsection [~~25~~] (26)(c)(ii), is intended for ingestion in:

- 1458 (A) tablet form;
- 1459 (B) capsule form;
- 1460 (C) powder form;
- 1461 (D) softgel form;
- 1462 (E) gelcap form; or
- 1463 (F) liquid form; or
- 1464 (ii) notwithstanding Subsection [~~(25)~~] (26)(c)(i), if the product is not intended for
- 1465 ingestion in a form described in Subsections [~~(25)~~] (26)(c)(i)(A) through (F), is not
- 1466 represented:
 - 1467 (A) as conventional food; and
 - 1468 (B) for use as a sole item of:
 - 1469 (I) a meal; or
 - 1470 (II) the diet; and
 - 1471 (d) is required to be labeled as a dietary supplement:
 - 1472 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 1473 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1474 [~~(26)~~] (27) (a) "Direct mail" means printed material delivered or distributed by United
- 1475 States mail or other delivery service:
 - 1476 (i) to:
 - 1477 (A) a mass audience; or
 - 1478 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
 - 1479 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1480 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1481 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1482 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1483 single address.
- 1484 [~~(27)~~] (28) (a) "Drug" means a compound, substance, or preparation, or a component of
- 1485 a compound, substance, or preparation that is:

- 1486 (i) recognized in:
- 1487 (A) the official United States Pharmacopoeia;
- 1488 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1489 (C) the official National Formulary; or
- 1490 (D) a supplement to a publication listed in Subsections [~~(27)~~] (28)(a)(i)(A) through
- 1491 (C);
- 1492 (ii) intended for use in the:
- 1493 (A) diagnosis of disease;
- 1494 (B) cure of disease;
- 1495 (C) mitigation of disease;
- 1496 (D) treatment of disease; or
- 1497 (E) prevention of disease; or
- 1498 (iii) intended to affect:
- 1499 (A) the structure of the body; or
- 1500 (B) any function of the body.
- 1501 (b) "Drug" does not include:
- 1502 (i) food and food ingredients;
- 1503 (ii) a dietary supplement;
- 1504 (iii) an alcoholic beverage; or
- 1505 (iv) a prosthetic device.
- 1506 [~~(28)~~] (29) (a) Except as provided in Subsection [~~(28)~~] (29)(c), "durable medical
- 1507 equipment" means equipment that:
- 1508 (i) can withstand repeated use;
- 1509 (ii) is primarily and customarily used to serve a medical purpose;
- 1510 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1511 (iv) is not worn in or on the body.
- 1512 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1513 equipment described in Subsection [~~(28)~~] (29)(a).

1514 (c) Notwithstanding Subsection [~~(28)~~] (29)(a), "durable medical equipment" does not
1515 include mobility enhancing equipment.

1516 [~~(29)~~] (30) "Electronic" means:

1517 (a) relating to technology; and

1518 (b) having:

1519 (i) electrical capabilities;

1520 (ii) digital capabilities;

1521 (iii) magnetic capabilities;

1522 (iv) wireless capabilities;

1523 (v) optical capabilities;

1524 (vi) electromagnetic capabilities; or

1525 (vii) capabilities similar to Subsections [~~(29)~~] (30)(b)(i) through (vi).

1526 [~~(30)~~] (31) "Employee" is as defined in Section 59-10-401.

1527 [~~(31)~~] (32) "Fixed guideway" means a public transit facility that uses and occupies:

1528 (a) rail for the use of public transit; or

1529 (b) a separate right-of-way for the use of public transit.

1530 [~~(32)~~] (33) (a) "Food and food ingredients" means substances:

1531 (i) regardless of whether the substances are in:

1532 (A) liquid form;

1533 (B) concentrated form;

1534 (C) solid form;

1535 (D) frozen form;

1536 (E) dried form; or

1537 (F) dehydrated form; and

1538 (ii) that are:

1539 (A) sold for:

1540 (I) ingestion by humans; or

1541 (II) chewing by humans; and

- 1542 (B) consumed for the substance's:
- 1543 (I) taste; or
- 1544 (II) nutritional value.
- 1545 (b) "Food and food ingredients" includes an item described in Subsection [~~(63)~~
- 1546 (64)(b)(iii).
- 1547 (c) "Food and food ingredients" does not include:
- 1548 (i) an alcoholic beverage;
- 1549 (ii) tobacco; or
- 1550 (iii) prepared food.
- 1551 [~~(33)~~] (34) (a) "Fundraising sales" means sales:
- 1552 (i) (A) made by a school; or
- 1553 (B) made by a school student;
- 1554 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1555 materials, or provide transportation; and
- 1556 (iii) that are part of an officially sanctioned school activity.
- 1557 (b) For purposes of Subsection [~~(33)~~] (34)(a)(iii), "officially sanctioned school activity"
- 1558 means a school activity:
- 1559 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1560 district governing the authorization and supervision of fundraising activities;
- 1561 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1562 educational personnel by direct payment, commissions, or payment in kind; and
- 1563 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1564 controlled by the school or school district.
- 1565 [~~(34)~~] (35) "Geothermal energy" means energy contained in heat that continuously
- 1566 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 1567 [~~(35)~~] (36) "Governing board of the agreement" means the governing board of the
- 1568 agreement that is:
- 1569 (a) authorized to administer the agreement; and

- 1570 (b) established in accordance with the agreement.
- 1571 [~~(36)~~] (37) (a) "Hearing aid" means:
- 1572 (i) an instrument or device having an electronic component that is designed to:
- 1573 (A) (I) improve impaired human hearing; or
- 1574 (II) correct impaired human hearing; and
- 1575 (B) (I) be worn in the human ear; or
- 1576 (II) affixed behind the human ear;
- 1577 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 1578 (iii) a telephone amplifying device.
- 1579 (b) "Hearing aid" does not include:
- 1580 (i) except as provided in Subsection [~~(36)~~] (37)(a)(i)(B) or [~~(36)~~] (37)(a)(ii), an
- 1581 instrument or device having an electronic component that is designed to be worn on the body;
- 1582 (ii) except as provided in Subsection [~~(36)~~] (37)(a)(iii), an assistive listening device or
- 1583 system designed to be used by one individual, including:
- 1584 (A) a personal amplifying system;
- 1585 (B) a personal FM system;
- 1586 (C) a television listening system; or
- 1587 (D) a device or system similar to a device or system described in Subsections [~~(36)~~]
- 1588 (37)(b)(ii)(A) through (C); or
- 1589 (iii) an assistive listening device or system designed to be used by more than one
- 1590 individual, including:
- 1591 (A) a device or system installed in:
- 1592 (I) an auditorium;
- 1593 (II) a church;
- 1594 (III) a conference room;
- 1595 (IV) a synagogue; or
- 1596 (V) a theater; or
- 1597 (B) a device or system similar to a device or system described in Subsections [~~(36)~~]

1598 ~~(37)~~(b)(iii)(A)(I) through (V).

1599 ~~[(37)]~~ (38) (a) "Hearing aid accessory" means a hearing aid:

1600 (i) component;

1601 (ii) attachment; or

1602 (iii) accessory.

1603 (b) "Hearing aid accessory" includes:

1604 (i) a hearing aid neck loop;

1605 (ii) a hearing aid cord;

1606 (iii) a hearing aid ear mold;

1607 (iv) hearing aid tubing;

1608 (v) a hearing aid ear hook; or

1609 (vi) a hearing aid remote control.

1610 (c) "Hearing aid accessory" does not include:

1611 (i) a component, attachment, or accessory designed to be used only with an:

1612 (A) instrument or device described in Subsection ~~[(36)]~~ (37)(b)(i); or

1613 (B) assistive listening device or system described in Subsection ~~[(36)]~~ (37)(b)(ii) or

1614 (iii); or

1615 (ii) a hearing aid battery.

1616 ~~[(38)]~~ (39) "Hydroelectric energy" means water used as the sole source of energy to
1617 produce electricity.

1618 ~~[(39)]~~ (40) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
1619 or other fuels:

1620 (a) in mining or extraction of minerals;

1621 (b) in agricultural operations to produce an agricultural product up to the time of
1622 harvest or placing the agricultural product into a storage facility, including:

1623 (i) commercial greenhouses;

1624 (ii) irrigation pumps;

1625 (iii) farm machinery;

1626 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1627 registered under Title 41, Chapter 1a, Part 2, Registration; and

1628 (v) other farming activities;

1629 (c) in manufacturing tangible personal property at an establishment described in SIC
1630 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1631 Executive Office of the President, Office of Management and Budget;

1632 (d) by a scrap recycler if:

1633 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1634 one or more of the following items into prepared grades of processed materials for use in new
1635 products:

1636 (A) iron;

1637 (B) steel;

1638 (C) nonferrous metal;

1639 (D) paper;

1640 (E) glass;

1641 (F) plastic;

1642 (G) textile; or

1643 (H) rubber; and

1644 (ii) the new products under Subsection [~~(39)~~ (40)(d)(i) would otherwise be made with
1645 nonrecycled materials; or

1646 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
1647 cogeneration facility as defined in Section 54-2-1.

1648 [~~(40)~~ (41) (a) Except as provided in Subsection [~~(40)~~ (41)(b), "installation charge"
1649 means a charge for installing tangible personal property.

1650 (b) Notwithstanding Subsection [~~(40)~~ (41)(a), "installation charge" does not include a
1651 charge for repairs or renovations of tangible personal property.

1652 [~~(41)~~ (42) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1653 personal property for:

- 1654 (i) (A) a fixed term; or
1655 (B) an indeterminate term; and
1656 (ii) consideration.
- 1657 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1658 amount of consideration may be increased or decreased by reference to the amount realized
1659 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1660 Code.
- 1661 (c) "Lease" or "rental" does not include:
- 1662 (i) a transfer of possession or control of property under a security agreement or
1663 deferred payment plan that requires the transfer of title upon completion of the required
1664 payments;
- 1665 (ii) a transfer of possession or control of property under an agreement that requires the
1666 transfer of title:
- 1667 (A) upon completion of required payments; and
1668 (B) if the payment of an option price does not exceed the greater of:
- 1669 (I) \$100; or
1670 (II) 1% of the total required payments; or
- 1671 (iii) providing tangible personal property along with an operator for a fixed period of
1672 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1673 designed.
- 1674 (d) For purposes of Subsection [~~(41)~~] (42)(c)(iii), an operator is necessary for
1675 equipment to perform as designed if the operator's duties exceed the:
- 1676 (i) set-up of tangible personal property;
1677 (ii) maintenance of tangible personal property; or
1678 (iii) inspection of tangible personal property.
- 1679 [~~(42)~~] (43) "Load and leave" means delivery to a purchaser by use of a tangible storage
1680 media if the tangible storage media is not physically transferred to the purchaser.
- 1681 [~~(43)~~] (44) "Local taxing jurisdiction" means a:

- 1682 (a) county that is authorized to impose an agreement sales and use tax;
- 1683 (b) city that is authorized to impose an agreement sales and use tax; or
- 1684 (c) town that is authorized to impose an agreement sales and use tax.
- 1685 [~~44~~] (45) "Manufactured home" is as defined in Section 58-56-3.
- 1686 [~~45~~] (46) For purposes of Section 59-12-104, "manufacturing facility" means:
- 1687 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 1688 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 1689 Management and Budget;
- 1690 (b) a scrap recycler if:
- 1691 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1692 one or more of the following items into prepared grades of processed materials for use in new
- 1693 products:
- 1694 (A) iron;
- 1695 (B) steel;
- 1696 (C) nonferrous metal;
- 1697 (D) paper;
- 1698 (E) glass;
- 1699 (F) plastic;
- 1700 (G) textile; or
- 1701 (H) rubber; and
- 1702 (ii) the new products under Subsection [~~45~~] (46)(b)(i) would otherwise be made with
- 1703 nonrecycled materials; or
- 1704 (c) a cogeneration facility as defined in Section 54-2-1.
- 1705 [~~46~~] (47) "Member of the immediate family of the producer" means a person who is
- 1706 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 1707 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1708 (i) an adopted child or adopted stepchild; or
- 1709 (ii) a foster child or foster stepchild;

- 1710 (b) grandchild or stepgrandchild;
- 1711 (c) grandparent or stepgrandparent;
- 1712 (d) nephew or stepnephew;
- 1713 (e) niece or stepniece;
- 1714 (f) parent or stepparent;
- 1715 (g) sibling or stepsibling;
- 1716 (h) spouse;
- 1717 (i) person who is the spouse of a person described in Subsections [~~(46)~~] (47)(a) through
- 1718 (g); or
- 1719 (j) person similar to a person described in Subsections [~~(46)~~] (47)(a) through (i) as
- 1720 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
- 1721 Administrative Rulemaking Act.
- 1722 [~~(47)~~] (48) "Mobile home" is as defined in Section 58-56-3.
- 1723 [~~(48)~~] (49) "Mobile telecommunications service" is as defined in the Mobile
- 1724 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1725 [~~(49)~~] (50) (a) Except as provided in Subsection [~~(49)~~] (50)(c), "mobility enhancing
- 1726 equipment" means equipment that is:
- 1727 (i) primarily and customarily used to provide or increase the ability to move from one
- 1728 place to another;
- 1729 (ii) appropriate for use in a:
- 1730 (A) home; or
- 1731 (B) motor vehicle; and
- 1732 (iii) not generally used by persons with normal mobility.
- 1733 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 1734 the equipment described in Subsection [~~(49)~~] (50)(a).
- 1735 (c) Notwithstanding Subsection [~~(49)~~] (50)(a), "mobility enhancing equipment" does
- 1736 not include:
- 1737 (i) a motor vehicle;

1738 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1739 vehicle manufacturer;

1740 (iii) durable medical equipment; or

1741 (iv) a prosthetic device.

1742 [~~50~~] (51) "Model 1 seller" means a seller that has selected a certified service provider
1743 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
1744 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1745 seller's own purchases.

1746 [~~51~~] (52) "Model 2 seller" means a seller that:

1747 (a) except as provided in Subsection [~~51~~] (52)(b), has selected a certified automated
1748 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1749 (b) notwithstanding Subsection [~~51~~] (52)(a), retains responsibility for remitting all of
1750 the sales tax:

1751 (i) collected by the seller; and

1752 (ii) to the appropriate local taxing jurisdiction.

1753 [~~52~~] (53) (a) Subject to Subsection [~~52~~] (53)(b), "model 3 seller" means a seller that
1754 has:

1755 (i) sales in at least five states that are members of the agreement;

1756 (ii) total annual sales revenues of at least \$500,000,000;

1757 (iii) a proprietary system that calculates the amount of tax:

1758 (A) for an agreement sales and use tax; and

1759 (B) due to each local taxing jurisdiction; and

1760 (iv) entered into a performance agreement with the governing board of the agreement.

1761 (b) For purposes of Subsection [~~52~~] (53)(a), "model 3 seller" includes an affiliated
1762 group of sellers using the same proprietary system.

1763 [~~53~~] (54) "Modular home" means a modular unit as defined in Section 58-56-3.

1764 [~~54~~] (55) "Motor vehicle" is as defined in Section 41-1a-102.

1765 [~~55~~] (56) "Oil shale" means a group of fine black to dark brown shales containing

1766 bituminous material that yields petroleum upon distillation.

1767 [~~(56)~~] (57) (a) "Other fuels" means products that burn independently to produce heat or
1768 energy.

1769 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1770 personal property.

1771 [~~(57)~~] (58) "Pawnbroker" is as defined in Section 13-32a-102.

1772 [~~(58)~~] (59) "Pawn transaction" is as defined in Section 13-32a-102.

1773 [~~(59)~~] (60) (a) "Permanently attached to real property" means that for tangible personal
1774 property attached to real property:

1775 (i) the attachment of the tangible personal property to the real property:

1776 (A) is essential to the use of the tangible personal property; and

1777 (B) suggests that the tangible personal property will remain attached to the real
1778 property in the same place over the useful life of the tangible personal property; or

1779 (ii) if the tangible personal property is detached from the real property, the detachment
1780 would:

1781 (A) cause substantial damage to the tangible personal property; or

1782 (B) require substantial alteration or repair of the real property to which the tangible
1783 personal property is attached.

1784 (b) "Permanently attached to real property" includes:

1785 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1786 (A) essential to the operation of the tangible personal property; and

1787 (B) attached only to facilitate the operation of the tangible personal property;

1788 (ii) a temporary detachment of tangible personal property from real property for a
1789 repair or renovation if the repair or renovation is performed where the tangible personal
1790 property and real property are located; or

1791 (iii) an attachment of the following tangible personal property to real property,
1792 regardless of whether the attachment to real property is only through a line that supplies water,
1793 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by

1794 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1795 (A) property attached to oil, gas, or water pipelines, other than the property listed in
1796 Subsection [~~59~~] (60)(c)(iii);

1797 (B) a hot water heater;

1798 (C) a water softener system; or

1799 (D) a water filtration system, other than a water filtration system manufactured as part
1800 of a refrigerator.

1801 (c) "Permanently attached to real property" does not include:

1802 (i) the attachment of portable or movable tangible personal property to real property if
1803 that portable or movable tangible personal property is attached to real property only for:

1804 (A) convenience;

1805 (B) stability; or

1806 (C) for an obvious temporary purpose;

1807 (ii) the detachment of tangible personal property from real property other than the
1808 detachment described in Subsection [~~59~~] (60)(b)(ii); or

1809 (iii) an attachment of the following tangible personal property to real property if the
1810 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
1811 cable, or supplies a similar item as determined by the commission by rule made in accordance
1812 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1813 (A) a refrigerator;

1814 (B) a washer;

1815 (C) a dryer;

1816 (D) a stove;

1817 (E) a television;

1818 (F) a computer;

1819 (G) a telephone; or

1820 (H) tangible personal property similar to Subsections [~~59~~] (60)(c)(iii)(A) through (G)
1821 as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

1822 Administrative Rulemaking Act.

1823 ~~[(60)]~~ (61) "Person" includes any individual, firm, partnership, joint venture,
1824 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1825 city, municipality, district, or other local governmental entity of the state, or any group or
1826 combination acting as a unit.

1827 ~~[(61)]~~ (62) "Place of primary use":

1828 (a) for telephone service other than mobile telecommunications service, means the
1829 street address representative of where the purchaser's use of the telephone service primarily
1830 occurs, which shall be:

1831 (i) the residential street address of the purchaser; or

1832 (ii) the primary business street address of the purchaser; or

1833 (b) for mobile telecommunications service, is as defined in the Mobile
1834 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1835 ~~[(62)]~~ (63) "Postproduction" means an activity related to the finishing or duplication of
1836 a medium described in Subsection 59-12-104(56)(a).

