

TAX AND RELATED SCHOOL FUNDING AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill makes changes to taxes and school funding.

Highlighted Provisions:

This bill:

- ▶ increases the state sales and use tax rate on food and food ingredients to the general state sales and use tax rate;
- ▶ adds food and food ingredients to the tax base for certain local option sales and use taxes;
- ▶ creates a School Equalization Fund and provides for operation of the Fund;
- ▶ deposits revenues from the state sales and use tax increases into the School Equalization Fund;
- ▶ provides a methodology for allocations from the School Equalization Fund;
- ▶ reduces school district certified property tax rates by the amount of allocations from the School Equalization Fund;
- ▶ prohibits all taxing entities from imposing a property tax rate higher than the certified tax rate for a certain period of time;
- ▶ makes adjustments to property tax fee-in-lieu allocations;
- ▶ adjusts the methodology for funding charter schools and the school board and voted leeway guarantee programs;
- ▶ adjusts allocations to the Centennial Highway Fund Restricted Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for effective dates.

Utah Code Sections Affected:

AMENDS:

- 33 **10-1-405**, as last amended by Laws of Utah 2009, Chapter 212
- 34 **11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384
- 35 **53A-1a-513**, as last amended by Laws of Utah 2010, Chapters 3 and 399
- 36 **53A-17a-133**, as last amended by Laws of Utah 2010, Chapter 399
- 37 **53A-17a-134**, as last amended by Laws of Utah 2010, Chapter 399
- 38 **53A-21-101.5**, as last amended by Laws of Utah 2010, Chapter 185
- 39 **59-1-401**, as last amended by Laws of Utah 2010, Chapter 233
- 40 **59-2-404**, as last amended by Laws of Utah 2008, Chapter 206
- 41 **59-2-405**, as last amended by Laws of Utah 2008, Chapter 210
- 42 **59-2-405.1**, as last amended by Laws of Utah 2008, Chapter 210
- 43 **59-2-405.2**, as last amended by Laws of Utah 2009, Chapter 169
- 44 **59-2-405.3**, as enacted by Laws of Utah 2005, Chapter 217
- 45 **59-12-102**, as last amended by Laws of Utah 2010, Chapters 88, 142, 234, and 263
- 46 **59-12-103**, as last amended by Laws of Utah 2010, Chapter 412
- 47 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
- 48 **59-12-108**, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384
- 49 **59-12-401**, as last amended by Laws of Utah 2010, Chapter 9
- 50 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
- 51 **59-12-703**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 52 **59-12-802**, as last amended by Laws of Utah 2008, Chapter 384
- 53 **59-12-804**, as last amended by Laws of Utah 2008, Chapter 384
- 54 **59-12-1201**, as last amended by Laws of Utah 2009, Chapter 203
- 55 **59-12-1302**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 56 **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 57 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263
- 58 **59-12-2103**, as enacted by Laws of Utah 2008, Chapter 323
- 59 **59-12-2204**, as enacted by Laws of Utah 2010, Chapter 263
- 60 ENACTS:
- 61 **53A-21-601**, Utah Code Annotated 1953
- 62 **53A-21-602**, Utah Code Annotated 1953
- 63 **53A-21-603**, Utah Code Annotated 1953

64 **59-2-919.3**, Utah Code Annotated 1953

65 **59-2-924.5**, Utah Code Annotated 1953

66

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

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

69 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
70 **Rulemaking authority -- Charge for services.**

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

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

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

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

78 (A) except for:

79 (I) Subsection 59-12-103(2)~~(g)~~(f);

80 (II) Section 59-12-104;

81 (III) Section 59-12-104.1;

82 (IV) Section 59-12-104.2;

83 (V) Section 59-12-104.3;

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

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

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

89 (b) a uniform interlocal agreement:

90 (i) between:

91 (A) the municipality that imposes the municipal telecommunications license tax; and

92 (B) the commission;

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

94 (iii) that complies with Subsection (2)(a); and

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

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

98 (i) transmit money collected under this part:

99 (A) monthly; and

100 (B) by electronic funds transfer by the commission to the municipality;

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

102 (iii) charge the municipality for the commission's services under this section in an
103 amount:

104 (A) sufficient to reimburse the commission for the cost to the commission in rendering
105 the services; and

106 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
107 license tax imposed by the ordinance of the municipality; and

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

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

114 (3) The administrative fee charged under Subsection (2)(a) shall be:

115 (a) deposited in the Sales and Use Tax Administrative Fees Account; and

116 (b) used for administration of municipal telecommunications license taxes under this
117 part.