1837 ~~[(63)]~~ (64) (a) "Prepared food" means:

1838 (i) food:

1839 (A) sold in a heated state; or

1840 (B) heated by a seller;

1841 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1842 item; or

1843 (iii) except as provided in Subsection ~~[(63)]~~ (64)(c), food sold with an eating utensil
1844 provided by the seller, including a:

1845 (A) plate;

1846 (B) knife;

1847 (C) fork;

1848 (D) spoon;

1849 (E) glass;

- 1850 (F) cup;
- 1851 (G) napkin; or
- 1852 (H) straw.
- 1853 (b) "Prepared food" does not include:
- 1854 (i) food that a seller only:
- 1855 (A) cuts;
- 1856 (B) repackages; or
- 1857 (C) pasteurizes; or
- 1858 (ii) (A) the following:
- 1859 (I) raw egg;
- 1860 (II) raw fish;
- 1861 (III) raw meat;
- 1862 (IV) raw poultry; or
- 1863 (V) a food containing an item described in Subsections [~~(63)~~] (64)(b)(ii)(A)(I) through
- 1864 (IV); and
- 1865 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1866 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1867 Subsection [~~(63)~~] (64)(b)(ii)(A) to prevent food borne illness; or
- 1868 (iii) the following if sold without eating utensils provided by the seller:
- 1869 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1870 classification under the 2002 North American Industry Classification System of the federal
- 1871 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1872 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1873 Manufacturing;
- 1874 (B) food and food ingredients sold in an unheated state:
- 1875 (I) by weight or volume; and
- 1876 (II) as a single item; or
- 1877 (C) a bakery item, including:

- 1878 (I) a bagel;
- 1879 (II) a bar;
- 1880 (III) a biscuit;
- 1881 (IV) bread;
- 1882 (V) a bun;
- 1883 (VI) a cake;
- 1884 (VII) a cookie;
- 1885 (VIII) a croissant;
- 1886 (IX) a danish;
- 1887 (X) a donut;
- 1888 (XI) a muffin;
- 1889 (XII) a pastry;
- 1890 (XIII) a pie;
- 1891 (XIV) a roll;
- 1892 (XV) a tart;
- 1893 (XVI) a torte; or
- 1894 (XVII) a tortilla.
- 1895 (c) Notwithstanding Subsection [~~(63)~~] (64)(a)(iii), an eating utensil provided by the
- 1896 seller does not include the following used to transport the food:
 - 1897 (i) a container; or
 - 1898 (ii) packaging.
- 1899 [~~(64)~~] (65) "Prescription" means an order, formula, or recipe that is issued:
 - 1900 (a) (i) orally;
 - 1901 (ii) in writing;
 - 1902 (iii) electronically; or
 - 1903 (iv) by any other manner of transmission; and
 - 1904 (b) by a licensed practitioner authorized by the laws of a state.
- 1905 [~~(65)~~] (66) (a) Except as provided in Subsection [~~(65)~~] (66)(b)(ii) or (iii), "prewritten

1906 computer software" means computer software that is not designed and developed:
1907 (i) by the author or other creator of the computer software; and
1908 (ii) to the specifications of a specific purchaser.
1909 (b) "Prewritten computer software" includes:
1910 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1911 software is not designed and developed:
1912 (A) by the author or other creator of the computer software; and
1913 (B) to the specifications of a specific purchaser;
1914 (ii) notwithstanding Subsection [~~(65)~~] (66)(a), computer software designed and
1915 developed by the author or other creator of the computer software to the specifications of a
1916 specific purchaser if the computer software is sold to a person other than the purchaser; or
1917 (iii) notwithstanding Subsection [~~(65)~~] (66)(a) and except as provided in Subsection
1918 [~~(65)~~] (66)(c), prewritten computer software or a prewritten portion of prewritten computer
1919 software:
1920 (A) that is modified or enhanced to any degree; and
1921 (B) if the modification or enhancement described in Subsection [~~(65)~~] (66)(b)(iii)(A) is
1922 designed and developed to the specifications of a specific purchaser.
1923 (c) Notwithstanding Subsection [~~(65)~~] (66)(b)(iii), "prewritten computer software"
1924 does not include a modification or enhancement described in Subsection [~~(65)~~] (66)(b)(iii) if
1925 the charges for the modification or enhancement are:
1926 (i) reasonable; and
1927 (ii) separately stated on the invoice or other statement of price provided to the
1928 purchaser.
1929 [~~(66)~~] (67) (a) "Prosthetic device" means a device that is worn on or in the body to:
1930 (i) artificially replace a missing portion of the body;
1931 (ii) prevent or correct a physical deformity or physical malfunction; or
1932 (iii) support a weak or deformed portion of the body.
1933 (b) "Prosthetic device" includes:

- 1934 (i) parts used in the repairs or renovation of a prosthetic device; [~~or~~]
1935 (ii) replacement parts for a prosthetic device[~~;~~]; or
1936 (iii) a dental prosthesis.
1937 (c) "Prosthetic device" does not include:
1938 (i) corrective eyeglasses;
1939 (ii) contact lenses; or
1940 (iii) hearing aids[~~;~~]; or.
1941 [~~(iv) dental prostheses.~~]
1942 [~~(67)~~] (68) (a) "Protective equipment" means an item:
1943 (i) for human wear; and
1944 (ii) that is:
1945 (A) designed as protection:
1946 (I) to the wearer against injury or disease; or
1947 (II) against damage or injury of other persons or property; and
1948 (B) not suitable for general use.
1949 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1950 commission shall make rules:
1951 (i) listing the items that constitute "protective equipment"; and
1952 (ii) that are consistent with the list of items that constitute "protective equipment"
1953 under the agreement.
1954 [~~(68)~~] (69) (a) "Purchase price" and "sales price" mean the total amount of
1955 consideration:
1956 (i) valued in money; and
1957 (ii) for which tangible personal property or services are:
1958 (A) sold;
1959 (B) leased; or
1960 (C) rented.
1961 (b) "Purchase price" and "sales price" include:

- 1962 (i) the seller's cost of the tangible personal property or services sold;
- 1963 (ii) expenses of the seller, including:
- 1964 (A) the cost of materials used;
- 1965 (B) a labor cost;
- 1966 (C) a service cost;
- 1967 (D) interest;
- 1968 (E) a loss;
- 1969 (F) the cost of transportation to the seller; or
- 1970 (G) a tax imposed on the seller; or
- 1971 (iii) a charge by the seller for any service necessary to complete the sale.
- 1972 (c) "Purchase price" and "sales price" do not include:
- 1973 (i) a discount:
- 1974 (A) in a form including:
- 1975 (I) cash;
- 1976 (II) term; or
- 1977 (III) coupon;
- 1978 (B) that is allowed by a seller;
- 1979 (C) taken by a purchaser on a sale; and
- 1980 (D) that is not reimbursed by a third party; or
- 1981 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1982 provided to the purchaser:
- 1983 (A) the amount of a trade-in;
- 1984 (B) the following from credit extended on the sale of tangible personal property or
- 1985 services:
- 1986 (I) interest charges;
- 1987 (II) financing charges; or
- 1988 (III) carrying charges;
- 1989 (C) a tax or fee legally imposed directly on the consumer;

- 1990 (D) a delivery charge; or
- 1991 (E) an installation charge.
- 1992 [~~(69)~~] (70) "Purchaser" means a person to whom:
- 1993 (a) a sale of tangible personal property is made; or
- 1994 (b) a service is furnished.
- 1995 [~~(70)~~] (71) "Regularly rented" means:
- 1996 (a) rented to a guest for value three or more times during a calendar year; or
- 1997 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1998 value.
- 1999 [~~(71)~~] (72) "Renewable energy" means:
- 2000 (a) biomass energy;
- 2001 (b) hydroelectric energy;
- 2002 (c) geothermal energy;
- 2003 (d) solar energy; or
- 2004 (e) wind energy.
- 2005 [~~(72)~~] (73) (a) "Renewable energy production facility" means a facility that:
- 2006 (i) uses renewable energy to produce electricity; and
- 2007 (ii) has a production capacity of 20 kilowatts or greater.
- 2008 (b) A facility is a renewable energy production facility regardless of whether the
- 2009 facility is:
- 2010 (i) connected to an electric grid; or
- 2011 (ii) located on the premises of an electricity consumer.
- 2012 [~~(73)~~] (74) "Rental" is as defined in Subsection [~~(41)~~] (42).
- 2013 [~~(74)~~] (75) "Repairs or renovations of tangible personal property" means:
- 2014 (a) a repair or renovation of tangible personal property that is not permanently attached
- 2015 to real property; or
- 2016 (b) attaching tangible personal property to other tangible personal property if the other
- 2017 tangible personal property to which the tangible personal property is attached is not

2018 permanently attached to real property.

2019 [~~(75)~~] (76) "Research and development" means the process of inquiry or
2020 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
2021 process of preparing those devices, technologies, or applications for marketing.

2022 [~~(76)~~] (77) "Residential use" means the use in or around a home, apartment building,
2023 sleeping quarters, and similar facilities or accommodations.

2024 [~~(77)~~] (78) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
2025 other than:

- 2026 (a) resale;
- 2027 (b) sublease; or
- 2028 (c) subrent.

2029 [~~(78)~~] (79) (a) "Retailer" means any person engaged in a regularly organized business
2030 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
2031 and who is selling to the user or consumer and not for resale.

2032 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2033 engaged in the business of selling to users or consumers within the state.

2034 [~~(79)~~] (80) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2035 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2036 Subsection 59-12-103(1), for consideration.

2037 (b) "Sale" includes:

- 2038 (i) installment and credit sales;
- 2039 (ii) any closed transaction constituting a sale;
- 2040 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2041 chapter;

2042 (iv) any transaction if the possession of property is transferred but the seller retains the
2043 title as security for the payment of the price; and

2044 (v) any transaction under which right to possession, operation, or use of any article of
2045 tangible personal property is granted under a lease or contract and the transfer of possession

2046 would be taxable if an outright sale were made.

2047 ~~[(80)]~~ (81) "Sale at retail" is as defined in Subsection ~~[(77)]~~ (78).

2048 ~~[(81)]~~ (82) "Sale-leaseback transaction" means a transaction by which title to tangible
2049 personal property that is subject to a tax under this chapter is transferred:

2050 (a) by a purchaser-lessee;

2051 (b) to a lessor;

2052 (c) for consideration; and

2053 (d) if:

2054 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2055 of the tangible personal property;

2056 (ii) the sale of the tangible personal property to the lessor is intended as a form of
2057 financing:

2058 (A) for the property; and

2059 (B) to the purchaser-lessee; and

2060 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2061 is required to:

2062 (A) capitalize the property for financial reporting purposes; and

2063 (B) account for the lease payments as payments made under a financing arrangement.

2064 ~~[(82)]~~ (83) "Sales price" is as defined in Subsection ~~[(68)]~~ (69).

2065 ~~[(83)]~~ (84) (a) "Sales relating to schools" means the following sales by, amounts paid
2066 to, or amounts charged by a school:

2067 (i) sales that are directly related to the school's educational functions or activities

2068 including:

2069 (A) the sale of:

2070 (I) textbooks;

2071 (II) textbook fees;

2072 (III) laboratory fees;

2073 (IV) laboratory supplies; or

- 2074 (V) safety equipment;
- 2075 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 2076 that:
- 2077 (I) a student is specifically required to wear as a condition of participation in a
- 2078 school-related event or school-related activity; and
- 2079 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 2080 place of ordinary clothing;
- 2081 (C) sales of the following if the net or gross revenues generated by the sales are
- 2082 deposited into a school district fund or school fund dedicated to school meals:
- 2083 (I) food and food ingredients; or
- 2084 (II) prepared food; or
- 2085 (D) transportation charges for official school activities; or
- 2086 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 2087 event or school-related activity.
- 2088 (b) "Sales relating to schools" does not include:
- 2089 (i) bookstore sales of items that are not educational materials or supplies;
- 2090 (ii) except as provided in Subsection [~~(83)~~] (84)(a)(i)(B):
- 2091 (A) clothing;
- 2092 (B) clothing accessories or equipment;
- 2093 (C) protective equipment; or
- 2094 (D) sports or recreational equipment; or
- 2095 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2096 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2097 (A) other than a:
- 2098 (I) school;
- 2099 (II) nonprofit organization authorized by a school board or a governing body of a
- 2100 private school to organize and direct a competitive secondary school activity; or
- 2101 (III) nonprofit association authorized by a school board or a governing body of a

2102 private school to organize and direct a competitive secondary school activity; and
2103 (B) that is required to collect sales and use taxes under this chapter.
2104 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2105 commission may make rules defining the term "passed through."
2106 [~~84~~] (85) For purposes of this section and Section 59-12-104, "school" means:
2107 (a) an elementary school or a secondary school that:
2108 (i) is a:
2109 (A) public school; or
2110 (B) private school; and
2111 (ii) provides instruction for one or more grades kindergarten through 12; or
2112 (b) a public school district.
2113 [~~85~~] (86) "Seller" means a person that makes a sale, lease, or rental of:
2114 (a) tangible personal property; or
2115 (b) a service.
2116 [~~86~~] (87) (a) "Semiconductor fabricating, processing, research, or development
2117 materials" means tangible personal property:
2118 (i) used primarily in the process of:
2119 (A) (I) manufacturing a semiconductor;
2120 (II) fabricating a semiconductor; or
2121 (III) research or development of a:
2122 (Aa) semiconductor; or
2123 (Bb) semiconductor manufacturing process; or
2124 (B) maintaining an environment suitable for a semiconductor; or
2125 (ii) consumed primarily in the process of:
2126 (A) (I) manufacturing a semiconductor;
2127 (II) fabricating a semiconductor; or
2128 (III) research or development of a:
2129 (Aa) semiconductor; or

- 2130 (Bb) semiconductor manufacturing process; or
- 2131 (B) maintaining an environment suitable for a semiconductor.
- 2132 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2133 includes:
- 2134 (i) parts used in the repairs or renovations of tangible personal property described in
- 2135 Subsection ~~[(86)]~~ (87)(a); or
- 2136 (ii) a chemical, catalyst, or other material used to:
- 2137 (A) produce or induce in a semiconductor a:
- 2138 (I) chemical change; or
- 2139 (II) physical change;
- 2140 (B) remove impurities from a semiconductor; or
- 2141 (C) improve the marketable condition of a semiconductor.
- 2142 ~~[(87)]~~ (88) "Senior citizen center" means a facility having the primary purpose of
- 2143 providing services to the aged as defined in Section 62A-3-101.
- 2144 ~~[(88)]~~ (89) "Simplified electronic return" means the electronic return:
- 2145 (a) described in Section 318(C) of the agreement; and
- 2146 (b) approved by the governing board of the agreement.
- 2147 ~~[(89)]~~ (90) "Solar energy" means the sun used as the sole source of energy for
- 2148 producing electricity.
- 2149 ~~[(90)]~~ (91) (a) "Sports or recreational equipment" means an item:
- 2150 (i) designed for human use; and
- 2151 (ii) that is:
- 2152 (A) worn in conjunction with:
- 2153 (I) an athletic activity; or
- 2154 (II) a recreational activity; and
- 2155 (B) not suitable for general use.
- 2156 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 2157 commission shall make rules:

2158 (i) listing the items that constitute "sports or recreational equipment"; and
2159 (ii) that are consistent with the list of items that constitute "sports or recreational
2160 equipment" under the agreement.

2161 [~~91~~] (92) "State" means the state of Utah, its departments, and agencies.

2162 [~~92~~] (93) "Storage" means any keeping or retention of tangible personal property or
2163 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2164 except sale in the regular course of business.

2165 [~~93~~] (94) (a) "Tangible personal property" means personal property that:

2166 (i) may be:

2167 (A) seen;

2168 (B) weighed;

2169 (C) measured;

2170 (D) felt; or

2171 (E) touched; or

2172 (ii) is in any manner perceptible to the senses.

2173 (b) "Tangible personal property" includes:

2174 (i) electricity;

2175 (ii) water;

2176 (iii) gas;

2177 (iv) steam; or

2178 (v) prewritten computer software.

2179 [~~94~~] (95) "Tar sands" means impregnated sands that yield mixtures of liquid
2180 hydrocarbon and require further processing other than mechanical blending before becoming
2181 finished petroleum products.

2182 [~~95~~] (96) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2183 software" means an item listed in Subsection [~~95~~] (96)(b) if that item is purchased or leased
2184 primarily to enable or facilitate one or more of the following to function:

2185 (i) telecommunications switching or routing equipment, machinery, or software; or

2186 (ii) telecommunications transmission equipment, machinery, or software.

2187 (b) The following apply to Subsection [~~95~~] (96)(a):

2188 (i) a pole;

2189 (ii) software;

2190 (iii) a supplementary power supply;

2191 (iv) temperature or environmental equipment or machinery;

2192 (v) test equipment;

2193 (vi) a tower; or

2194 (vii) equipment, machinery, or software that functions similarly to an item listed in

2195 Subsections [~~95~~] (96)(b)(i) through (vi) as determined by the commission by rule made in

2196 accordance with Subsection [~~95~~] (96)(c).

2197 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2198 commission may by rule define what constitutes equipment, machinery, or software that

2199 functions similarly to an item listed in Subsections [~~95~~] (96)(b)(i) through (vi).

2200 [~~96~~] (97) "Telecommunications equipment, machinery, or software required for 911

2201 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

2202 Sec. 20.18.

2203 [~~97~~] (98) "Telecommunications maintenance or repair equipment, machinery, or

2204 software" means equipment, machinery, or software purchased or leased primarily to maintain

2205 or repair one or more of the following, regardless of whether the equipment, machinery, or

2206 software is purchased or leased as a spare part or as an upgrade or modification to one or more

2207 of the following:

2208 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2209 (b) telecommunications switching or routing equipment, machinery, or software; or

2210 (c) telecommunications transmission equipment, machinery, or software.

2211 [~~98~~] (99) (a) "Telecommunications switching or routing equipment, machinery, or

2212 software" means an item listed in Subsection [~~98~~] (99)(b) if that item is purchased or leased

2213 primarily for switching or routing:

- 2214 (i) voice communications;
- 2215 (ii) data communications; or
- 2216 (iii) telephone service.
- 2217 (b) The following apply to Subsection [~~98~~] (99)(a):
- 2218 (i) a bridge;
- 2219 (ii) a computer;
- 2220 (iii) a cross connect;
- 2221 (iv) a modem;
- 2222 (v) a multiplexer;
- 2223 (vi) plug in circuitry;
- 2224 (vii) a router;
- 2225 (viii) software;
- 2226 (ix) a switch; or
- 2227 (x) equipment, machinery, or software that functions similarly to an item listed in
- 2228 Subsections [~~98~~] (99)(b)(i) through (ix) as determined by the commission by rule made in
- 2229 accordance with Subsection [~~98~~] (99)(c).
- 2230 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 2231 commission may by rule define what constitutes equipment, machinery, or software that
- 2232 functions similarly to an item listed in Subsections [~~98~~] (99)(b)(i) through (ix).
- 2233 [~~99~~] (100) (a) "Telecommunications transmission equipment, machinery, or
- 2234 software" means an item listed in Subsection [~~99~~] (100)(b) if that item is purchased or leased
- 2235 primarily for sending, receiving, or transporting:
- 2236 (i) voice communications;
- 2237 (ii) data communications; or
- 2238 (iii) telephone service.
- 2239 (b) The following apply to Subsection [~~99~~] (100)(a):
- 2240 (i) an amplifier;
- 2241 (ii) a cable;

- 2242 (iii) a closure;
- 2243 (iv) a conduit;
- 2244 (v) a controller;
- 2245 (vi) a duplexer;
- 2246 (vii) a filter;
- 2247 (viii) an input device;
- 2248 (ix) an input/output device;
- 2249 (x) an insulator;
- 2250 (xi) microwave machinery or equipment;
- 2251 (xii) an oscillator;
- 2252 (xiii) an output device;
- 2253 (xiv) a pedestal;
- 2254 (xv) a power converter;
- 2255 (xvi) a power supply;
- 2256 (xvii) a radio channel;
- 2257 (xviii) a radio receiver;
- 2258 (xix) a radio transmitter;
- 2259 (xx) a repeater;
- 2260 (xxi) software;
- 2261 (xxii) a terminal;
- 2262 (xxiii) a timing unit;
- 2263 (xxiv) a transformer;
- 2264 (xxv) a wire; or
- 2265 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2266 Subsections [~~99~~] (100)(b)(i) through (xxv) as determined by the commission by rule made in
- 2267 accordance with Subsection [~~99~~] (100)(c).
- 2268 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 2269 commission may by rule define what constitutes equipment, machinery, or software that

2270 functions similarly to an item listed in Subsections [~~(99)~~] (100)(b)(i) through (xxv).
2271 [~~(100)~~] (101) (a) "Telephone service" means a two-way transmission:
2272 (i) by:
2273 (A) wire;
2274 (B) radio;
2275 (C) lightwave; or
2276 (D) other electromagnetic means; and
2277 (ii) of one or more of the following:
2278 (A) a sign;
2279 (B) a signal;
2280 (C) writing;
2281 (D) an image;
2282 (E) sound;
2283 (F) a message;
2284 (G) data; or
2285 (H) other information of any nature.
2286 (b) "Telephone service" includes:
2287 (i) mobile telecommunications service;
2288 (ii) private communications service; or
2289 (iii) automated digital telephone answering service.
2290 (c) "Telephone service" does not include a service or a transaction that a state or a
2291 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
2292 Tax Freedom Act, Pub. L. No. 105-277.
2293 [~~(101)~~] (102) Notwithstanding where a call is billed or paid, "telephone service
2294 address" means:
2295 (a) if the location described in this Subsection [~~(101)~~] (102)(a) is known, the location
2296 of the telephone service equipment:
2297 (i) to which a call is charged; and

2298 (ii) from which the call originates or terminates;

2299 (b) if the location described in Subsection [~~(101)~~] (102)(a) is not known but the

2300 location described in this Subsection [~~(101)~~] (102)(b) is known, the location of the origination

2301 point of the signal of the telephone service first identified by:

2302 (i) the telecommunications system of the seller; or

2303 (ii) if the system used to transport the signal is not that of the seller, information

2304 received by the seller from its service provider; or

2305 (c) if the locations described in Subsection [~~(101)~~] (102)(a) or (b) are not known, the

2306 location of a purchaser's primary place of use.

2307 [~~(102)~~] (103) (a) "Telephone service provider" means a person that:

2308 (i) owns, controls, operates, or manages a telephone service; and

2309 (ii) engages in an activity described in Subsection [~~(102)~~] (103)(a)(i) for the shared use

2310 with or resale to any person of the telephone service.

2311 (b) A person described in Subsection [~~(102)~~] (103)(a) is a telephone service provider

2312 whether or not the Public Service Commission of Utah regulates:

2313 (i) that person; or

2314 (ii) the telephone service that the person owns, controls, operates, or manages.

2315 [~~(103)~~] (104) "Tobacco" means:

2316 (a) a cigarette;

2317 (b) a cigar;

2318 (c) chewing tobacco;

2319 (d) pipe tobacco; or

2320 (e) any other item that contains tobacco.

2321 [~~(104)~~] (105) "Unassisted amusement device" means an amusement device, skill

2322 device, or ride device that is started and stopped by the purchaser or renter of the right to use or

2323 operate the amusement device, skill device, or ride device.

2324 [~~(105)~~] (106) (a) "Use" means the exercise of any right or power over tangible personal

2325 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that

2326 property, item, or service.

2327 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
2328 the regular course of business and held for resale.

2329 ~~[(106)]~~ (107) (a) Subject to Subsection ~~[(106)]~~ (107)(b), "vehicle" means the following
2330 that are required to be titled, registered, or titled and registered:

- 2331 (i) an aircraft as defined in Section 72-10-102;
- 2332 (ii) a vehicle as defined in Section 41-1a-102;
- 2333 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2334 (iv) a vessel as defined in Section 41-1a-102.

2335 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2336 (i) a vehicle described in Subsection ~~[(106)]~~ (107)(a); or
- 2337 (ii) (A) a locomotive;
- 2338 (B) a freight car;
- 2339 (C) railroad work equipment; or
- 2340 (D) other railroad rolling stock.

2341 ~~[(107)]~~ (108) "Vehicle dealer" means a person engaged in the business of buying,
2342 selling, or exchanging a vehicle as defined in Subsection ~~[(106)]~~ (107).

2343 ~~[(108)]~~ (109) (a) Except as provided in Subsection ~~[(108)]~~ (109)(b), "waste energy
2344 facility" means a facility that generates electricity:

- 2345 (i) using as the primary source of energy waste materials that would be placed in a
2346 landfill or refuse pit if it were not used to generate electricity, including:
 - 2347 (A) tires;
 - 2348 (B) waste coal; or
 - 2349 (C) oil shale; and
- 2350 (ii) in amounts greater than actually required for the operation of the facility.

2351 (b) "Waste energy facility" does not include a facility that incinerates:

- 2352 (i) municipal solid waste;
- 2353 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

2354 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
2355 [~~(109)~~] (110) "Watercraft" means a vessel as defined in Section 73-18-2.
2356 [~~(110)~~] (111) "Wind energy" means wind used as the sole source of energy to produce
2357 electricity.
2358 [~~(111)~~] (112) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2359 geographic location by the United States Postal Service.
2360 Section 16. Section **59-12-103** is amended to read:
2361 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2362 **tax revenues.**
2363 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2364 charged for the following transactions:
2365 (a) retail sales of tangible personal property made within the state;
2366 (b) amounts paid:
2367 (i) (A) to a common carrier; or
2368 (B) whether the following are municipally or privately owned, to a:
2369 (I) telephone service provider; or
2370 (II) telegraph corporation as defined in Section 54-2-1; and
2371 (ii) for:
2372 (A) telephone service, other than mobile telecommunications service, that originates
2373 and terminates within the boundaries of this state;
2374 (B) mobile telecommunications service that originates and terminates within the
2375 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2376 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
2377 (C) telegraph service;
2378 (c) sales of the following for commercial use:
2379 (i) gas;
2380 (ii) electricity;
2381 (iii) heat;

- 2382 (iv) coal;
- 2383 (v) fuel oil; or
- 2384 (vi) other fuels;
- 2385 (d) sales of the following for residential use:
- 2386 (i) gas;
- 2387 (ii) electricity;
- 2388 (iii) heat;
- 2389 (iv) coal;
- 2390 (v) fuel oil; or
- 2391 (vi) other fuels;
- 2392 (e) sales of prepared food;
- 2393 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2394 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2395 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2396 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2397 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2398 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2399 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2400 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2401 exhibition, cultural, or athletic activity;
- 2402 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2403 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2404 (i) the tangible personal property; and
- 2405 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2406 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 2407 of that tangible personal property;
- 2408 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2409 assisted cleaning or washing of tangible personal property;

- 2410 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2411 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2412 (j) amounts paid or charged for laundry or dry cleaning services;
- 2413 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2414 this state the tangible personal property is:
 - 2415 (i) stored;
 - 2416 (ii) used; or
 - 2417 (iii) otherwise consumed;
- 2418 (l) amounts paid or charged for tangible personal property if within this state the
- 2419 tangible personal property is:
 - 2420 (i) stored;
 - 2421 (ii) used; or
 - 2422 (iii) consumed; and
 - 2423 (m) amounts paid or charged for prepaid telephone calling cards.
- 2424 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is
- 2425 imposed on a transaction described in Subsection (1) equal to the sum of:
 - 2426 (i) a state tax imposed on the transaction at a rate of [~~4.75%~~] 4.65%; and
 - 2427 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 - 2428 transaction under this chapter other than this part.
- 2429 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection
- 2430 (1)(d) equal to the sum of:
 - 2431 (A) a state tax imposed on the transaction at a rate of 2%; and
 - 2432 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 - 2433 transaction under this chapter other than this part; or
 - 2434 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
 - 2435 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
 - 2436 equal to the sum of:
 - 2437 (A) a state tax imposed on the transaction at a rate of:

2438 (I) [~~4.75%~~] 4.65% for a transaction other than a transaction described in Subsection
2439 (1)(d); or
2440 (II) 2% for a transaction described in Subsection (1)(d); and
2441 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
2442 rates:
2443 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
2444 and towns in the state impose the tax under Section 59-12-204; and
2445 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
2446 state impose the tax under Section 59-12-1102.
2447 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax
2448 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to
2449 the sum of:
2450 (A) a state tax imposed on the amounts paid or charged for food and food ingredients
2451 at a rate of [~~2.75%~~] 1.75%; and
2452 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2453 amounts paid or charged for food and food ingredients under this chapter other than this part.
2454 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
2455 rate imposed under the following shall take effect on the first day of a calendar quarter:
2456 (i) Subsection (2)(a)(i);
2457 (ii) Subsection (2)(b)(i)(A);
2458 (iii) Subsection (2)(b)(ii)(A); or
2459 (iv) Subsection (2)(b)(iii)(A).
2460 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
2461 effect on the first day of the first billing period:
2462 (A) that begins after the effective date of the tax rate increase; and
2463 (B) if the billing period for the transaction begins before the effective date of a tax rate
2464 increase imposed under:
2465 (I) Subsection (2)(a)(i);

2466 (II) Subsection (2)(b)(i)(A); or
2467 (III) Subsection (2)(b)(ii)(A).
2468 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
2469 decrease shall take effect on the first day of the last billing period:
2470 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2471 and
2472 (B) if the billing period for the transaction begins before the effective date of the repeal
2473 of the tax or the tax rate decrease imposed under:
2474 (I) Subsection (2)(a)(i);
2475 (II) Subsection (2)(b)(i)(A); or
2476 (III) Subsection (2)(b)(ii)(A).
2477 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
2478 (A) Subsection (1)(b);
2479 (B) Subsection (1)(c);
2480 (C) Subsection (1)(d);
2481 (D) Subsection (1)(e);
2482 (E) Subsection (1)(f);
2483 (F) Subsection (1)(g);
2484 (G) Subsection (1)(h);
2485 (H) Subsection (1)(i);
2486 (I) Subsection (1)(j); or
2487 (J) Subsection (1)(k).
2488 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
2489 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
2490 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:
2491 (A) on the first day of a calendar quarter; and
2492 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
2493 under Subsection (2)(a)(i) or (2)(b)(ii)(A).

2494 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2495 the commission may by rule define the term "catalogue sale."

2496 (f) If the price of a bundled transaction is attributable to food and food ingredients and
2497 tangible personal property other than food and food ingredients, the tax imposed on the entire
2498 bundled transaction is the sum of the tax rates described in Subsection (2)(a).

2499 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes
2500 shall be deposited into the General Fund:

- 2501 (i) the tax imposed by Subsection (2)(a)(i);
- 2502 (ii) the tax imposed by Subsection (2)(b)(i)(A);
- 2503 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or
- 2504 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

2505 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)
2506 shall be distributed to a county, city, or town as provided in this chapter.

2507 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
2508 state shall receive the county's, city's, or town's proportionate share of the revenues generated
2509 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

2510 (ii) The commission shall determine a county's, city's, or town's proportionate share of
2511 the revenues under Subsection (3)(c)(i) by:

2512 (A) calculating an amount equal to the population of the unincorporated area of the
2513 county, city, or town divided by the total population of the state; and

2514 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
2515 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,
2516 cities, and towns.

2517 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
2518 purposes of this section shall be derived from the most recent official census or census estimate
2519 of the United States Census Bureau.

2520 (B) If a needed population estimate is not available from the United States Census
2521 Bureau, population figures shall be derived from the estimate from the Utah Population

2522 Estimates Committee created by executive order of the governor.

2523 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2524 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
2525 through (g):

2526 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2527 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2528 (B) for the fiscal year; or

2529 (ii) \$17,500,000.

2530 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2531 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2532 Department of Natural Resources to:

2533 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
2534 protect sensitive plant and animal species; or

2535 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2536 act, to political subdivisions of the state to implement the measures described in Subsections
2537 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

2538 (ii) Money transferred to the Department of Natural Resources under Subsection
2539 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2540 person to list or attempt to have listed a species as threatened or endangered under the
2541 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2542 (iii) At the end of each fiscal year:

2543 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2544 Conservation and Development Fund created in Section 73-10-24;

2545 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2546 Program Subaccount created in Section 73-10c-5; and

2547 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2548 Program Subaccount created in Section 73-10c-5.

2549 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

2550 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2551 created in Section 4-18-6.

2552 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2553 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2554 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2555 water rights.

2556 (ii) At the end of each fiscal year:

2557 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2558 Conservation and Development Fund created in Section 73-10-24;

2559 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2560 Program Subaccount created in Section 73-10c-5; and

2561 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2562 Program Subaccount created in Section 73-10c-5.

2563 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2564 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2565 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2566 (ii) In addition to the uses allowed of the Water Resources Conservation and
2567 Development Fund under Section 73-10-24, the Water Resources Conservation and
2568 Development Fund may also be used to:

2569 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2570 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2571 quantifying surface and ground water resources and describing the hydrologic systems of an
2572 area in sufficient detail so as to enable local and state resource managers to plan for and
2573 accommodate growth in water use without jeopardizing the resource;

2574 (B) fund state required dam safety improvements; and

2575 (C) protect the state's interest in interstate water compact allocations, including the
2576 hiring of technical and legal staff.

2577 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

2578 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2579 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2580 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2581 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2582 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2583 (i) provide for the installation and repair of collection, treatment, storage, and
2584 distribution facilities for any public water system, as defined in Section 19-4-102;

2585 (ii) develop underground sources of water, including springs and wells; and

2586 (iii) develop surface water sources.

2587 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2588 2006, the difference between the following amounts shall be expended as provided in this
2589 Subsection (5), if that difference is greater than \$1:

2590 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2591 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2592 (ii) \$17,500,000.

2593 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2594 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2595 credits; and

2596 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2597 restoration.

2598 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2599 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2600 created in Section 73-10-24.

2601 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2602 remaining difference described in Subsection (5)(a) shall be:

2603 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2604 credits; and

2605 (B) expended by the Division of Water Resources for cloud-seeding projects

2606 authorized by Title 73, Chapter 15, Modification of Weather.

2607 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2608 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2609 created in Section 73-10-24.

2610 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2611 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2612 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2613 Division of Water Resources for:

2614 (i) preconstruction costs:

2615 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2616 26, Bear River Development Act; and

2617 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2618 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2619 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2620 Chapter 26, Bear River Development Act;

2621 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2622 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2623 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2624 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2625 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2626 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2627 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2628 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2629 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2630 incurred for employing additional technical staff for the administration of water rights.

2631 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2632 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2633 Fund created in Section 73-10-24.

2634 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2635 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)
2636 through (d):

2637 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2638 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2639 (B) for the fiscal year; or

2640 (ii) \$18,743,000.

2641 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
2642 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation
2643 Revolving Loan Fund created in Section 72-2-117.

2644 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
2645 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made
2646 by the Department of Transportation at the request of local governments.

2647 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2648 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
2649 Department of Transportation for the State Park Access Highways Improvement Program
2650 created in Section 72-3-207.

2651 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
2652 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as
2653 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
2654 roads.

2655 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
2656 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
2657 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
2658 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
2659 transactions under Subsection (1).

2660 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
2661 have been paid off and the highway projects completed that are intended to be paid from

2662 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
2663 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
2664 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2665 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2666 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2667 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
2668 year 2004-05, the commission shall each year on or before the September 30 immediately
2669 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
2670 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
2671 greater than \$0.

2672 (b) The difference described in Subsection (8)(a) is equal to the difference between:

2673 (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)
2674 the commission received from sellers collecting a tax in accordance with Subsection
2675 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in
2676 Subsection (8)(a); and

2677 (ii) \$7,279,673.

2678 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
2679 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
2680 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund
2681 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
2682 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),
2683 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales
2684 and use tax revenues generated annually by the sales and use tax on vehicles and
2685 vehicle-related products.

2686 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
2687 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
2688 highway projects completed that are intended to be paid from revenues deposited in the
2689 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations

2690 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
2691 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
2692 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described
2693 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the
2694 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2695 on vehicles and vehicle-related products.

2696 Section 17. Section **59-12-104** is amended to read:

2697 **59-12-104. Exemptions.**

2698 The following sales and uses are exempt from the taxes imposed by this chapter:

2699 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2700 under Chapter 13, Motor and Special Fuel Tax Act;

2701 (2) sales to the state, its institutions, and its political subdivisions; however, this
2702 exemption does not apply to sales of:

2703 (a) construction materials except:

2704 (i) construction materials purchased by or on behalf of institutions of the public
2705 education system as defined in Utah Constitution Article X, Section 2, provided the
2706 construction materials are clearly identified and segregated and installed or converted to real
2707 property which is owned by institutions of the public education system; and

2708 (ii) construction materials purchased by the state, its institutions, or its political
2709 subdivisions which are installed or converted to real property by employees of the state, its
2710 institutions, or its political subdivisions; or

2711 (b) tangible personal property in connection with the construction, operation,
2712 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2713 providing additional project capacity, as defined in Section 11-13-103;

2714 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2715 (i) the proceeds of each sale do not exceed \$1; and

2716 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2717 the cost of the item described in Subsection (3)(b) as goods consumed; and

- 2718 (b) Subsection (3)(a) applies to:
- 2719 (i) food and food ingredients; or
- 2720 (ii) prepared food;
- 2721 (4) sales of the following to a commercial airline carrier for in-flight consumption:
- 2722 (a) food and food ingredients;
- 2723 (b) prepared food; or
- 2724 (c) services related to Subsection (4)(a) or (b);
- 2725 (5) sales of parts and equipment for installation in aircraft operated by common carriers
- 2726 in interstate or foreign commerce;
- 2727 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 2728 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 2729 exhibitor, distributor, or commercial television or radio broadcaster;
- 2730 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
- 2731 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
- 2732 washing of tangible personal property;
- 2733 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 2734 tangible personal property and cleaning or washing of tangible personal property that is not
- 2735 assisted cleaning or washing of tangible personal property, the exemption described in
- 2736 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 2737 or washing of the tangible personal property; and
- 2738 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
- 2739 Utah Administrative Rulemaking Act, the commission may make rules:
- 2740 (i) governing the circumstances under which sales are at the same business location;
- 2741 and
- 2742 (ii) establishing the procedures and requirements for a seller to separately account for
- 2743 sales of assisted cleaning or washing of tangible personal property;
- 2744 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 2745 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

2746 fulfilled;

2747 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

2748 this state if the vehicle is both not:

2749 (a) registered in this state; and

2750 (b) used in this state except as necessary to transport the vehicle to the borders of this

2751 state;

2752 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2753 (i) the item is intended for human use; and

2754 (ii) (A) a prescription was issued for the item; or

2755 (B) the item was purchased by a hospital or other medical facility; and

2756 (b) (i) Subsection (10)(a) applies to:

2757 (A) a drug;

2758 (B) a syringe; or

2759 (C) a stoma supply; and

2760 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2761 commission may by rule define the terms:

2762 (A) "syringe"; or

2763 (B) "stoma supply";

2764 (11) sales or use of property, materials, or services used in the construction of or

2765 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

2766 (12) (a) sales of an item described in Subsection (12)(c) served by:

2767 (i) the following if the item described in Subsection (12)(c) is not available to the

2768 general public:

2769 (A) a church; or

2770 (B) a charitable institution;

2771 (ii) an institution of higher education if:

2772 (A) the item described in Subsection (12)(c) is not available to the general public; or

2773 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

2774 offered by the institution of higher education; or
2775 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2776 (i) a medical facility; or
2777 (ii) a nursing facility; and
2778 (c) Subsections (12)(a) and (b) apply to:
2779 (i) food and food ingredients;
2780 (ii) prepared food; or
2781 (iii) alcoholic beverages;
2782 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2783 by a person:
2784 (i) regardless of the number of transactions involving the sale of that tangible personal
2785 property by that person; and
2786 (ii) not regularly engaged in the business of selling that type of tangible personal
2787 property;
2788 (b) this Subsection (13) does not apply if:
2789 (i) the sale is one of a series of sales of a character to indicate that the person is
2790 regularly engaged in the business of selling that type of tangible personal property;
2791 (ii) the person holds that person out as regularly engaged in the business of selling that
2792 type of tangible personal property;
2793 (iii) the person sells an item of tangible personal property that the person purchased as
2794 a sale that is exempt under Subsection (25); or
2795 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2796 this state in which case the tax is based upon:
2797 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2798 sold; or
2799 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2800 value of the vehicle or vessel being sold at the time of the sale as determined by the
2801 commission; and