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

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

122 (i) within the municipality;

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

124 (iii) from a telecommunications provider required to pay the municipal

125 telecommunications license tax on or after July 1, 2007; and

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

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

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

132 (iii) a telecommunications provider is required to pay the municipal
133 telecommunications license tax on or after the day on which the ordinance described in
134 Subsection (4)(b)(ii) takes effect.

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

136 **11-41-102. Definitions.**

137 As used in this chapter:

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

139 (a) (i) county; or

140 (ii) municipality; and

141 (b) person.

142 (2) "Municipality" means a:

143 (a) city; or

144 (b) town.

145 (3) "Payment" includes:

146 (a) a payment;

147 (b) a rebate;

148 (c) a refund; or

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

150 (4) "Regional retail business" means a:

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

152 (b) dealer as defined in Section 41-1a-102;

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

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

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

158 (i) imposed on transactions within a:

159 (A) county; or

160 (B) municipality; and

161 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,

162 Sales and Use Tax Act.

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

164 authorized under:

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

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

167 [~~(iii) Subsection 59-12-103(2)(c)(i);~~]

168 [~~(iv) Subsection 59-12-103(2)(d)(i)(A);~~]

169 [~~(v)~~] (iii) Section 59-12-301;

170 [~~(vi)~~] (iv) Section 59-12-352;

171 [~~(vii)~~] (v) Section 59-12-353;

172 [~~(viii)~~] (vi) Section 59-12-603; or

173 [~~(ix)~~] (vii) Section 59-12-1201.

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

175 (i) to a person;

176 (ii) by a:

177 (A) county; or

178 (B) municipality;

179 (iii) to induce the person to locate or relocate a regional retail business within the:

180 (A) county; or

181 (B) municipality; and

182 (iv) that are derived from a sales and use tax.

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

184 infrastructure.

185 Section 3. Section **53A-1a-513** is amended to read:

186 **53A-1a-513. Funding for charter schools.**

187 (1) As used in this section:

188 (a) "Charter school students' average local revenues" means the amount determined as
189 follows:

190 (i) for each student enrolled in a charter school on the previous October 1, calculate the
191 district per pupil local revenues of the school district in which the student resides;

192 (ii) sum the district per pupil local revenues for each student enrolled in a charter
193 school on the previous October 1; and

194 (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students
195 enrolled in charter schools on the previous October 1.

196 (b) "District per pupil local revenues" means the amount determined as follows, using
197 data from the most recently published school district annual financial reports and state
198 superintendent's annual report:

199 (i) calculate the sum of a school district's revenue received from:

200 (A) a voted levy imposed under Section 53A-17a-133;

201 (B) a board levy imposed under Section 53A-17a-134;

202 (C) 10% of the cost of the basic program levy imposed under Section 53A-17a-145;

203 (D) a tort liability levy imposed under Section 63G-7-704;

204 (E) a capital outlay levy imposed under Section 53A-16-107; ~~and~~

205 (F) a voted capital outlay levy imposed under Section 53A-16-110; and

206 (G) the School Equalization Fund, in accordance with Section 53A-21-603, except for
207 allocations used to abate property taxes imposed for bond payments in accordance with Section
208 53A-21-602; and

209 (ii) divide the sum calculated under Subsection (1)(b)(i) by the sum of:

210 (A) a school district's average daily membership; and

211 (B) the average daily membership of a school district's resident students who attend
212 charter schools.

213 (c) "Resident student" means a student who is considered a resident of the school
214 district under Title 53A, Chapter 2, Part 2, District of Residency.

215 (d) "Statewide average debt service ~~[revenues]~~ expenditures" means the amount
216 determined as follows, using data from the most recently published state superintendent's
217 annual report:

218 (i) sum the ~~[revenues]~~ expenditures of each school district for general obligation

219 bonded indebtedness from the debt service levy imposed under Section 11-14-310 and
220 allocations from the School Equalization Fund created in Section 53A-21-603; and

221 (ii) divide the sum calculated under Subsection (1)(d)(i) by statewide school district
222 average daily membership.

223 (2) (a) Charter schools shall receive funding as described in this section, except
224 Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

225 (b) Charter schools authorized by local school boards that are converted from district
226 schools or operate in district facilities without paying reasonable rent shall receive funding as
227 prescribed in Section 53A-1a-515.

228 (3) (a) Except as provided in Subsection (3)(b), a charter school shall receive state
229 funds, as applicable, on the same basis as a school district receives funds.