2802 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2803 commission shall make rules establishing the circumstances under which:

2804 (i) a person is regularly engaged in the business of selling a type of tangible personal
2805 property;

2806 (ii) a sale of tangible personal property is one of a series of sales of a character to
2807 indicate that a person is regularly engaged in the business of selling that type of tangible
2808 personal property; or

2809 (iii) a person holds that person out as regularly engaged in the business of selling a type
2810 of tangible personal property;

2811 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2812 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2813 facility, for the following:

2814 (i) machinery and equipment that:

2815 (A) is used:

2816 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
2817 recycler described in Subsection 59-12-102~~(45)~~(46)(b):

2818 (Aa) in the manufacturing process; and

2819 (Bb) to manufacture an item sold as tangible personal property; or

2820 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2821 59-12-102~~(45)~~(46)(b), to process an item sold as tangible personal property; and

2822 (B) has an economic life of three or more years; and

2823 (ii) normal operating repair or replacement parts that:

2824 (A) have an economic life of three or more years; and

2825 (B) are used:

2826 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
2827 scrap recycler described in Subsection 59-12-102~~(45)~~(46)(b), in the manufacturing process;

2828 or

2829 (II) for a manufacturing facility in the state that is a scrap recycler described in

2830 Subsection 59-12-102[(45)](46)(b), to process an item sold as tangible personal property;

2831 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2832 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2833 for the following:

2834 (A) machinery and equipment that:

2835 (I) is used:

2836 (Aa) in the manufacturing process; and

2837 (Bb) to manufacture an item sold as tangible personal property; and

2838 (II) has an economic life of three or more years; and

2839 (B) normal operating repair or replacement parts that:

2840 (I) are used in the manufacturing process in a manufacturing facility in the state; and

2841 (II) have an economic life of three or more years; and

2842 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,

2843 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
2844 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

2845 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;

2846 and

2847 (B) in accordance with Section 59-12-110;

2848 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

2849 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

2850 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

2851 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

2852 of the 2002 North American Industry Classification System of the federal Executive Office of

2853 the President, Office of Management and Budget:

2854 (i) machinery and equipment that:

2855 (A) are used in:

2856 (I) the production process, other than the production of real property; or

2857 (II) research and development; and

2858 (B) have an economic life of three or more years; and
 2859 (ii) normal operating repair or replacement parts that:
 2860 (A) have an economic life of three or more years; and
 2861 (B) are used in:
 2862 (I) the production process, other than the production of real property, in an
 2863 establishment described in this Subsection (14)(c) in the state; or
 2864 (II) research and development in an establishment described in this Subsection (14)(c)
 2865 in the state;
 2866 ~~[(e)]~~ (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter
 2867 46a, Utah Administrative Rulemaking Act, the commission:
 2868 (i) shall by rule define the term "establishment"; and
 2869 (ii) may by rule define what constitutes:
 2870 (A) processing an item sold as tangible personal property;
 2871 (B) the production process, other than the production of real property; or
 2872 (C) research and development; and
 2873 ~~[(d)]~~ (e) on or before October 1, ~~[1991]~~ 2011, and every five years after October 1,
 2874 ~~[1991]~~ 2011, the commission shall:
 2875 (i) review the exemptions described in this Subsection (14) and make
 2876 recommendations to the Revenue and Taxation Interim Committee concerning whether the
 2877 exemptions should be continued, modified, or repealed; and
 2878 (ii) include in its report:
 2879 (A) the cost of the exemptions;
 2880 (B) the purpose and effectiveness of the exemptions; and
 2881 (C) the benefits of the exemptions to the state;
 2882 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
 2883 (i) tooling;
 2884 (ii) special tooling;
 2885 (iii) support equipment;

2886 (iv) special test equipment; or
2887 (v) parts used in the repairs or renovations of tooling or equipment described in
2888 Subsections (15)(a)(i) through (iv); and
2889 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2890 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2891 performance of any aerospace or electronics industry contract with the United States
2892 government or any subcontract under that contract; and
2893 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2894 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2895 by:
2896 (A) a government identification tag placed on the tooling, equipment, or parts; or
2897 (B) listing on a government-approved property record if placing a government
2898 identification tag on the tooling, equipment, or parts is impractical;
2899 (16) sales of newspapers or newspaper subscriptions;
2900 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
2901 as full or part payment of the purchase price, except that for purposes of calculating sales or use
2902 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
2903 the tax is based upon:
2904 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2905 vehicle being traded in; or
2906 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2907 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2908 commission; and
2909 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2910 following items of tangible personal property traded in as full or part payment of the purchase
2911 price:
2912 (i) money;
2913 (ii) electricity;

2914 (iii) water;

2915 (iv) gas; or

2916 (v) steam;

2917 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

2918 used or consumed primarily and directly in farming operations, regardless of whether the

2919 tangible personal property:

2920 (A) becomes part of real estate; or

2921 (B) is installed by a:

2922 (I) farmer;

2923 (II) contractor; or

2924 (III) subcontractor; or

2925 (ii) sales of parts used in the repairs or renovations of tangible personal property if the

2926 tangible personal property is exempt under Subsection (18)(a)(i); and

2927 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following

2928 tangible personal property are subject to the taxes imposed by this chapter:

2929 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if

2930 the tangible personal property is used in a manner that is incidental to farming:

2931 (I) machinery;

2932 (II) equipment;

2933 (III) materials; or

2934 (IV) supplies; and

2935 (B) tangible personal property that is considered to be used in a manner that is

2936 incidental to farming includes:

2937 (I) hand tools; or

2938 (II) maintenance and janitorial equipment and supplies;

2939 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible

2940 personal property is used in an activity other than farming; and

2941 (B) tangible personal property that is considered to be used in an activity other than

2942 farming includes:

2943 (I) office equipment and supplies; or

2944 (II) equipment and supplies used in:

2945 (Aa) the sale or distribution of farm products;

2946 (Bb) research; or

2947 (Cc) transportation; or

2948 (iii) a vehicle required to be registered by the laws of this state during the period ending

2949 two years after the date of the vehicle's purchase;

2950 (19) sales of hay;

2951 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

2952 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

2953 garden, farm, or other agricultural produce is sold by:

2954 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2955 agricultural produce;

2956 (b) an employee of the producer described in Subsection (20)(a); or

2957 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2958 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2959 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2960 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2961 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

2962 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2963 manufacturer, processor, wholesaler, or retailer;

2964 (23) property stored in the state for resale;

2965 (24) property brought into the state by a nonresident for his or her own personal use or

2966 enjoyment while within the state, except property purchased for use in Utah by a nonresident

2967 living and working in Utah at the time of purchase;

2968 (25) property purchased for resale in this state, in the regular course of business, either

2969 in its original form or as an ingredient or component part of a manufactured or compounded

2970 product;

2971 (26) property upon which a sales or use tax was paid to some other state, or one of its
2972 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2973 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2974 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2975 Act;

2976 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2977 person for use in compounding a service taxable under the subsections;

2978 (28) purchases made in accordance with the special supplemental nutrition program for
2979 women, infants, and children established in 42 U.S.C. Sec. 1786;

2980 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2981 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
2982 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2983 Manual of the federal Executive Office of the President, Office of Management and Budget;

2984 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2985 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both
2986 not:

2987 (a) registered in this state; and

2988 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard
2989 motor to the borders of this state;

2990 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
2991 where a sales or use tax is not imposed, even if the title is passed in Utah;

2992 (32) amounts paid for the purchase of telephone service for purposes of providing
2993 telephone service;

2994 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

2995 (34) (a) 45% of the sales price of any new manufactured home; and

2996 (b) 100% of the sales price of any used manufactured home;

2997 (35) sales relating to schools and fundraising sales;

2998 (36) sales or rentals of durable medical equipment if:
2999 (a) a person presents a prescription for the durable medical equipment; and
3000 (b) the durable medical equipment is used for home use only;
3001 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
3002 Section 72-11-102; and
3003 (b) the commission shall by rule determine the method for calculating sales exempt
3004 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
3005 (38) sales to a ski resort of:
3006 (a) snowmaking equipment;
3007 (b) ski slope grooming equipment;
3008 (c) passenger ropeways as defined in Section 72-11-102; or
3009 (d) parts used in the repairs or renovations of equipment or passenger ropeways
3010 described in Subsections (38)(a) through (c);
3011 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
3012 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
3013 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
3014 59-12-102;
3015 (b) if a seller that sells or rents at the same business location the right to use or operate
3016 for amusement, entertainment, or recreation one or more unassisted amusement devices and
3017 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
3018 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
3019 amusement, entertainment, or recreation for the assisted amusement devices; and
3020 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
3021 Utah Administrative Rulemaking Act, the commission may make rules:
3022 (i) governing the circumstances under which sales are at the same business location;
3023 and
3024 (ii) establishing the procedures and requirements for a seller to separately account for
3025 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

3026 assisted amusement devices;

3027 (41) sales by the state or a political subdivision of the state, except state institutions of

3028 higher education as defined in Section 53B-3-102, of:

3029 (a) photocopies; or

3030 (b) other copies of records held or maintained by the state or a political subdivision of

3031 the state;

3032 (42) amounts paid for admission to an athletic event at an institution of higher

3033 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

3034 20 U.S.C. Sec. 1681 et seq.;

3035 (43) sales of telephone service charged to a prepaid telephone calling card;

3036 (44) (a) sales of:

3037 (i) hearing aids;

3038 (ii) hearing aid accessories; or

3039 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations

3040 of hearing aids or hearing aid accessories; and

3041 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),

3042 "parts" does not include batteries;

3043 (45) (a) sales made to or by:

3044 (i) an area agency on aging; or

3045 (ii) a senior citizen center owned by a county, city, or town; or

3046 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3047 (46) sales or leases of semiconductor fabricating, processing, research, or development

3048 materials regardless of whether the semiconductor fabricating, processing, research, or

3049 development materials:

3050 (a) actually come into contact with a semiconductor; or

3051 (b) ultimately become incorporated into real property;

3052 (47) an amount paid by or charged to a purchaser for accommodations and services

3053 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

3054 59-12-104.2;

3055 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

3056 sports event registration certificate in accordance with Section 41-3-306 for the event period

3057 specified on the temporary sports event registration certificate;

3058 (49) sales or uses of electricity, if the sales or uses are:

3059 (a) made under a tariff adopted by the Public Service Commission of Utah only for

3060 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

3061 source, as designated in the tariff by the Public Service Commission of Utah; and

3062 (b) for an amount of electricity that is:

3063 (i) unrelated to the amount of electricity used by the person purchasing the electricity

3064 under the tariff described in Subsection (49)(a); and

3065 (ii) equivalent to the number of kilowatthours specified in the tariff described in

3066 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);

3067 (50) sales or rentals of mobility enhancing equipment if a person presents a

3068 prescription for the mobility enhancing equipment;

3069 (51) sales of water in a:

3070 (a) pipe;

3071 (b) conduit;

3072 (c) ditch; or

3073 (d) reservoir;

3074 (52) sales of currency or coinage that constitute legal tender of the United States or of a

3075 foreign nation;

3076 (53) (a) sales of an item described in Subsection (53)(b) if the item:

3077 (i) does not constitute legal tender of any nation; and

3078 (ii) has a gold, silver, or platinum content of 80% or more; and

3079 (b) Subsection (53)(a) applies to a gold, silver, or platinum:

3080 (i) ingot;

3081 (ii) bar;

3082 (iii) medallion; or
3083 (iv) decorative coin;
3084 (54) amounts paid on a sale-leaseback transaction;
3085 (55) sales of a prosthetic device:
3086 (a) for use on or in a human;
3087 (b) for which a prescription is issued; and
3088 (c) to a person that presents a prescription for the prosthetic device;
3089 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
3090 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
3091 or equipment is primarily used in the production or postproduction of the following media for
3092 commercial distribution:
3093 (i) a motion picture;
3094 (ii) a television program;
3095 (iii) a movie made for television;
3096 (iv) a music video;
3097 (v) a commercial;
3098 (vi) a documentary; or
3099 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
3100 commission by administrative rule made in accordance with Subsection (56)(d); or
3101 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
3102 equipment by an establishment described in Subsection (56)(c) that is used for the production
3103 or postproduction of the following are subject to the taxes imposed by this chapter:
3104 (i) a live musical performance;
3105 (ii) a live news program; or
3106 (iii) a live sporting event;
3107 (c) the following establishments listed in the 1997 North American Industry
3108 Classification System of the federal Executive Office of the President, Office of Management
3109 and Budget, apply to Subsections (56)(a) and (b):

- 3110 (i) NAICS Code 512110; or
- 3111 (ii) NAICS Code 51219; and
- 3112 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 3113 commission may by rule:
 - 3114 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
 - 3115 or
 - 3116 (ii) define:
 - 3117 (A) "commercial distribution";
 - 3118 (B) "live musical performance";
 - 3119 (C) "live news program"; or
 - 3120 (D) "live sporting event";
 - 3121 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
 - 3122 or before June 30, 2009, of machinery or equipment that:
 - 3123 (i) is leased or purchased for or by a facility that:
 - 3124 (A) is a renewable energy production facility;
 - 3125 (B) is located in the state; and
 - 3126 (C) (I) becomes operational on or after July 1, 2004; or
 - 3127 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 3128 2004 as a result of the use of the machinery or equipment;
 - 3129 (ii) has an economic life of five or more years; and
 - 3130 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 3131 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
 - 3132 transmission grid including:
 - 3133 (A) a wind turbine;
 - 3134 (B) generating equipment;
 - 3135 (C) a control and monitoring system;
 - 3136 (D) a power line;
 - 3137 (E) substation equipment;

3138 (F) lighting;

3139 (G) fencing;

3140 (H) pipes; or

3141 (I) other equipment used for locating a power line or pole; and

3142 (b) this Subsection (57) does not apply to:

3143 (i) machinery or equipment used in construction of:

3144 (A) a new renewable energy production facility; or

3145 (B) the increase in the capacity of a renewable energy production facility;

3146 (ii) contracted services required for construction and routine maintenance activities;

3147 and

3148 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

3149 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or

3150 acquired after:

3151 (A) the renewable energy production facility described in Subsection (57)(a)(i) is

3152 operational as described in Subsection (57)(a)(iii); or

3153 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described

3154 in Subsection (57)(a)(iii);

3155 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on

3156 or before June 30, 2009, of machinery or equipment that:

3157 (i) is leased or purchased for or by a facility that:

3158 (A) is a waste energy production facility;

3159 (B) is located in the state; and

3160 (C) (I) becomes operational on or after July 1, 2004; or

3161 (II) has its generation capacity increased by one or more megawatts on or after July 1,

3162 2004 as a result of the use of the machinery or equipment;

3163 (ii) has an economic life of five or more years; and

3164 (iii) is used to make the facility or the increase in capacity of the facility described in

3165 Subsection (58)(a)(i) operational up to the point of interconnection with an existing

- 3166 transmission grid including:
- 3167 (A) generating equipment;
 - 3168 (B) a control and monitoring system;
 - 3169 (C) a power line;
 - 3170 (D) substation equipment;
 - 3171 (E) lighting;
 - 3172 (F) fencing;
 - 3173 (G) pipes; or
 - 3174 (H) other equipment used for locating a power line or pole; and
- 3175 (b) this Subsection (58) does not apply to:
- 3176 (i) machinery or equipment used in construction of:
 - 3177 (A) a new waste energy facility; or
 - 3178 (B) the increase in the capacity of a waste energy facility;
 - 3179 (ii) contracted services required for construction and routine maintenance activities;
- 3180 and
- 3181 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 3182 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
 - 3183 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
 - 3184 described in Subsection (58)(a)(iii); or
 - 3185 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
 - 3186 in Subsection (58)(a)(iii);
- 3187 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 3188 or before June 30, 2009, of machinery or equipment that:
- 3189 (i) is leased or purchased for or by a facility that:
 - 3190 (A) is located in the state;
 - 3191 (B) produces fuel from biomass energy including:
 - 3192 (I) methanol; or
 - 3193 (II) ethanol; and

3194 (C) (I) becomes operational on or after July 1, 2004; or
3195 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
3196 a result of the installation of the machinery or equipment;
3197 (ii) has an economic life of five or more years; and
3198 (iii) is installed on the facility described in Subsection (59)(a)(i);
3199 (b) this Subsection (59) does not apply to:
3200 (i) machinery or equipment used in construction of:
3201 (A) a new facility described in Subsection (59)(a)(i); or
3202 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
3203 (ii) contracted services required for construction and routine maintenance activities;
3204 and
3205 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3206 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
3207 (A) the facility described in Subsection (59)(a)(i) is operational; or
3208 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
3209 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
3210 for purchasing the new vehicle;
3211 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
3212 within this state that is subsequently shipped outside the state and incorporated pursuant to
3213 contract into and becomes a part of real property located outside of this state, except to the
3214 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
3215 transaction excise tax on it against which the other state or political entity allows a credit for
3216 taxes imposed by this chapter; and
3217 (b) the exemption provided for in Subsection (61)(a):
3218 (i) is allowed only if the exemption is applied:
3219 (A) in calculating the purchase price of the tangible personal property; and
3220 (B) to a written contract that is in effect on July 1, 2004; and
3221 (ii) (A) does not apply beginning on the day on which the contract described in

3222 Subsection (61)(b)(i):
3223 (I) is substantially modified; or
3224 (II) terminates; and
3225 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3226 the commission may by rule prescribe the circumstances under which a contract is substantially
3227 modified;
3228 (62) purchases:
3229 (a) of one or more of the following items in printed or electronic format:
3230 (i) a list containing information that includes one or more:
3231 (A) names; or
3232 (B) addresses; or
3233 (ii) a database containing information that includes one or more:
3234 (A) names; or
3235 (B) addresses; and
3236 (b) used to send direct mail;
3237 (63) redemptions or repurchases of property by a person if that property was:
3238 (a) delivered to a pawnbroker as part of a pawn transaction; and
3239 (b) redeemed or repurchased within the time period established in a written agreement
3240 between the person and the pawnbroker for redeeming or repurchasing the property;
3241 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:
3242 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
3243 (ii) has a useful economic life of one or more years; and
3244 (b) the following apply to Subsection (64)(a):
3245 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3246 (ii) telecommunications equipment, machinery, or software required for 911 service;
3247 (iii) telecommunications maintenance or repair equipment, machinery, or software;
3248 (iv) telecommunications switching or routing equipment, machinery, or software; or
3249 (v) telecommunications transmission equipment, machinery, or software; and

3250 (65) (a) beginning on July 1, 2006 and ending on June 30, 2016, purchases of tangible
3251 personal property used in the research and development of coal-to-liquids, oil shale, or tar
3252 sands technology; and

3253 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3254 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
3255 tangible personal property used in the research and development of coal-to-liquids, oil shale,
3256 and tar sands technology.

3257 Section 18. Section **59-12-401** is amended to read:

3258 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**

3259 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
3260 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
3261 municipality's permanent census population may impose a sales and use tax of up to [~~1%~~] 1.1%
3262 on the transactions described in Subsection 59-12-103(1) located within the city or town.

3263 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
3264 section on:

3265 (i) the sale of:

3266 (A) a motor vehicle;

3267 (B) an aircraft;

3268 (C) a watercraft;

3269 (D) a modular home;

3270 (E) a manufactured home; or

3271 (F) a mobile home;

3272 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3273 are exempt from taxation under Section 59-12-104; [~~and~~]

3274 (iii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
3275 59-12-107(1)(b)[~~;~~]; and

3276 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and
3277 food ingredients.

3278 (c) For purposes of this Subsection (1), the location of a transaction shall be
3279 determined in accordance with Section 59-12-207.

3280 (d) A city or town imposing a tax under this section shall impose the tax on amounts
3281 paid or charged for food and food ingredients if:

3282 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3283 food and food ingredients and tangible personal property other than food and food ingredients;
3284 and

3285 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3286 accordance with Subsection 59-12-107(1)(b).

3287 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3288 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3289 the state from its collection fees received in connection with the implementation of Subsection
3290 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3291 provided for in Subsection (1).

3292 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3293 those cities and towns according to the amount of revenue the respective cities and towns
3294 generate in that year through imposition of that tax.

3295 Section 19. Section **59-12-402** is amended to read:

3296 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
3297 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
3298 **Notice requirements -- Ordinance requirements.**

3299 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
3300 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
3301 66% of the municipality's permanent census population may, in addition to the sales tax
3302 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
3303 amount that is less than or equal to .5% on the transactions described in Subsection
3304 59-12-103(1) located within the municipality.

3305 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not

3306 impose a tax under this section on:

3307 (i) the sale of:

3308 (A) a motor vehicle;

3309 (B) an aircraft;

3310 (C) a watercraft;

3311 (D) a modular home;

3312 (E) a manufactured home; or

3313 (F) a mobile home;

3314 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses

3315 are exempt from taxation under Section 59-12-104; ~~and~~

3316 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection

3317 59-12-107(1)(b)~~[-]; and~~

3318 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and

3319 food ingredients.

3320 (c) For purposes of this Subsection (1), the location of a transaction shall be

3321 determined in accordance with Section 59-12-207.

3322 (d) A municipality imposing a tax under this section shall impose the tax on amounts

3323 paid or charged for food and food ingredients if:

3324 (i) the food and food ingredients are sold as part of a bundled transaction attributable to

3325 food and food ingredients and tangible personal property other than food and food ingredients;

3326 and

3327 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in

3328 accordance with Subsection 59-12-107(1)(b).

3329 (2) (a) An amount equal to the total of any costs incurred by the state in connection

3330 with the implementation of Subsection (1) which exceed, in any year, the revenues received by

3331 the state from its collection fees received in connection with the implementation of Subsection

3332 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax

3333 provided for in Subsection (1).

3334 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3335 those cities and towns according to the amount of revenue the respective cities and towns
3336 generate in that year through imposition of that tax.

3337 (3) To impose an additional resort communities sales tax under this section, the
3338 governing body of the municipality shall:

3339 (a) pass a resolution approving the tax; and

3340 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
3341 in Subsection (4).

3342 (4) To obtain voter approval for an additional resort communities sales tax under
3343 Subsection (3)(b), a municipality shall:

3344 (a) hold the additional resort communities sales tax election during:

3345 (i) a regular general election; or

3346 (ii) a municipal general election; and

3347 (b) publish notice of the election:

3348 (i) 15 days or more before the day on which the election is held; and

3349 (ii) in a newspaper of general circulation in the municipality.

3350 (5) An ordinance approving an additional resort communities sales tax under this
3351 section shall provide an effective date for the tax as provided in Section 59-12-403.

3352 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
3353 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
3354 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
3355 Section 10-1-203.

3356 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
3357 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
3358 one class of businesses based on gross receipts pursuant to Section 10-1-203.

3359 Section 20. Section **59-12-403** is amended to read:

3360 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**
3361 **Notice requirements -- Administration, collection, and enforcement of tax.**

3362 (1) For purposes of this section:
3363 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3364 4, Annexation.
3365 (b) "Annexing area" means an area that is annexed into a city or town.
3366 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after ~~July~~ April 1,
3367 ~~[2004]~~ 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part,
3368 the enactment, repeal, or change shall take effect:
3369 (i) on the first day of a calendar quarter; and
3370 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3371 the requirements of Subsection (2)(b) from the city or town.
3372 (b) The notice described in Subsection (2)(a)(ii) shall state:
3373 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
3374 part;
3375 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
3376 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
3377 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3378 Subsection (2)(b)(i), the rate of the tax.
3379 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3380 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3381 first billing period:
3382 (A) that begins after the effective date of the enactment of the tax or the tax rate
3383 increase; and
3384 (B) if the billing period for the transaction begins before the effective date of the
3385 enactment of the tax or the tax rate increase imposed under:
3386 (I) Section 59-12-401; or
3387 (II) Section 59-12-402.
3388 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3389 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3390 billing period:

3391 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3392 and

3393 (B) if the billing period for the transaction begins before the effective date of the repeal

3394 of the tax or the tax rate decrease imposed under:

3395 (I) Section 59-12-401; or

3396 (II) Section 59-12-402.

3397 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

3398 (A) Subsection 59-12-103(1)(b);

3399 (B) Subsection 59-12-103(1)(c);

3400 (C) Subsection 59-12-103(1)(d);

3401 (D) Subsection 59-12-103(1)(e);

3402 (E) Subsection 59-12-103(1)(f);

3403 (F) Subsection 59-12-103(1)(g);

3404 (G) Subsection 59-12-103(1)(h);

3405 (H) Subsection 59-12-103(1)(i);

3406 (I) Subsection 59-12-103(1)(j); or

3407 (J) Subsection 59-12-103(1)(k).

3408 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue

3409 sale is computed on the basis of sales and use tax rates published in the catalogue, an

3410 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

3411 (A) on the first day of a calendar quarter; and

3412 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

3413 rate of the tax under Subsection (2)(a).

3414 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

3415 the commission may by rule define the term "catalogue sale."

3416 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs

3417 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the

3418 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3419 effect:

3420 (i) on the first day of a calendar quarter; and

3421 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3422 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

3423 (b) The notice described in Subsection (3)(a)(ii) shall state:

3424 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
3425 repeal, or change in the rate of a tax under this part for the annexing area;

3426 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

3427 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

3428 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3429 Subsection (3)(b)(i), the rate of the tax.

3430 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3431 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3432 first billing period:

3433 (A) that begins after the effective date of the enactment of the tax or the tax rate
3434 increase; and

3435 (B) if the billing period for the transaction begins before the effective date of the
3436 enactment of the tax or the tax rate increase imposed under:

3437 (I) Section 59-12-401; or

3438 (II) Section 59-12-402.

3439 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3440 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3441 billing period:

3442 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3443 and

3444 (B) if the billing period for the transaction begins before the effective date of the repeal
3445 of the tax or the tax rate decrease imposed under:

- 3446 (I) Section 59-12-401; or
- 3447 (II) Section 59-12-402.
- 3448 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3449 (A) Subsection 59-12-103(1)(b);
- 3450 (B) Subsection 59-12-103(1)(c);
- 3451 (C) Subsection 59-12-103(1)(d);
- 3452 (D) Subsection 59-12-103(1)(e);
- 3453 (E) Subsection 59-12-103(1)(f);
- 3454 (F) Subsection 59-12-103(1)(g);
- 3455 (G) Subsection 59-12-103(1)(h);
- 3456 (H) Subsection 59-12-103(1)(i);
- 3457 (I) Subsection 59-12-103(1)(j); or
- 3458 (J) Subsection 59-12-103(1)(k).
- 3459 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
- 3460 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3461 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:
- 3462 (A) on the first day of a calendar quarter; and
- 3463 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 3464 rate of the tax under Subsection (3)(a).
- 3465 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 3466 the commission may by rule define the term "catalogue sale."
- 3467 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
- 3468 administered, collected, and enforced in accordance with:
- 3469 (i) the same procedures used to administer, collect, and enforce the tax under:
- 3470 (A) Part 1, Tax Collection; or
- 3471 (B) Part 2, Local Sales and Use Tax Act; and
- 3472 (ii) Chapter 1, General Taxation Policies.
- 3473 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

3474 Subsections 59-12-205(2) through (7).

3475 Section 21. Section **59-12-501** is amended to read:

3476 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

3477 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town within a
 3478 transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,
 3479 may impose a sales and use tax of up to:

3480 (A) beginning on January 1, 1988, and ending on December 31, 2007, .25% on the
 3481 transactions described in Subsection 59-12-103(1) located within the county, city, or town, to
 3482 fund a public transportation system; or

3483 (B) beginning on January 1, 2008, if within the boundaries of the county, city, or town
 3484 a tax is not imposed under Part 15, County Option Sales and Use Tax for Highways, Fixed
 3485 Guideways, or Systems for Public Transit Act, .30% on the transactions described in
 3486 Subsection 59-12-103(1) located within the county, city, or town, to fund a public
 3487 transportation system.

3488 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
 3489 under this section on:

3490 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 3491 are exempt from taxation under Section 59-12-104; ~~and~~

3492 (B) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
 3493 59-12-107(1)(b)~~[-]; and~~

3494 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
 3495 ingredients.

3496 (b) For purposes of this Subsection (1), the location of a transaction shall be
 3497 determined in accordance with Section 59-12-207.

3498 (c) A county, city, or town imposing a tax under this section shall impose the tax on
 3499 amounts paid or charged for food and food ingredients if:

3500 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
 3501 food and food ingredients and tangible personal property other than food and food ingredients;

3502 and

3503 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3504 accordance with Subsection 59-12-107(1)(b).

3505 [~~☞~~] (d) (i) [A] Except as provided in Subsection (3) or (4), a county, city, or town may
3506 impose a tax under this section only if the governing body of the county, city, or town, by
3507 resolution, submits the proposal to all the qualified voters within the county, city, or town for
3508 approval at a general or special election conducted in the manner provided by statute.

3509 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an
3510 area to a public transit district or local district and approving for that annexed area the sales and
3511 use tax authorized by this section satisfies the election requirement of Subsection (1)[~~☞~~] (d)(i)
3512 for the area to be annexed to the public transit district or local district.

3513 (2) (a) If only a portion of a county is included within a public transit district, the
3514 proposal may be submitted only to the qualified voters residing within the boundaries of the
3515 proposed or existing public transit district.

3516 (b) Notice of any such election shall be given by the county, city, or town governing
3517 body 15 days in advance in the manner prescribed by statute.

3518 (c) If a majority of the voters voting in such election approve the proposal, it shall
3519 become effective on the date provided by the county, city, or town governing body.

3520 (3) This section may not be construed to require an election in jurisdictions where
3521 voters have previously approved a public transit sales or use tax.

3522 (4) A county, city, or town is not subject to the voter approval requirements of this
3523 section if:

3524 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
3525 section; and

3526 (b) on or after January 1, 2008, subject to Subsection (1)(a)(i)(B), the county, city, or
3527 town increases the tax rate under this section to up to .30%.

3528 Section 22. Section **59-12-502** is amended to read:

3529 **59-12-502. Additional public transit tax for expanded system and fixed guideway**

3530 **and interstate improvements -- Base -- Rate -- Voter approval.**

3531 (1) (a) (i) In addition to other sales and use taxes, including the public transit district tax
3532 authorized by Section 59-12-501, a county, city, or town within a transit district organized
3533 under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and
3534 use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the
3535 county, city, or town, to fund a fixed guideway and expanded public transportation system.

3536 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
3537 under this section on:

3538 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3539 are exempt from taxation under Section 59-12-104; ~~and~~

3540 (B) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3541 59-12-107(1)(b)~~[-]; and~~

3542 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3543 ingredients.

3544 (b) For purposes of this Subsection (1), the location of a transaction shall be
3545 determined in accordance with Section 59-12-207.

3546 (c) A county, city, or town imposing a tax under this section shall impose the tax on
3547 amounts paid or charged for food and food ingredients if:

3548 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3549 food and food ingredients and tangible personal property other than food and food ingredients;
3550 and

3551 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3552 accordance with Subsection 59-12-107(1)(b).

3553 ~~(e)~~ (d) (i) A county, city, or town may impose the tax under this section only if the
3554 governing body of the county, city, or town submits, by resolution, the proposal to all the
3555 qualified voters within the county, city, or town for approval at a general or special election
3556 conducted in the manner provided by statute.

3557 (ii) Notice of the election under Subsection (1)~~(e)~~(d)(i) shall be given by the county,

3558 city, or town governing body 15 days in advance in the manner prescribed by statute.

3559 (2) If the majority of the voters voting in this election approve the proposal, it shall
3560 become effective on the date provided by the county, city, or town governing body.

3561 (3) (a) This section may not be construed to require an election in jurisdictions where
3562 voters have previously approved a public transit sales or use tax.

3563 (b) This section shall be construed to require an election to impose the sales and use
3564 tax authorized by this section, including jurisdictions where the voters have previously
3565 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
3566 construed to affect the sales and use tax authorized by Section 59-12-501.

3567 (4) No public funds shall be spent to promote the required election.

3568 (5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the
3569 revenues generated by the tax imposed under this section by any county of the first class:

3570 (i) 75% shall be allocated to fund a fixed guideway and expanded public transportation
3571 system; and

3572 (ii) except as provided in Subsection (5)(b), 25% shall be allocated to fund new
3573 construction, major renovations, and improvements to Interstate 15 and state highways within
3574 the county and to pay any debt service and bond issuance costs related to those projects.

3575 (b) Notwithstanding the designated use of revenues in Subsection (1), beginning on
3576 July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not
3577 to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to
3578 reconfiguring railroad curves within that county to reduce rail congestion.

3579 (6) A county of the first class may, through an interlocal agreement, authorize the
3580 deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public
3581 Transportation System Tax Highway Fund created in Section 72-2-121.

3582 Section 23. Section **59-12-504** is amended to read:

3583 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
3584 **Administration, collection, and enforcement of tax.**

3585 (1) For purposes of this section:

3586 (a) "Annexation" means an annexation to:
3587 (i) a county under Title 17, Chapter 2, Annexation to County; or
3588 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
3589 (b) "Annexing area" means an area that is annexed into a county, city, or town.
3590 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after ~~July~~ April 1,
3591 ~~[2004]~~ 2008, a county, city, or town enacts or repeals a tax under this part, the enactment or
3592 repeal shall take effect:
3593 (i) on the first day of a calendar quarter; and
3594 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3595 the requirements of Subsection (2)(b) from the county, city, or town.
3596 (b) The notice described in Subsection (2)(a)(ii) shall state:
3597 (i) that the county, city, or town will enact or repeal a tax under this part;
3598 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
3599 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
3600 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
3601 of the tax.
3602 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3603 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
3604 (A) that begins after the effective date of the enactment of the tax; and
3605 (B) if the billing period for the transaction begins before the effective date of the
3606 enactment of the tax under:
3607 (I) Section 59-12-501; or
3608 (II) Section 59-12-502.
3609 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3610 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
3611 (A) that began before the effective date of the repeal of the tax; and
3612 (B) if the billing period for the transaction begins before the effective date of the repeal
3613 of the tax imposed under:

3614 (I) Section 59-12-501; or
3615 (II) Section 59-12-502.
3616 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
3617 (A) Subsection 59-12-103(1)(b);
3618 (B) Subsection 59-12-103(1)(c);
3619 (C) Subsection 59-12-103(1)(d);
3620 (D) Subsection 59-12-103(1)(e);
3621 (E) Subsection 59-12-103(1)(f);
3622 (F) Subsection 59-12-103(1)(g);
3623 (G) Subsection 59-12-103(1)(h);
3624 (H) Subsection 59-12-103(1)(i);
3625 (I) Subsection 59-12-103(1)(j); or
3626 (J) Subsection 59-12-103(1)(k).
3627 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
3628 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3629 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
3630 (A) on the first day of a calendar quarter; and
3631 (B) beginning 60 days after the effective date of the enactment or repeal under
3632 Subsection (2)(a).
3633 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3634 the commission may by rule define the term "catalogue sale."
3635 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
3636 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3637 part for an annexing area, the enactment or repeal shall take effect:
3638 (i) on the first day of a calendar quarter; and
3639 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3640 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
3641 area.

- 3642 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 3643 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 3644 repeal of a tax under this part for the annexing area;
- 3645 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 3646 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 3647 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 3648 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 3649 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3650 (A) that begins after the effective date of the enactment of the tax; and
- 3651 (B) if the billing period for the transaction begins before the effective date of the
- 3652 enactment of the tax under:
- 3653 (I) Section 59-12-501; or
- 3654 (II) Section 59-12-502.
- 3655 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 3656 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3657 (A) that began before the effective date of the repeal of the tax; and
- 3658 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3659 of the tax imposed under:
- 3660 (I) Section 59-12-501; or
- 3661 (II) Section 59-12-502.
- 3662 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3663 (A) Subsection 59-12-103(1)(b);
- 3664 (B) Subsection 59-12-103(1)(c);
- 3665 (C) Subsection 59-12-103(1)(d);
- 3666 (D) Subsection 59-12-103(1)(e);
- 3667 (E) Subsection 59-12-103(1)(f);
- 3668 (F) Subsection 59-12-103(1)(g);
- 3669 (G) Subsection 59-12-103(1)(h);

3670 (H) Subsection 59-12-103(1)(i);

3671 (I) Subsection 59-12-103(1)(j); or

3672 (J) Subsection 59-12-103(1)(k).

3673 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
3674 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3675 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

3676 (A) on the first day of a calendar quarter; and

3677 (B) beginning 60 days after the effective date of the enactment or repeal under
3678 Subsection (3)(a).

3679 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3680 the commission may by rule define the term "catalogue sale."

3681 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
3682 administered, collected, and enforced in accordance with:

3683 (i) the same procedures used to administer, collect, and enforce the tax under:

3684 (A) Part 1, Tax Collection; or

3685 (B) Part 2, Local Sales and Use Tax Act; and

3686 (ii) Chapter 1, General Taxation Policies.

3687 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
3688 Subsections 59-12-205(2) through (7).

3689 Section 24. Section **59-12-703** is amended to read:

3690 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
3691 **tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3692 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
3693 that county, by majority vote of all members of the legislative body, so that each resident of the
3694 county, except residents in municipalities that have already imposed a sales and use tax under
3695 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3696 Organizations or Facilities, has an opportunity to express the resident's opinion on the
3697 imposition of a local sales and use tax of .1% on the transactions described in Subsection

3698 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
3699 cultural, and zoological organizations, and rural radio stations, in that county.

3700 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3701 tax under this section on:

3702 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3703 are exempt from taxation under Section 59-12-104;

3704 (B) sales and uses within municipalities that have already imposed a sales and use tax
3705 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
3706 Zoological Organizations or Facilities; ~~and~~

3707 (C) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3708 59-12-107(1)(b)~~[-]; and~~

3709 (D) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3710 ingredients.

3711 (b) For purposes of this Subsection (1), the location of a transaction shall be
3712 determined in accordance with Section 59-12-207.

3713 (c) A county legislative body imposing a tax under this section shall impose the tax on
3714 amounts paid or charged for food and food ingredients if:

3715 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3716 food and food ingredients and tangible personal property other than food and food ingredients;
3717 and

3718 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3719 accordance with Subsection 59-12-107(1)(b).

3720 ~~(e)~~ (d) The election shall follow the procedures outlined in Title 11, Chapter 14,
3721 Local Government Bonding Act.

3722 (2) (a) If the county legislative body determines that a majority of the county's
3723 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3724 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
3725 majority vote of all members of the legislative body on the transactions:

3726 (i) described in Subsection (1); and
3727 (ii) within the county, including the cities and towns located in the county, except those
3728 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3729 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
3730 Facilities.

3731 (b) A county legislative body may revise county ordinances to reflect statutory changes
3732 to the distribution formula or eligible recipients of revenues generated from a tax imposed
3733 under Subsection (2)(a):

3734 (i) after the county legislative body submits an opinion question to residents of the
3735 county in accordance with Subsection (1) giving them the opportunity to express their opinion
3736 on the proposed revisions to county ordinances; and

3737 (ii) if the county legislative body determines that a majority of those voting on the
3738 opinion question have voted in favor of the revisions.

3739 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
3740 funding:

3741 (a) recreational and zoological facilities located within the county or a city or town
3742 located in the county, except a city or town that has already imposed a sales and use tax under
3743 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3744 Organizations or Facilities; and

3745 (b) ongoing operating expenses of:

3746 (i) recreational facilities described in Subsection (3)(a);

3747 (ii) botanical, cultural, and zoological organizations within the county; and

3748 (iii) rural radio stations within the county.