230 (b) In distributing funds under Title 53A, Chapter 17a, Minimum School Program Act,
231 to charter schools, charter school pupils shall be weighted, where applicable, as follows:

232 (i) .55 for kindergarten pupils;

233 (ii) .9 for pupils in grades 1-6;

234 (iii) .99 for pupils in grades 7-8; and

235 (iv) 1.2 for pupils in grades 9-12.

236 (4) (a) (i) A school district shall allocate a portion of school district revenues for each
237 resident student of the school district who is enrolled in a charter school on October 1 equal to
238 25% of the lesser of:

239 (A) district per pupil local revenues; or

240 (B) charter school students' average local revenues.

241 (ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program
242 established under Chapter 28, Utah School Bond Guaranty Act.

243 (b) The State Board of Education shall:

244 (i) deduct an amount equal to the allocation provided under Subsection (4)(a) from
245 state funds the school district is authorized to receive under Title 53A, Chapter 17a, Minimum
246 School Program Act; and

247 (ii) remit the money to the student's charter school.

248 (c) Notwithstanding the method used to transfer school district revenues to charter
249 schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter

250 schools under this section from:

251 (i) unrestricted revenues available to the school district; or

252 (ii) the revenue sources listed in Subsections (1)(b)(i)(A) through [~~F~~] G based on
253 the portion of the allocations to charter schools attributed to each of the revenue sources listed
254 in Subsections (1)(b)(i)(A) through [~~F~~] G.

255 (d) (i) Subject to future budget constraints, the Legislature shall provide an
256 appropriation for charter schools for each student enrolled on October 1 to supplement the
257 allocation of school district revenues under Subsection (4)(a).

258 (ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the
259 state for a charter school student shall be the sum of:

260 (A) charter school students' average local revenues minus the allocation of school
261 district revenues under Subsection (4)(a); and

262 (B) statewide average debt service [~~revenues~~] expenditures.

263 (iii) If the total of a school district's allocation for a charter school student under
264 Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than
265 \$1427, the state shall provide an additional supplement so that a charter school receives at least
266 \$1427 per student under this Subsection (4).

267 (iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the
268 amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated
269 among charter schools in proportion to each charter school's enrollment as a percentage of the
270 total enrollment in charter schools.

271 (B) If the State Board of Education makes adjustments to Minimum School Program
272 allocations as provided under Section 53A-17a-105, the allocation provided in Subsection
273 (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

274 (e) Of the money provided to a charter school under this Subsection (4), 10% shall be
275 expended for funding school facilities only.

276 (5) Charter schools are eligible to receive federal funds if they meet all applicable
277 federal requirements and comply with relevant federal regulations.

278 (6) The State Board of Education shall distribute funds for charter school students
279 directly to the charter school.

280 (7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state

281 transportation funding.

282 (b) The board shall also adopt rules relating to the transportation of students to and
283 from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

284 (c) The governing body of the charter school may provide transportation through an
285 agreement or contract with the local school board, a private provider, or with parents.

286 (8) (a) (i) The state superintendent of public instruction may allocate grants for both
287 start-up and ongoing costs to eligible charter school applicants from money appropriated for
288 the implementation of this part.

289 (ii) Applications for the grants shall be filed on a form determined by the state
290 superintendent and in conjunction with the application for a charter.

291 (iii) The amount of a grant may vary based upon the size, scope, and special
292 circumstances of the charter school.

293 (iv) The governing board of the charter school shall use the grant to meet the expenses
294 of the school as established in the school's charter.

295 (b) The State Board of Education shall coordinate the distribution of federal money
296 appropriated to help fund costs for establishing and maintaining charter schools within the
297 state.

298 (9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
299 endowment, gift, or donation of any property made to the school for any of the purposes of this
300 part.

301 (b) It is unlawful for any person affiliated with a charter school to demand or request
302 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
303 with the charter school as a condition for employment or enrollment at the school or continued
304 attendance at the school.

305 Section 4. Section **53A-17a-133** is amended to read:

306 **53A-17a-133. State-supported voted leeway program authorized -- Election**
307 **requirements -- State guarantee -- Reconsideration of the program.**

308 (1) An election to consider adoption or modification of a voted leeway program is
309 required if initiative petitions signed by 10% of the number of electors who voted at the last
310 preceding general election are presented to the local school board or by action of the board.