3749 (4) (a) A tax authorized under this part shall be:

3750 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3751 accordance with:

3752 (A) the same procedures used to administer, collect, and enforce the tax under:

3753 (I) Part 1, Tax Collection; or

3754 (II) Part 2, Local Sales and Use Tax Act; and
3755 (B) Chapter 1, General Taxation Policies; and
3756 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3757 period in accordance with this section.

3758 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3759 Subsections 59-12-205(2) through (7).

3760 (5) (a) For purposes of this Subsection (5):

3761 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3762 Annexation to County.

3763 (ii) "Annexing area" means an area that is annexed into a county.

3764 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3765 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3766 (A) on the first day of a calendar quarter; and

3767 (B) after a 90-day period beginning on the date the commission receives notice meeting
3768 the requirements of Subsection (5)(b)(ii) from the county.

3769 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3770 (A) that the county will enact or repeal a tax under this part;

3771 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3772 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3773 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3774 tax.

3775 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3776 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3777 (A) that begins after the effective date of the enactment of the tax; and

3778 (B) if the billing period for the transaction begins before the effective date of the
3779 enactment of the tax under this section.

3780 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
3781 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- 3782 (A) that began before the effective date of the repeal of the tax; and
- 3783 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3784 of the tax imposed under this section.
- 3785 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3786 (A) Subsection 59-12-103(1)(b);
- 3787 (B) Subsection 59-12-103(1)(c);
- 3788 (C) Subsection 59-12-103(1)(d);
- 3789 (D) Subsection 59-12-103(1)(e);
- 3790 (E) Subsection 59-12-103(1)(f);
- 3791 (F) Subsection 59-12-103(1)(g);
- 3792 (G) Subsection 59-12-103(1)(h);
- 3793 (H) Subsection 59-12-103(1)(i);
- 3794 (I) Subsection 59-12-103(1)(j); or
- 3795 (J) Subsection 59-12-103(1)(k).
- 3796 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
- 3797 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3798 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
- 3799 (A) on the first day of a calendar quarter; and
- 3800 (B) beginning 60 days after the effective date of the enactment or repeal under
- 3801 Subsection (5)(b)(i).
- 3802 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 3803 the commission may by rule define the term "catalogue sale."
- 3804 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
- 3805 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 3806 part for an annexing area, the enactment or repeal shall take effect:
- 3807 (A) on the first day of a calendar quarter; and
- 3808 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3809 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

- 3810 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 3811 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
- 3812 repeal of a tax under this part for the annexing area;
- 3813 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 3814 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 3815 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 3816 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
- 3817 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3818 (A) that begins after the effective date of the enactment of the tax; and
- 3819 (B) if the billing period for the transaction begins before the effective date of the
- 3820 enactment of the tax under this section.
- 3821 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
- 3822 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3823 (A) that began before the effective date of the repeal of the tax; and
- 3824 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3825 of the tax imposed under this section.
- 3826 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
- 3827 (A) Subsection 59-12-103(1)(b);
- 3828 (B) Subsection 59-12-103(1)(c);
- 3829 (C) Subsection 59-12-103(1)(d);
- 3830 (D) Subsection 59-12-103(1)(e);
- 3831 (E) Subsection 59-12-103(1)(f);
- 3832 (F) Subsection 59-12-103(1)(g);
- 3833 (G) Subsection 59-12-103(1)(h);
- 3834 (H) Subsection 59-12-103(1)(i);
- 3835 (I) Subsection 59-12-103(1)(j); or
- 3836 (J) Subsection 59-12-103(1)(k).
- 3837 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a

3838 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3839 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3840 (A) on the first day of a calendar quarter; and

3841 (B) beginning 60 days after the effective date of the enactment or repeal under
3842 Subsection (5)(e)(i).

3843 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3844 the commission may by rule define the term "catalogue sale."

3845 Section 25. Section **59-12-802** is amended to read:

3846 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
3847 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

3848 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
3849 may impose a sales and use tax of up to 1%:

3850 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
3851 and

3852 (ii) subject to Subsection (3), to fund:

3853 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
3854 that county; or

3855 (B) for a county of the sixth class:

3856 (I) emergency medical services in that county;

3857 (II) federally qualified health centers in that county;

3858 (III) freestanding urgent care centers in that county;

3859 (IV) rural county health care facilities in that county;

3860 (V) rural health clinics in that county; or

3861 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

3862 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3863 tax under this section on:

3864 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3865 are exempt from taxation under Section 59-12-104;

3866 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3867 a city that imposes a tax under Section 59-12-804; ~~and~~

3868 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3869 59-12-107(1)(b)~~[-]; and~~

3870 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and
3871 food ingredients.

3872 (c) For purposes of this Subsection (1), the location of a transaction shall be
3873 determined in accordance with Section 59-12-207.

3874 (d) A county legislative body imposing a tax under this section shall impose the tax on
3875 amounts paid or charged for food and food ingredients if:

3876 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3877 food and food ingredients and tangible personal property other than food and food ingredients;
3878 and

3879 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3880 accordance with Subsection 59-12-107(1)(b).

3881 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
3882 obtain approval to impose the tax from a majority of the:

3883 (i) members of the county's legislative body; and

3884 (ii) county's registered voters voting on the imposition of the tax.

3885 (b) The county legislative body shall conduct the election according to the procedures
3886 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3887 (3) (a) The monies generated by a tax imposed under Subsection (1) by a county
3888 legislative body of a county of the third, fourth, or fifth class may only be used for the
3889 financing of:

3890 (i) ongoing operating expenses of a rural county health care facility within that county;

3891 (ii) the acquisition of land for a rural county health care facility within that county; or

3892 (iii) the design, construction, equipping, or furnishing of a rural county health care
3893 facility within that county.

3894 (b) The monies generated by a tax imposed under Subsection (1) by a county of the
3895 sixth class may only be used for the financing of:

3896 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3897 (1)(a)(ii)(B) within that county;

3898 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3899 (1)(a)(ii)(B) within that county;

3900 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3901 described in Subsection (1)(a)(ii)(B) within that county; or

3902 (iv) the provision of rural emergency medical services within that county.

3903 (4) (a) A tax under this section shall be:

3904 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3905 accordance with:

3906 (A) the same procedures used to administer, collect, and enforce the tax under:

3907 (I) Part 1, Tax Collection; or

3908 (II) Part 2, Local Sales and Use Tax Act; and

3909 (B) Chapter 1, General Taxation Policies; and

3910 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3911 period by the county legislative body as provided in Subsection (1).

3912 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3913 Subsections 59-12-205(2) through (7).

3914 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3915 under this section for the cost of administering this tax.

3916 Section 26. Section **59-12-804** is amended to read:

3917 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
3918 **collection, and enforcement of tax.**

3919 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3920 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

3921 and

3922 (ii) to fund rural city hospitals in that city.

3923 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
3924 under this section on:

3925 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3926 are exempt from taxation under Section 59-12-104; [~~and~~]

3927 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
3928 59-12-107(1)(b)[~~-~~]; and

3929 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
3930 food ingredients.

3931 (c) For purposes of this Subsection (1), the location of a transaction shall be
3932 determined in accordance with Section 59-12-207.

3933 (d) A city legislative body imposing a tax under this section shall impose the tax on
3934 amounts paid or charged for food and food ingredients if:

3935 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3936 food and food ingredients and tangible personal property other than food and food ingredients;
3937 and

3938 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3939 accordance with Subsection 59-12-107(1)(b).

3940 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
3941 obtain approval to impose the tax from a majority of the:

3942 (i) members of the city legislative body; and

3943 (ii) city's registered voters voting on the imposition of the tax.

3944 (b) The city legislative body shall conduct the election according to the procedures and
3945 requirements of Title 11, Chapter 14, Local Government Bonding Act.

3946 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
3947 the financing of:

3948 (a) ongoing operating expenses of a rural city hospital;

3949 (b) the acquisition of land for a rural city hospital; or

3950 (c) the design, construction, equipping, or furnishing of a rural city hospital.
3951 (4) (a) A tax under this section shall be:
3952 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3953 accordance with:
3954 (A) the same procedures used to administer, collect, and enforce the tax under:
3955 (I) Part 1, Tax Collection; or
3956 (II) Part 2, Local Sales and Use Tax Act; and
3957 (B) Chapter 1, General Taxation Policies; and
3958 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3959 period by the city legislative body as provided in Subsection (1).
3960 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3961 Subsections 59-12-205(2) through (7).
3962 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3963 under this section for the cost of administering the tax.
3964 Section 27. Section **59-12-1001** is amended to read:
3965 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
3966 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**
3967 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
3968 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
3969 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
3970 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part
3971 impose a sales and use tax of:
3972 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the
3973 transactions described in Subsection 59-12-103(1) located within the city or town; or
3974 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection
3975 59-12-103(1) located within the city or town.
3976 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
3977 section on:

3978 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3979 are exempt from taxation under Section 59-12-104; [~~and~~]

3980 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
3981 59-12-107(1)(b)[~~;~~]; and

3982 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
3983 food ingredients.

3984 (c) For purposes of this Subsection (1), the location of a transaction shall be
3985 determined in accordance with Section 59-12-207.

3986 (d) A city or town imposing a tax under this section shall impose the tax on amounts
3987 paid or charged for food and food ingredients if:

3988 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3989 food and food ingredients and tangible personal property other than food and food ingredients;

3990 and

3991 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3992 accordance with Subsection 59-12-107(1)(b).

3993 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
3994 the tax:

3995 (i) for the construction and maintenance of highways under the jurisdiction of the city
3996 or town imposing the tax;

3997 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

3998 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

3999 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
4000 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

4001 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
4002 guideway system.

4003 (3) To impose a tax under this part, the governing body of the city or town shall:

4004 (a) pass an ordinance approving the tax; and

4005 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as

4006 provided in Subsection (4).

4007 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

4008 (a) hold an election during:

4009 (i) a regular general election; or

4010 (ii) a municipal general election; and

4011 (b) publish notice of the election:

4012 (i) 15 days or more before the day on which the election is held; and

4013 (ii) in a newspaper of general circulation in the city or town.

4014 (5) An ordinance approving a tax under this part shall provide an effective date for the
4015 tax as provided in Subsection (6).

4016 (6) (a) For purposes of this Subsection (6):

4017 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4018 4, Annexation.

4019 (ii) "Annexing area" means an area that is annexed into a city or town.

4020 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after ~~July~~ April 1,

4021 ~~[2004]~~ 2008, a city or town enacts or repeals a tax under this part, the enactment or repeal shall
4022 take effect:

4023 (A) on the first day of a calendar quarter; and

4024 (B) after a 90-day period beginning on the date the commission receives notice meeting
4025 the requirements of Subsection (6)(b)(ii) from the city or town.

4026 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

4027 (A) that the city or town will enact or repeal a tax under this part;

4028 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

4029 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

4030 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
4031 the tax.

4032 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
4033 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

- 4034 (A) that begins after the effective date of the enactment of the tax; and
- 4035 (B) if the billing period for the transaction begins before the effective date of the
- 4036 enactment of the tax under Subsection (1).
- 4037 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 4038 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4039 (A) that began before the effective date of the repeal of the tax; and
- 4040 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4041 of the tax imposed under Subsection (1).
- 4042 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4043 (A) Subsection 59-12-103(1)(b);
- 4044 (B) Subsection 59-12-103(1)(c);
- 4045 (C) Subsection 59-12-103(1)(d);
- 4046 (D) Subsection 59-12-103(1)(e);
- 4047 (E) Subsection 59-12-103(1)(f);
- 4048 (F) Subsection 59-12-103(1)(g);
- 4049 (G) Subsection 59-12-103(1)(h);
- 4050 (H) Subsection 59-12-103(1)(i);
- 4051 (I) Subsection 59-12-103(1)(j); or
- 4052 (J) Subsection 59-12-103(1)(k).
- 4053 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
- 4054 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4055 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
- 4056 (A) on the first day of a calendar quarter; and
- 4057 (B) beginning 60 days after the effective date of the enactment or repeal under
- 4058 Subsection (6)(b)(i).
- 4059 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 4060 the commission may by rule define the term "catalogue sale."
- 4061 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs

4062 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4063 part for an annexing area, the enactment or repeal shall take effect:

4064 (A) on the first day of a calendar quarter; and

4065 (B) after a 90-day period beginning on the date the commission receives notice meeting
4066 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

4067 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

4068 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
4069 repeal of a tax under this part for the annexing area;

4070 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

4071 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

4072 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

4073 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4074 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4075 (A) that begins after the effective date of the enactment of the tax; and

4076 (B) if the billing period for the transaction begins before the effective date of the
4077 enactment of the tax under Subsection (1).

4078 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4079 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4080 (A) that began before the effective date of the repeal of the tax; and

4081 (B) if the billing period for the transaction begins before the effective date of the repeal
4082 of the tax imposed under Subsection (1).

4083 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:

4084 (A) Subsection 59-12-103(1)(b);

4085 (B) Subsection 59-12-103(1)(c);

4086 (C) Subsection 59-12-103(1)(d);

4087 (D) Subsection 59-12-103(1)(e);

4088 (E) Subsection 59-12-103(1)(f);

4089 (F) Subsection 59-12-103(1)(g);

4090 (G) Subsection 59-12-103(1)(h);
4091 (H) Subsection 59-12-103(1)(i);
4092 (I) Subsection 59-12-103(1)(j); or
4093 (J) Subsection 59-12-103(1)(k).
4094 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
4095 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4096 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
4097 (A) on the first day of a calendar quarter; and
4098 (B) beginning 60 days after the effective date of the enactment or repeal under
4099 Subsection (6)(e)(i).
4100 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4101 the commission may by rule define the term "catalogue sale."
4102 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
4103 voter approval requirements of Subsection (3)(b) if:
4104 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
4105 businesses based on gross receipts pursuant to Section 10-1-203; or
4106 (ii) the city or town:
4107 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
4108 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
4109 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
4110 purpose described in Subsection (2)(a).
4111 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
4112 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
4113 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
4114 pursuant to Section 10-1-203.
4115 (8) A city or town is not subject to the voter approval requirements of Subsection
4116 (3)(b) if:
4117 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;

4118 and

4119 (b) on or after January 1, 2008, the city or town increases the tax rate under this section
4120 to .30%.

4121 Section 28. Section **59-12-1302** is amended to read:

4122 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
4123 **rate change -- Effective date -- Notice requirements.**

4124 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
4125 tax as provided in this part in an amount that does not exceed 1%.

4126 (2) A town may impose a tax as provided in this part if the town imposed a license fee
4127 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
4128 1996.

4129 (3) A town imposing a tax under this section shall:

4130 (a) except as provided in Subsection (4), impose the tax on the transactions described
4131 in Subsection 59-12-103(1) located within the town; and

4132 (b) provide an effective date for the tax as provided in Subsection (5).

4133 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
4134 section on:

4135 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4136 are exempt from taxation under Section 59-12-104; [~~and~~]

4137 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
4138 59-12-107(1)(b)[~~;~~]; and

4139 (iii) except as provided in Subsection (4)(c), amounts paid or charged for food and
4140 food ingredients.

4141 (b) For purposes of this Subsection (4), the location of a transaction shall be
4142 determined in accordance with Section 59-12-207.

4143 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
4144 charged for food and food ingredients if:

4145 (i) the food and food ingredients are sold as part of a bundled transaction attributable to

4146 food and food ingredients and tangible personal property other than food and food ingredients;
4147 and

4148 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4149 accordance with Subsection 59-12-107(1)(b).

4150 (5) (a) For purposes of this Subsection (5):

4151 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
4152 Annexation.

4153 (ii) "Annexing area" means an area that is annexed into a town.

4154 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4155 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4156 or change shall take effect:

4157 (A) on the first day of a calendar quarter; and

4158 (B) after a 90-day period beginning on the date the commission receives notice meeting
4159 the requirements of Subsection (5)(b)(ii) from the town.

4160 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4161 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

4162 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4163 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4164 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
4165 (5)(b)(ii)(A), the rate of the tax.

4166 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4167 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4168 first billing period:

4169 (A) that begins after the effective date of the enactment of the tax or the tax rate
4170 increase; and

4171 (B) if the billing period for the transaction begins before the effective date of the
4172 enactment of the tax or the tax rate increase imposed under Subsection (1).

4173 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection

4174 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4175 billing period:

4176 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4177 and

4178 (B) if the billing period for the transaction begins before the effective date of the repeal
4179 of the tax or the tax rate decrease imposed under Subsection (1).

4180 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4181 (A) Subsection 59-12-103(1)(b);

4182 (B) Subsection 59-12-103(1)(c);

4183 (C) Subsection 59-12-103(1)(d);

4184 (D) Subsection 59-12-103(1)(e);

4185 (E) Subsection 59-12-103(1)(f);

4186 (F) Subsection 59-12-103(1)(g);

4187 (G) Subsection 59-12-103(1)(h);

4188 (H) Subsection 59-12-103(1)(i);

4189 (I) Subsection 59-12-103(1)(j); or

4190 (J) Subsection 59-12-103(1)(k).

4191 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4192 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4193 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

4194 (A) on the first day of a calendar quarter; and

4195 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4196 rate of the tax under Subsection (5)(b)(i).

4197 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4198 the commission may by rule define the term "catalogue sale."

4199 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4200 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
4201 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take

4202 effect:

4203 (A) on the first day of a calendar quarter; and

4204 (B) after a 90-day period beginning on the date the commission receives notice meeting

4205 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

4206 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4207 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,

4208 repeal, or change in the rate of a tax under this part for the annexing area;

4209 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4210 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4211 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

4212 (5)(e)(ii)(A), the rate of the tax.

4213 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection

4214 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

4215 first billing period:

4216 (A) that begins after the effective date of the enactment of the tax or the tax rate

4217 increase; and

4218 (B) if the billing period for the transaction begins before the effective date of the

4219 enactment of the tax or the tax rate increase imposed under Subsection (1).

4220 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection

4221 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

4222 billing period:

4223 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4224 and

4225 (B) if the billing period for the transaction begins before the effective date of the repeal

4226 of the tax or the tax rate decrease imposed under Subsection (1).

4227 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4228 (A) Subsection 59-12-103(1)(b);

4229 (B) Subsection 59-12-103(1)(c);

- 4230 (C) Subsection 59-12-103(1)(d);
- 4231 (D) Subsection 59-12-103(1)(e);
- 4232 (E) Subsection 59-12-103(1)(f);
- 4233 (F) Subsection 59-12-103(1)(g);
- 4234 (G) Subsection 59-12-103(1)(h);
- 4235 (H) Subsection 59-12-103(1)(i);
- 4236 (I) Subsection 59-12-103(1)(j); or
- 4237 (J) Subsection 59-12-103(1)(k).
- 4238 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
- 4239 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4240 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:
- 4241 (A) on the first day of a calendar quarter; and
- 4242 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 4243 rate of the tax under Subsection (5)(e)(i).
- 4244 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 4245 the commission may by rule define the term "catalogue sale."
- 4246 (6) The commission shall:
- 4247 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
- 4248 under this section to the town imposing the tax;
- 4249 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
- 4250 authorized under this section in accordance with:
- 4251 (i) the same procedures used to administer, collect, and enforce the tax under:
- 4252 (A) Part 1, Tax Collection; or
- 4253 (B) Part 2, Local Sales and Use Tax Act; and
- 4254 (ii) Chapter 1, General Taxation Policies; and
- 4255 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
- 4256 collecting the tax as provided in Section 59-12-206.
- 4257 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to

4258 Subsections 59-12-205(2) through (7).

4259 Section 29. Section **59-12-1402** is amended to read:

4260 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
4261 **of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

4262 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
4263 legislative body subject to this part may submit an opinion question to the residents of that city
4264 or town, by majority vote of all members of the legislative body, so that each resident of the
4265 city or town has an opportunity to express the resident's opinion on the imposition of a local
4266 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
4267 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
4268 and zoological organizations in that city or town.

4269 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
4270 impose a tax under this section:

4271 (A) if the county in which the city or town is located imposes a tax under Part 7,
4272 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
4273 Facilities;

4274 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
4275 uses are exempt from taxation under Section 59-12-104; ~~and~~

4276 (C) on ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
4277 59-12-107(1)(b)~~[-]; and~~

4278 (D) except as provided in Subsection (1)(c), on amounts paid or charged for food and
4279 food ingredients.

4280 (b) For purposes of this Subsection (1), the location of a transaction shall be
4281 determined in accordance with Section 59-12-207.

4282 (c) A city or town legislative body imposing a tax under this section shall impose the
4283 tax on amounts paid or charged for food and food ingredients if:

4284 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4285 food and food ingredients and tangible personal property other than food and food ingredients;

4286 and

4287 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4288 accordance with Subsection 59-12-107(1)(b).

4289 [~~☞~~] (d) The election shall be held at a regular general election or a municipal general
4290 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
4291 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
4292 Subsection (6).

4293 (2) If the city or town legislative body determines that a majority of the city's or town's
4294 registered voters voting on the imposition of the tax have voted in favor of the imposition of
4295 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
4296 by a majority vote of all members of the legislative body.

4297 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
4298 financing:

4299 (a) recreational and zoological facilities within the city or town or within the
4300 geographic area of entities that are parties to an interlocal agreement, to which the city or town
4301 is a party, providing for recreational or zoological facilities; and

4302 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
4303 within the city or town or within the geographic area of entities that are parties to an interlocal
4304 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
4305 or zoological organizations.

4306 (4) (a) A tax authorized under this part shall be:

4307 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
4308 accordance with:

4309 (A) the same procedures used to administer, collect, and enforce the tax under:

4310 (I) Part 1, Tax Collection; or

4311 (II) Part 2, Local Sales and Use Tax Act; and

4312 (B) Chapter 1, General Taxation Policies; and

4313 (ii) (A) levied for a period of eight years; and

4314 (B) may be reauthorized at the end of the eight-year period in accordance with this
4315 section.

4316 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4317 Subsections 59-12-205(2) through (7).

4318 (5) (a) For purposes of this Subsection (5):

4319 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4320 4, Annexation.

4321 (ii) "Annexing area" means an area that is annexed into a city or town.

4322 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
4323 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

4324 (A) on the first day of a calendar quarter; and

4325 (B) after a 90-day period beginning on the date the commission receives notice meeting
4326 the requirements of Subsection (5)(b)(ii) from the city or town.

4327 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4328 (A) that the city or town will enact or repeal a tax under this part;

4329 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4330 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4331 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
4332 the tax.

4333 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4334 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4335 (A) that begins after the effective date of the enactment of the tax; and

4336 (B) if the billing period for the transaction begins before the effective date of the
4337 enactment of the tax under this section.

4338 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4339 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4340 (A) that began before the effective date of the repeal of the tax; and

4341 (B) if the billing period for the transaction begins before the effective date of the repeal

4342 of the tax imposed under this section.

4343 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4344 (A) Subsection 59-12-103(1)(b);

4345 (B) Subsection 59-12-103(1)(c);

4346 (C) Subsection 59-12-103(1)(d);

4347 (D) Subsection 59-12-103(1)(e);

4348 (E) Subsection 59-12-103(1)(f);

4349 (F) Subsection 59-12-103(1)(g);

4350 (G) Subsection 59-12-103(1)(h);

4351 (H) Subsection 59-12-103(1)(i);

4352 (I) Subsection 59-12-103(1)(j); or

4353 (J) Subsection 59-12-103(1)(k).

4354 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4355 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4356 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

4357 (A) on the first day of a calendar quarter; and

4358 (B) beginning 60 days after the effective date of the enactment or repeal under
4359 Subsection (5)(b)(i).

4360 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4361 the commission may by rule define the term "catalogue sale."

4362 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4363 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4364 part for an annexing area, the enactment or repeal shall take effect:

4365 (A) on the first day of a calendar quarter; and

4366 (B) after a 90-day period beginning on the date the commission receives notice meeting
4367 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

4368 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4369 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or

4370 repeal a tax under this part for the annexing area;

4371 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4372 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4373 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4374 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection

4375 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4376 (A) that begins after the effective date of the enactment of the tax; and

4377 (B) if the billing period for the transaction begins before the effective date of the

4378 enactment of the tax under this section.

4379 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection

4380 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4381 (A) that began before the effective date of the repeal of the tax; and

4382 (B) if the billing period for the transaction begins before the effective date of the repeal

4383 of the tax imposed under this section.

4384 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4385 (A) Subsection 59-12-103(1)(b);

4386 (B) Subsection 59-12-103(1)(c);

4387 (C) Subsection 59-12-103(1)(d);

4388 (D) Subsection 59-12-103(1)(e);

4389 (E) Subsection 59-12-103(1)(f);

4390 (F) Subsection 59-12-103(1)(g);

4391 (G) Subsection 59-12-103(1)(h);

4392 (H) Subsection 59-12-103(1)(i);

4393 (I) Subsection 59-12-103(1)(j); or

4394 (J) Subsection 59-12-103(1)(k).

4395 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a

4396 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

4397 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

4398 (A) on the first day of a calendar quarter; and

4399 (B) beginning 60 days after the effective date of the enactment or repeal under
4400 Subsection (5)(e)(i).

4401 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4402 the commission may by rule define the term "catalogue sale."

4403 (6) (a) Before a city or town legislative body submits an opinion question to the
4404 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

4405 (i) submit to the county legislative body in which the city or town is located a written
4406 notice of the intent to submit the opinion question to the residents of the city or town; and

4407 (ii) receive from the county legislative body:

4408 (A) a written resolution passed by the county legislative body stating that the county
4409 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
4410 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

4411 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
4412 opinion question submitted to the residents of the county under Part 7, County Option Funding
4413 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
4414 or town legislative body to submit the opinion question to the residents of the city or town in
4415 accordance with this part.

4416 (b) (i) Within 60 days after the day the county legislative body receives from a city or
4417 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
4418 opinion question to the residents of the city or town, the county legislative body shall provide
4419 the city or town legislative body:

4420 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

4421 (B) written notice that the county legislative body will submit an opinion question to
4422 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
4423 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
4424 that part.

4425 (ii) If the county legislative body provides the city or town legislative body the written

4426 notice that the county legislative body will submit an opinion question as provided in
4427 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
4428 later than, from the date the county legislative body sends the written notice, the later of:

- 4429 (A) a 12-month period;
- 4430 (B) the next regular primary election; or
- 4431 (C) the next regular general election.

4432 (iii) Within 30 days of the date of the canvass of the election at which the opinion
4433 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
4434 city or town legislative body described in Subsection (6)(a) written results of the opinion
4435 question submitted by the county legislative body under Part 7, County Option Funding for
4436 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

4437 (A) (I) the city or town legislative body may not impose a tax under this part because a
4438 majority of the county's registered voters voted in favor of the county imposing the tax and the
4439 county legislative body by a majority vote approved the imposition of the tax; or

4440 (II) for at least 12 months from the date the written results are submitted to the city or
4441 town legislative body, the city or town legislative body may not submit to the county legislative
4442 body a written notice of the intent to submit an opinion question under this part because a
4443 majority of the county's registered voters voted against the county imposing the tax and the
4444 majority of the registered voters who are residents of the city or town described in Subsection
4445 (6)(a) voted against the imposition of the county tax; or

4446 (B) the city or town legislative body may submit the opinion question to the residents
4447 of the city or town in accordance with this part because although a majority of the county's
4448 registered voters voted against the county imposing the tax, the majority of the registered voters
4449 who are residents of the city or town voted for the imposition of the county tax.

4450 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
4451 provide a city or town legislative body described in Subsection (6)(a) a written resolution
4452 passed by the county legislative body stating that the county legislative body is not seeking to
4453 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and

4454 Zoological Organizations or Facilities, which permits the city or town legislative body to
 4455 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

4456 Section 30. Section **59-12-1503** is amended to read:

4457 **59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**
 4458 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
 4459 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4460 (1) (a) [~~Beginning on or after April 1, 2004, and subject~~] Subject to the other
 4461 provisions of this part, the county legislative body of a qualifying county may impose a sales
 4462 and use tax of:

4463 (i) beginning on April 1, 2004, and ending on December 31, 2007, .25%:

4464 [~~(i)~~] (A) on the transactions:

4465 [~~(A)~~] (I) described in Subsection 59-12-103(1); and

4466 [~~(B)~~] (II) within the county, including the cities and towns within the county;

4467 [~~(i)~~] (B) for the purposes determined by the county legislative body in accordance with
 4468 Subsection (2); and

4469 [~~(iii)~~] (C) in addition to any other sales and use tax authorized under this chapter~~[-];~~ or

4470 (ii) beginning on January 1, 2008, up to .30%:

4471 (A) on the transactions:

4472 (I) described in Subsection 59-12-103(1); and

4473 (II) within the county, including the cities and towns within the county;

4474 (B) for the purposes determined by the county legislative body in accordance with

4475 Subsection (2); and

4476 (C) in addition to any other sales and use tax authorized under this chapter.

4477 (b) Notwithstanding Subsection (1)(a)[~~(i)~~], a county legislative body may not impose a
 4478 tax under this section on:

4479 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 4480 are exempt from taxation under Section 59-12-104; [~~or~~]

4481 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection

4482 59-12-107(1)(b)[-]; and

4483 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
4484 food ingredients.

4485 (c) For purposes of this Subsection (1), the location of a transaction shall be
4486 determined in accordance with Section 59-12-207.

4487 (d) A county legislative body imposing a tax under this section shall impose the tax on
4488 amounts paid or charged for food and food ingredients if:

4489 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4490 food and food ingredients and tangible personal property other than food and food ingredients;

4491 and

4492 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4493 accordance with Subsection 59-12-107(1)(b).

4494 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
4495 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
4496 revenues the county will receive from the tax under this part that will be allocated to fund one
4497 or more of the following:

4498 (i) a project or service relating to a fixed guideway system:

4499 (A) for the portion of the project or service that is performed within the county; and

4500 (B) if the fixed guideway system is owned and operated by a public transit district
4501 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

4502 (ii) a project or service relating to a system for public transit:

4503 (A) for the portion of the project or service that is performed within the county; and

4504 (B) if the system for public transit is owned and operated by a public transit district
4505 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or

4506 (iii) the following relating to a state highway within the county:

4507 (A) a project beginning on or after the day on which a county legislative body imposes
4508 a tax under this part only within the county involving:

4509 (I) new construction;

4510 (II) a renovation;
4511 (III) an improvement; or
4512 (IV) an environmental study;
4513 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
4514 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
4515 through (IV).

4516 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
4517 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
4518 tax under this part.

4519 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
4520 tax under this part do not include amounts retained by the commission in accordance with
4521 Subsection (8).

4522 (3) (a) ~~Before~~ Except as provided in Subsection (3)(d), before imposing a tax under
4523 this part, a county legislative body shall:

4524 (i) obtain approval from a majority of the members of the county legislative body to:

4525 (A) impose the tax; and

4526 (B) allocate the revenues the county will receive from the tax in accordance with the
4527 resolution adopted in accordance with Subsection (2); and

4528 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
4529 voters voting on the imposition of the tax so that each registered voter has the opportunity to
4530 express the registered voter's opinion on whether a tax should be imposed under this part.

4531 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
4532 specified in the resolution:

4533 (i) adopted in accordance with Subsection (2); and

4534 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

4535 (c) The election required by this Subsection (3) shall be held:

4536 (i) (A) at a regular general election; and

4537 (B) in accordance with the procedures and requirements of Title 20A, Election Code,

4538 governing regular general elections; or
4539 (ii) (A) at a special election called by the county legislative body;
4540 (B) only on the date of a municipal general election provided in Subsection
4541 20A-1-202(1); and
4542 (C) in accordance with the procedures and requirements of Section 20A-1-203.
4543 (d) A county is not subject to the voter approval requirements of this section if:
4544 (i) on December 31, 2007, the county imposes a tax of .25% under this section; and
4545 (ii) on or after January 1, 2008, the county increases the tax rate under this section to
4546 up to .30%.
4547 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
4548 of the county's registered voters voting on the imposition of the tax have voted in favor of the
4549 imposition of the tax in accordance with Subsection (3), the county legislative body may
4550 impose the tax by a majority vote of all of the members of the county legislative body.
4551 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
4552 generated by the tax shall be:
4553 (i) allocated in accordance with the allocations specified in the resolution under
4554 Subsection (2); and
4555 (ii) expended as provided in this part.
4556 (5) If a county legislative body allocates revenues generated by the tax for a project
4557 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
4558 shall:
4559 (a) obtain approval from the Transportation Commission to complete the project; and
4560 (b) enter into an interlocal agreement:
4561 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
4562 (ii) with the Department of Transportation; and
4563 (iii) to complete the project.
4564 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
4565 legislative body seeks to change the allocation of the tax specified in the resolution under

4566 Subsection (2), the county legislative body may change the allocation of the tax by:

4567 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of

4568 revenues the county will receive from the tax under this part that will be allocated to fund one

4569 or more of the systems or projects described in Subsection (2);

4570 (ii) obtaining approval to change the allocation of the tax from a majority of the

4571 members of the county legislative body; and

4572 (iii) (A) submitting an opinion question to the county's registered voters voting on

4573 changing the allocation of the tax so that each registered voter has the opportunity to express

4574 the registered voter's opinion on whether the allocation of the tax should be changed; and

4575 (B) obtaining approval to change the allocation of the tax from a majority of the

4576 county's registered voters voting on changing the allocation of the tax.

4577 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations

4578 specified in the resolution:

4579 (A) adopted in accordance with Subsection (6)(a)(i); and

4580 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

4581 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and

4582 requirements of Title 11, Chapter 14, Local Government Bonding Act.

4583 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax

4584 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be

4585 transmitted:

4586 (A) by the commission;

4587 (B) to the county;

4588 (C) monthly; and

4589 (D) by electronic funds transfer.

4590 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission

4591 transfer the revenues described in Subsection (7)(a)(i):

4592 (A) directly to a public transit district:

4593 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

4594 (II) designated by the county; and
4595 (B) by providing written notice to the commission:
4596 (I) requesting the revenues to be transferred directly to a public transit district as
4597 provided in Subsection (7)(a)(ii)(A); and
4598 (II) designating the public transit district to which the revenues are requested to be
4599 transferred.
4600 (b) Revenues generated by a tax under this part that are allocated for a purpose
4601 described in Subsection (2)(a)(iii) shall be:
4602 (i) deposited into the State Highway Projects Within Counties Fund created by Section
4603 72-2-121.1; and
4604 (ii) expended as provided in Section 72-2-121.1.
4605 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
4606 shall be administered, collected, and enforced in accordance with:
4607 (A) the same procedures used to administer, collect, and enforce the tax under:
4608 (I) Part 1, Tax Collection; or
4609 (II) Part 2, Local Sales and Use Tax Act; and
4610 (B) Chapter 1, General Taxation Policies.
4611 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
4612 Subsections 59-12-205(2) through (7).
4613 (b) (i) The commission may retain an amount of tax collected under this part of not to
4614 exceed the lesser of:
4615 (A) 1.5%; or
4616 (B) an amount equal to the cost to the commission of administering this part.
4617 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
4618 (A) placed in the Sales and Use Tax Administrative Fees Account; and
4619 (B) used as provided in Subsection 59-12-206(2).
4620 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after [~~July 1, 2004~~]
4621 April 1, 2008, a county enacts or repeals a tax under this part, the enactment or repeal shall take

4622 effect:

4623 (A) on the first day of a calendar quarter; and

4624 (B) after a 90-day period beginning on the date the commission receives notice meeting
4625 the requirements of Subsection (9)(a)(ii) from the county.

4626 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

4627 (A) that the county will enact or repeal a tax under this part;

4628 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

4629 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

4630 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

4631 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
4632 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4633 (A) that begins after the effective date of the enactment of the tax; and

4634 (B) if the billing period for the transaction begins before the effective date of the
4635 enactment of the tax under Subsection (1).

4636 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
4637 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4638 (A) that began before the effective date of the repeal of the tax; and

4639 (B) if the billing period for the transaction begins before the effective date of the repeal
4640 of the tax imposed under Subsection (1).

4641 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

4642 (A) Subsection 59-12-103(1)(b);

4643 (B) Subsection 59-12-103(1)(c);

4644 (C) Subsection 59-12-103(1)(d);

4645 (D) Subsection 59-12-103(1)(e);

4646 (E) Subsection 59-12-103(1)(f);

4647 (F) Subsection 59-12-103(1)(g);

4648 (G) Subsection 59-12-103(1)(h);

4649 (H) Subsection 59-12-103(1)(i);

- 4650 (I) Subsection 59-12-103(1)(j); or
- 4651 (J) Subsection 59-12-103(1)(k).
- 4652 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
- 4653 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4654 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:
 - 4655 (A) on the first day of a calendar quarter; and
 - 4656 (B) beginning 60 days after the effective date of the enactment or repeal under
 - 4657 Subsection (9)(a)(i).
- 4658 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 4659 the commission may by rule define the term "catalogue sale."
- 4660 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
- 4661 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 4662 part for an annexing area, the enactment or repeal shall take effect:
 - 4663 (A) on the first day of a calendar quarter; and
 - 4664 (B) after a 90-day period beginning on the date the commission receives notice meeting
 - 4665 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- 4666 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
 - 4667 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
 - 4668 or repeal of a tax under this part for the annexing area;
 - 4669 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
 - 4670 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
 - 4671 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).
- 4672 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
- 4673 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
 - 4674 (A) that begins after the effective date of the enactment of the tax; and
 - 4675 (B) if the billing period for the transaction begins before the effective date of the
 - 4676 enactment of the tax under Subsection (1).
- 4677 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection

4678 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
4679 (A) that began before the effective date of the repeal of the tax; and
4680 (B) if the billing period for the transaction begins before the effective date of the repeal
4681 of the tax imposed under Subsection (1).
4682 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:
4683 (A) Subsection 59-12-103(1)(b);
4684 (B) Subsection 59-12-103(1)(c);
4685 (C) Subsection 59-12-103(1)(d);
4686 (D) Subsection 59-12-103(1)(e);
4687 (E) Subsection 59-12-103(1)(f);
4688 (F) Subsection 59-12-103(1)(g);
4689 (G) Subsection 59-12-103(1)(h);
4690 (H) Subsection 59-12-103(1)(i);
4691 (I) Subsection 59-12-103(1)(j); or
4692 (J) Subsection 59-12-103(1)(k).
4693 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
4694 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4695 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:
4696 (A) on the first day of a calendar quarter; and
4697 (B) beginning 60 days after the effective date of the enactment or repeal under
4698 Subsection (9)(d)(i).
4699 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4700 the commission may by rule define the term "catalogue sale."
4701 Section 31. Section **59-12-1703** is amended to read:
4702 **59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**
4703 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
4704 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
4705 (1) (a) [~~Beginning on or after April 1, 2007, and subject~~] Subject to the other

4706 provisions of this part, a county legislative body may impose a sales and use tax of up to .25%:

4707 (i) on the transactions:

4708 (A) described in Subsection 59-12-103(1); and

4709 (B) within the county, including the cities and towns within the county;

4710 (ii) for the purposes described in Subsection (4); and

4711 (iii) in addition to any other sales and use tax authorized under this chapter.

4712 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4713 tax under this section on:

4714 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4715 are exempt from taxation under Section 59-12-104; [~~or~~]

4716 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
4717 59-12-107(1)(b)[~~;~~]; and

4718 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
4719 food ingredients.