311 (2) (a) (i) To establish a voted leeway program, a majority of the electors of a district

312 voting at an election in the manner set forth in Section 53A-16-110 must vote in favor of a
313 special tax.

314 (ii) The tax rate may not exceed .002 per dollar of taxable value.

315 (b) The district may maintain a school program which exceeds the cost of the program
316 referred to in Section 53A-17a-145 with this voted leeway.

317 (c) In order to receive state support the first year, a district must receive voter approval
318 no later than December 1 of the year prior to implementation.

319 (3) (a) Under the voted leeway program, the state shall contribute an amount sufficient
320 to guarantee \$25.25 per weighted pupil unit for each .0001 of the first .0016 per dollar of
321 taxable value.

322 (b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar
323 of taxable value under Subsection (3)(a) shall apply to the board-approved leeway authorized
324 in Section 53A-17a-134, so that the guarantee shall apply up to a total of .002 per dollar of
325 taxable value if a school district levies a tax rate under both programs.

326 (c) Beginning July 1, 2011, the \$25.25 guarantee under Subsections (3)(a) and (b) shall
327 be indexed each year to the value of the weighted pupil unit by making the value of the
328 guarantee equal to .010544 times the value of the prior year's weighted pupil unit.

329 (d) (i) The amount of state guarantee money to which a school district would otherwise
330 be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's
331 levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924
332 pursuant to changes in property valuation.

333 (ii) Except as provided in Subsection (3)(d)(iii), Subsection (3)(d)(i) applies for a
334 period of five years following any such change in the certified tax rate.

335 (iii) For fiscal year 2012-13, Subsection (3)(d)(i) applies for a period of six years
336 following any such change in the certified tax rate.

337 (e) The guarantee provided under this section does not apply to the portion of a voted
338 leeway rate that exceeds the voted leeway rate that was in effect for the previous fiscal year,
339 unless an increase in the voted leeway rate was authorized in an election conducted on or after
340 July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

341 (4) (a) An election to modify an existing voted leeway program is not a reconsideration
342 of the existing program unless the proposition submitted to the electors expressly so states.

343 (b) A majority vote opposing a modification does not deprive the district of authority to
344 continue an existing program.

345 (c) If adoption of a leeway program is contingent upon an offset reducing other local
346 school board levies, the board must allow the electors, in an election, to consider modifying or
347 discontinuing the program prior to a subsequent increase in other levies that would increase the
348 total local school board levy.

349 (d) Nothing contained in this section terminates, without an election, the authority of a
350 school district to continue an existing voted leeway program previously authorized by the
351 voters.

352 (5) Notwithstanding Section 59-2-919, a school district may budget an increased
353 amount of ad valorem property tax revenue derived from a voted leeway imposed under this
354 section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without
355 having to comply with the notice requirements of Section 59-2-919, if:

356 (a) the voted leeway is approved:

357 (i) in accordance with Section 53A-16-110 on or after January 1, 2003; and

358 (ii) within the four-year period immediately preceding the year in which the school
359 district seeks to budget an increased amount of ad valorem property tax revenue derived from
360 the voted leeway; and

361 (b) for a voted leeway approved or modified in accordance with this section on or after
362 January 1, 2009, the school district complies with the requirements of Subsection (7).

363 (6) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this
364 section that exceeds the certified tax rate without having to comply with the notice
365 requirements of Section 59-2-919 if:

366 (a) the levy exceeds the certified tax rate as the result of a school district budgeting an
367 increased amount of ad valorem property tax revenue derived from a voted leeway imposed
368 under this section;

369 (b) the voted leeway was approved:

370 (i) in accordance with Section 53A-16-110 on or after January 1, 2003; and

371 (ii) within the four-year period immediately preceding the year in which the school
372 district seeks to budget an increased amount of ad valorem property tax revenue derived from
373 the voted leeway; and

374 (c) for a voted leeway approved or modified in accordance with this section on or after
375 January 1, 2009, the school district complies with requirements of Subsection (7).

376 (7) For purposes of Subsection (5)(b) or (6)(c), the proposition submitted to the
377 electors regarding the adoption or modification of a voted leeway program shall contain the
378 following statement:

379 "A vote in favor of this tax means that (name of the school district) may increase
380 revenue from this property tax without advertising the increase for the next five years."