4720 (c) For purposes of this Subsection (1), the location of a transaction shall be
4721 determined in accordance with Section 59-12-207.

4722 (d) A county legislative body imposing a tax under this section shall impose the tax on
4723 amounts paid or charged for food and food ingredients if:

4724 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4725 food and food ingredients and tangible personal property other than food and food ingredients;
4726 and

4727 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4728 accordance with Subsection 59-12-107(1)(b).

4729 (2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a
4730 county legislative body shall:

4731 (i) obtain approval from a majority of the members of the county legislative body to
4732 impose the tax; and

4733 (ii) submit an opinion question to the county's registered voters voting on the

4734 imposition of the tax so that each registered voter has the opportunity to express the registered
4735 voter's opinion on whether a tax should be imposed under this part.

4736 (b) (i) In a county of the first or second class, the opinion question required by
4737 Subsection (2)(a)(ii) shall state the following:

4738 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
4739 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
4740 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

4741 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by
4742 Subsection (2)(a)(ii) shall state the following:

4743 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
4744 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
4745 corridor preservation, congestion mitigation, or to expand capacity for regionally significant
4746 transportation facilities?"

4747 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)
4748 shall be held:

4749 (i) at a regular general election conducted in accordance with the procedures and
4750 requirements of Title 20A, Election Code, governing regular elections; or

4751 (ii) at a special election called by the county legislative body that is:

4752 (A) held only on the date of a municipal general election as provided in Subsection
4753 20A-1-202(1); and

4754 (B) authorized in accordance with the procedures and requirements of Section
4755 20A-1-203.

4756 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under
4757 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
4758 body shall:

4759 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of
4760 September 20, 2006;

4761 (ii) direct the county clerk to submit the opinion question required by Subsection

4762 (2)(a)(ii) during the November 7, 2006 general election; and

4763 (iii) hold the election required by this section on November 7, 2006.

4764 (3) If a county legislative body determines that a majority of the county's registered
4765 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
4766 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
4767 with this section.

4768 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
4769 part may only be expended for:

4770 (i) a project or service:

4771 (A) relating to a regionally significant transportation facility;

4772 (B) for the portion of the project or service that is performed within the county;

4773 (C) for new capacity or congestion mitigation if the project or service is performed
4774 within a county:

4775 (I) of the first class;

4776 (II) of the second class; or

4777 (III) that is part of an area metropolitan planning organization;

4778 (D) (I) if the project or service is a principal arterial highway or a minor arterial
4779 highway in a county of the first or second class, that is part of the county and municipal master
4780 plan and part of:

4781 (Aa) the statewide long-range plan; or

4782 (Bb) the regional transportation plan of the area metropolitan planning organization if a
4783 metropolitan planning organization exists for the area; or

4784 (II) if the project or service is for a fixed guideway or an airport, that is part of the
4785 regional transportation plan of the area metropolitan planning organization if a metropolitan
4786 planning organization exists for the area; and

4787 (E) that is on a priority list:

4788 (I) created by the county's council of governments in accordance with Subsection (5);

4789 and

4790 (II) approved by the county legislative body in accordance with Subsection (6);
4791 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in
4792 Subsection (7)(b); or
4793 (iii) any debt service and bond issuance costs related to a project described in
4794 Subsection (4)(a)(i) or (ii).

4795 (b) In a county of the first or second class, a regionally significant transportation
4796 facility project or service described in Subsection (4)(a)(i)(A) must have a funded year priority
4797 designation on a Statewide Transportation Improvement Program and Transportation
4798 Improvement Program if the project or service described in Subsection (4)(a)(i) is:

- 4799 (i) a principal arterial highway as defined in Section 72-4-102.5;
- 4800 (ii) a minor arterial highway as defined in Section 72-4-102.5; or
- 4801 (iii) a major collector highway:
 - 4802 (A) as defined in Section 72-4-102.5; and
 - 4803 (B) in a rural area.

4804 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the
4805 revenues generated by the tax imposed under this section by any county of the first or second
4806 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

4807 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax
4808 under this part do not include amounts retained by the commission in accordance with
4809 Subsection (8).

4810 (5) (a) The county's council of governments shall create a priority list of regionally
4811 significant transportation facility projects described in Subsection (4)(a) using the process
4812 described in Subsection (5)(b) and present the priority list to the county's legislative body for
4813 approval as described in Subsection (6).

4814 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall
4815 establish a council of governments' endorsement process which includes prioritization and
4816 application procedures for use of the revenues a county will receive from a tax under this part.

4817 (6) (a) The council of governments shall submit the priority list described in

4818 Subsection (5) to the county's legislative body and obtain approval of the list from a majority of
4819 the members of the county legislative body.

4820 (b) A county's council of governments may only submit one priority list per calendar
4821 year.

4822 (c) A county legislative body may only consider and approve one priority list per
4823 calendar year.

4824 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
4825 Subsection (4) shall be transmitted:

4826 (A) by the commission;

4827 (B) to the county;

4828 (C) monthly; and

4829 (D) by electronic funds transfer.

4830 (ii) A county may request that the commission transfer a portion of the revenues
4831 described in Subsection (4):

4832 (A) directly to a public transit district:

4833 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

4834 (II) designated by the county; and

4835 (B) by providing written notice to the commission:

4836 (I) requesting the revenues to be transferred directly to a public transit district as
4837 provided in Subsection (7)(a)(ii)(A); and

4838 (II) designating the public transit district to which the revenues are requested to be
4839 transferred.

4840 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
4841 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

4842 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
4843 created by Section 72-2-117.5; and

4844 (B) expended as provided in Section 72-2-117.5.

4845 (ii) In a county of the first class, revenues generated by a tax under this part that are

4846 allocated for a purpose described in Subsection (4)(a)(ii) shall be:

4847 (A) deposited in or transferred to the Public Transportation System Tax Highway Fund
4848 created by Section 72-2-121; and

4849 (B) expended as provided in Section 72-2-121.

4850 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
4851 shall be administered, collected, and enforced in accordance with:

4852 (A) the same procedures used to administer, collect, and enforce the tax under:

4853 (I) Part 1, Tax Collection; or

4854 (II) Part 2, Local Sales and Use Tax Act; and

4855 (B) Chapter 1, General Taxation Policies.

4856 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

4857 (b) (i) The commission may retain an amount of tax collected under this part of not to
4858 exceed the lesser of:

4859 (A) 1.5%; or

4860 (B) an amount equal to the cost to the commission of administering this part.

4861 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

4862 (A) placed in the Sales and Use Tax Administrative Fees Account; and

4863 (B) used as provided in Subsection 59-12-206(2).

4864 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
4865 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4866 or change shall take effect:

4867 (A) on the first day of a calendar quarter; and

4868 (B) after a 90-day period beginning on the date the commission receives notice meeting
4869 the requirements of Subsection (9)(a)(ii) from the county.

4870 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

4871 (A) that the county will enact, repeal, or change the rate of a tax under this part;

4872 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

4873 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

4874 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4875 (9)(a)(ii)(A), the rate of the tax.

4876 (b) (i) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
4877 transaction begins before the effective date of the enactment of the tax or tax rate increase
4878 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
4879 day of the first billing period that begins after the effective date of the enactment of the tax or
4880 the tax rate increase.

4881 (ii) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
4882 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
4883 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
4884 first day of the last billing period that began before the effective date of the repeal of the tax or
4885 the tax rate decrease.

4886 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

4887 (A) Subsection 59-12-103(1)(b);

4888 (B) Subsection 59-12-103(1)(c);

4889 (C) Subsection 59-12-103(1)(d);

4890 (D) Subsection 59-12-103(1)(e);

4891 (E) Subsection 59-12-103(1)(f);

4892 (F) Subsection 59-12-103(1)(g);

4893 (G) Subsection 59-12-103(1)(h);

4894 (H) Subsection 59-12-103(1)(i);

4895 (I) Subsection 59-12-103(1)(j); or

4896 (J) Subsection 59-12-103(1)(k).

4897 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4898 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
4899 a tax described in Subsection (9)(a)(i) takes effect:

4900 (A) on the first day of a calendar quarter; and

4901 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

4902 rate of the tax under Subsection (9)(a)(i).

4903 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4904 the commission may by rule define the term "catalogue sale."

4905 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
4906 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the
4907 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
4908 effect:

4909 (A) on the first day of a calendar quarter; and

4910 (B) after a 90-day period beginning on the date the commission receives notice meeting
4911 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

4912 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4913 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,
4914 repeal, or change in the rate of a tax under this part for the annexing area;

4915 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4916 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4917 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4918 (9)(d)(ii)(A), the rate of the tax.

4919 (e) (i) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
4920 transaction begins before the effective date of the enactment of the tax or a tax rate increase
4921 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
4922 day of the first billing period that begins after the effective date of the enactment of the tax or
4923 the tax rate increase.

4924 (ii) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
4925 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
4926 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
4927 first day of the last billing period that began before the effective date of the repeal of the tax or
4928 the tax rate decrease.

4929 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4930 (A) Subsection 59-12-103(1)(b);

4931 (B) Subsection 59-12-103(1)(c);

4932 (C) Subsection 59-12-103(1)(d);

4933 (D) Subsection 59-12-103(1)(e);

4934 (E) Subsection 59-12-103(1)(f);

4935 (F) Subsection 59-12-103(1)(g);

4936 (G) Subsection 59-12-103(1)(h);

4937 (H) Subsection 59-12-103(1)(i);

4938 (I) Subsection 59-12-103(1)(j); or

4939 (J) Subsection 59-12-103(1)(k).

4940 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4941 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
4942 a tax described in Subsection (9)(d)(i) takes effect:

4943 (A) on the first day of a calendar quarter; and

4944 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4945 rate under Subsection (9)(d)(i).

4946 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4947 the commission may by rule define the term "catalogue sale."

4948 Section 32. Section **59-12-1801** is enacted to read:

4949 **Part 18. Additional State Sales and Use Tax Act**

4950 **59-12-1801. Title.**

4951 This part is known as the "Additional State Sales and Use Tax Act.

4952 Section 33. Section **59-12-1802** is enacted to read:

4953 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**

4954 **General Fund.**

4955 (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax,
4956 a tax shall be imposed within the county under this section by the state:

4957 (a) on the transactions described in Subsection 59-12-103(1);

4958 (b) at a rate of .25%; and

4959 (c) beginning on January 1, 2008, and ending on the day on which the county imposes
4960 a tax under Part 11, County Option Sales and Use Tax.

4961 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
4962 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from
4963 taxation under Section 59-12-104.

4964 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
4965 accordance with Section 59-12-207.

4966 (4) Revenues collected from the sales and use tax imposed by this section, after
4967 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
4968 into the General Fund.

4969 Section 34. Section **59-12-1803** is enacted to read:

4970 **59-12-1803. Enactment or repeal of tax -- Effective date -- Administration,**
4971 **collection, and enforcement of tax.**

4972 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
4973 imposed under this part shall take effect on the first day of a calendar quarter.

4974 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax shall
4975 take effect on the first day of the first billing period that begins after the effective date of the
4976 enactment of the tax if the billing period for the transaction begins before the effective date of
4977 the tax under this part.

4978 (b) For a transaction described in Subsection (2)(c), the repeal of a tax shall take effect
4979 on the first day of the last billing period that began before the effective date of the repeal of the
4980 tax if the billing period for the transaction begins before the effective date of the repeal of the
4981 tax imposed under this part.

4982 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

4983 (i) Subsection 59-12-103(1)(b);

4984 (ii) Subsection 59-12-103(1)(c);

4985 (iii) Subsection 59-12-103(1)(d);

4986 (iv) Subsection 59-12-103(1)(e);

4987 (v) Subsection 59-12-103(1)(f);

4988 (vi) Subsection 59-12-103(1)(g);

4989 (vii) Subsection 59-12-103(1)(h);

4990 (viii) Subsection 59-12-103(1)(i);

4991 (ix) Subsection 59-12-103(1)(j); or

4992 (x) Subsection 59-12-103(1)(k).

4993 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
4994 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
4995 takes effect:

4996 (i) on the first day of a calendar quarter; and

4997 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax
4998 under this part.

4999 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
5000 commission may by rule define the term "catalogue sale."

5001 (4) A tax imposed by this part shall be administered, collected, and enforced in
5002 accordance with:

5003 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
5004 Tax Collection; and

5005 (b) Chapter 1, General Taxation Policies.

5006 Section 35. Section **59-26-102** is amended to read:

5007 **59-26-102. Definitions.**

5008 As used in this chapter:

5009 (1) "County or municipality franchise fee" means a franchise fee that a county or
5010 municipality receives from a multi-channel video or audio service provider.

5011 (2) "Franchise fee" is as defined in 47 U.S.C. Sec. 542, except that the term "cable
5012 operator" or "cable subscriber" shall be interpreted to include a multi-channel video or audio
5013 service provider.

5014 ~~[(1) "multi-channel]~~ (3) (a) "Multi-channel video or audio service provider" means any
5015 person or group of persons that:

5016 ~~[(a)]~~ (i) provides multi-channel video or audio service and directly or indirectly owns a
5017 significant interest in the multi-channel video or audio service; or

5018 ~~[(b)]~~ (ii) otherwise controls or is responsible through any arrangement, the
5019 management and operation of the multi-channel video or audio service~~[-and]~~.

5020 ~~[(2) "multi-channel]~~ (b) "Multi-channel video or audio service provider" includes the
5021 following except as specifically exempted by state or federal law:

5022 ~~[(a)]~~ (i) a cable operator;

5023 ~~[(b)]~~ (ii) a CATV provider;

5024 ~~[(c)]~~ (iii) a multi-point distribution provider;

5025 ~~[(d)]~~ (iv) a MMDS provider;

5026 ~~[(e)]~~ (v) a SMATV operator;

5027 ~~[(f)]~~ (vi) a direct-to-home satellite service provider; or

5028 ~~[(g)]~~ (vii) a DBS provider.

5029 (4) "Municipality" means a city or town.

5030 Section 36. Section **59-26-103** is amended to read:

5031 **59-26-103. Imposition of tax -- Rate.**

5032 ~~[Beginning on July 1, 2004]~~ Subject to Section 59-26-104.5, there is imposed as
5033 provided in this part a tax on the purchaser equal to 6.25% of amounts paid or charged for
5034 multi-channel video or audio service provided by a multi-channel video or audio service
5035 provider:

5036 (1) within the state; and

5037 (2) to the extent permitted by federal law.

5038 Section 37. Section **59-26-104.5** is enacted to read:

5039 **59-26-104.5. Nonrefundable credit against tax -- Amounts passed through to**
5040 **customers within the state -- Tax may not be reduced by amounts passed through to**
5041 **customers within the state.**

5042 (1) Beginning on January 1, 2008, a multi-channel video or audio service provider may
5043 claim a nonrefundable tax credit as provided in this section.

5044 (2) The nonrefundable tax credit described in Subsection (1):

5045 (a) may be claimed against the tax the multi-channel video or audio service provider
5046 would otherwise be required to collect under this chapter from its purchasers within the state;
5047 and

5048 (b) is in an amount equal to 50% of the total amount of county or municipality
5049 franchise fees that the multi-channel video or audio service provider pays:

5050 (i) to all of the counties and municipalities within the state that impose a county or
5051 municipality franchise fee; and

5052 (ii) for the calendar quarter for which the multi-channel video or audio service provider
5053 files a return under this chapter.

5054 (3) The nonrefundable tax credit described in Subsection (1) may not be carried
5055 forward or carried back.

5056 (4) (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service
5057 provider shall pass through to its purchasers within the state an amount equal to the amount of
5058 the nonrefundable tax credit the multi-channel video or audio service provider claims for a
5059 calendar quarter.

5060 (b) The amount that a multi-channel video or audio service provider passes through to
5061 its purchasers within the state under Subsection (4)(a) shall be passed through during the same
5062 calendar quarter as the calendar quarter for which the multi-channel video or audio service
5063 provider claims the nonrefundable tax credit.

5064 (c) A tax under this chapter on amounts paid or charged for multi-channel video or
5065 audio service may not be reduced as a result of the amount a multi-channel video or audio
5066 service provider passes through to its customers within this state under this Subsection (4).

5067 **Section 38. Revenue and Taxation Interim Committee study.**

5068 During the 2007 interim, the Revenue and Taxation Interim Committee shall, with the
5069 assistance of the Utah Tax Review Commission, draft legislation to repeal the state individual

5070 income tax imposed on the basis of graduated brackets and rates.

5071 Section 39. **Appropriations.**

5072 There is appropriated:

5073 (1) for fiscal year 2007-08 only, \$277,500 from the General Fund to the Rural Health
5074 Care Facilities Fund created by Section 26-9-4 to fund the distributions required by Section
5075 26-9-4; and

5076 (2) as an ongoing appropriation subject to future budget constraints, \$555,000 from the
5077 General Fund for fiscal year 2008-09, to the Rural Health Care Facilities Fund created by
5078 Section 26-9-4 to fund the distributions required by Section 26-9-4.

5079 Section 40. **Effective dates -- Retrospective operation.**

5080 (1) Except as provided in Subsections (2) through (9), this bill takes effect on January
5081 1, 2008.

5082 (2) The amendments to Section 59-1-901 take effect on April 30, 2007.

5083 (3) The enactment of uncodified Section 38, Revenue and Taxation Interim Committee
5084 study, takes effect on April 30, 2007.

5085 (4) The enactment of uncodified Section 39, Appropriations, takes effect on July 1,
5086 2007.

5087 (5) The amendments to the following take effect for taxable years beginning on or after
5088 January 1, 2008:

5089 (a) Section 59-7-612;

5090 (b) Section 59-10-104;

5091 (c) Section 59-10-1012;

5092 (d) Section 59-10-1202; and

5093 (e) Section 59-10-1203.

5094 (6) The enactments of the following take effect for taxable years beginning on or after
5095 January 1, 2008:

5096 (a) Section 59-10-1206.1;

5097 (b) Section 59-10-1206.2; and

- 5098 (c) Section 59-10-1206.9.
- 5099 (7) The repeal and reenactment of Section 59-7-614:
- 5100 (a) takes effect on April 30, 2007; and
- 5101 (b) has retrospective operation for taxable years beginning on or after January 1, 2007.
- 5102 (8) The amendments to Section 59-10-1014:
- 5103 (a) take effect on April 30, 2007; and
- 5104 (b) have retrospective operation for taxable years beginning on or after January 1,
- 5105 2007.
- 5106 (9) The enactment of Section 59-10-1106:
- 5107 (a) takes effect on April 30, 2007; and
- 5108 (b) has retrospective operation for taxable years beginning on or after January 1, 2007.
- 5109 Section 41. **Revisor instructions.**
- 5110 It is the intent of the Legislature that, in preparing the Utah Code database for
- 5111 publication, the Office of Legislative Research and General Counsel shall replace the reference
- 5112 in Subsection 26-9-4(5)(a)(i)(A) from "this bill" to the bill's designated chapter and section
- 5113 number in the Laws of Utah.
- 5114 Section 42. **Coordinating S.B. 223 with H.B. 27 -- Merging substantive**
- 5115 **amendments.**
- 5116 If this S.B. 223 and H.B. 27, Sales and Use Tax Modifications, both pass, it is the intent
- 5117 of the Legislature that the Office of Legislative Research and General Counsel, in preparing the
- 5118 Utah code database for publication, as part of merging the tax rate changes enacted by this S.B.
- 5119 223, modify Section 59-12-103 that takes effect on January 1, 2008, to:
- 5120 (1) replace the tax rate of 2.75% in Subsection 59-12-103(2)(c)(i) with 1.75%; and
- 5121 (2) replace the tax rate of 2.75% in Subsection 59-12-103(2)(d)(i)(C) with 1.75%.