381 Section 5. Section **53A-17a-134** is amended to read:

382 **53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.**

383 (1) Each local school board may levy a tax rate of up to .0004 per dollar of taxable
384 value to maintain a school program above the cost of the basic school program as follows:

385 (a) a local school board shall use the monies generated by the tax for class size
386 reduction within the school district;

387 (b) if a local school board determines that the average class size in the school district is
388 not excessive, it may use the monies for other school purposes but only if the board has
389 declared the use for other school purposes in a public meeting prior to levying the tax rate; and

390 (c) a district may not use the monies for other school purposes under Subsection (1)(b)
391 until it has certified in writing that its class size needs are already being met and has identified
392 the other school purposes for which the monies will be used to the State Board of Education
393 and the state board has approved their use for other school purposes.

394 (2) (a) The state shall contribute an amount sufficient to guarantee \$25.25 per weighted
395 pupil unit for each .0001 per dollar of taxable value.

396 (b) The guarantee shall increase in the same manner as provided for the voted leeway
397 guarantee in Subsection 53A-17a-133(3)(c).

398 (c) (i) The amount of state guarantee money to which a school district would otherwise
399 be entitled [to] under this Subsection (2) may not be reduced for the sole reason that the
400 district's levy is reduced as a consequence of changes in the certified tax rate under Section
401 59-2-924 pursuant to changes in property valuation.

402 (ii) Except as provided in Subsection (2)(c)(iii), Subsection (2)(c)(i) applies for a
403 period of five years following any such change in the certified tax rate.

404 (iii) For fiscal year 2012-13, Subsection (2)(c)(i) applies for a period of six years

405 following any such change in the certified tax rate.

406 (d) The guarantee provided under this section does not apply to:

407 (i) a board-authorized leeway in the first fiscal year the leeway is in effect, unless the
408 leeway was approved by voters pursuant to Subsections (4) through (6); or

409 (ii) the portion of a board-authorized leeway rate that is in excess of the
410 board-authorized leeway rate that was in effect for the previous fiscal year.

411 (3) The levy authorized under this section is not in addition to the maximum rate of
412 .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax
413 rate under that section.

414 (4) As an exception to Section 53A-17a-133, the board-authorized levy does not
415 require voter approval, but the board may require voter approval if requested by a majority of
416 the board.

417 (5) An election to consider disapproval of the board-authorized levy is required, if
418 within 60 days after the levy is established by the board, referendum petitions signed by the
419 number of legal voters required in Section 20A-7-301, who reside within the school district, are
420 filed with the school district.

421 (6) (a) A local school board shall establish its board-approved levy by April 1 to have
422 the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an
423 election is required under this section, the levy applies to the fiscal year beginning July 1 of the
424 next calendar year.

425 (b) The approval and disapproval votes authorized in Subsections (4) and (5) shall
426 occur at a general election in even-numbered years, except that a vote required under this
427 section in odd-numbered years shall occur at a special election held on a day in odd-numbered
428 years that corresponds to the general election date. The school district shall pay for the cost of
429 a special election.

430 (7) (a) Modification or termination of a voter-approved leeway rate authorized under
431 this section is governed by Section 53A-17a-133.

432 (b) A board-authorized leeway rate may be modified or terminated by a majority vote
433 of the board subject to disapproval procedures specified in this section.

434 (8) A board levy election does not require publication of a voter information pamphlet.

435 Section 6. Section **53A-21-101.5** is amended to read:

436 **53A-21-101.5. Definitions.**

437 As used in this chapter:

438 (1) "ADM" or "pupil in average daily membership" is as defined in Section
439 53A-17a-103.

440 (2) "Base tax effort rate" means the average of:

441 (a) the highest combined capital levy rate; and

442 (b) the average combined capital levy rate for the school districts statewide.

443 (3) "Combined capital levy rate" means a rate that includes the sum of the following
444 property tax levies:

445 (a) the capital outlay levy authorized in Section 53A-16-107;

446 (b) the portion of the 10% of basic levy described in Section 53A-17a-145 that is
447 budgeted for debt service or capital outlay;

448 (c) the debt service levy authorized in Section 11-14-310; and

449 (d) the voted capital outlay leeway authorized in Section 53A-16-110.

450 (4) "Derived net taxable value" means the quotient of:

451 (a) the total property tax collections from April 1 through the following March 31 for a
452 school district for the calendar year preceding the March 31 date; divided by453 (b) the school district's total tax rate for the calendar year preceding the March 31
454 referenced in Subsection (4)(a).455 (5) "Highest combined capital levy rate" means the highest combined capital levy rate
456 imposed by a school district within the state for a fiscal year.

457 (6) "Property tax base per ADM" means the quotient of:

458 (a) a school district's derived net taxable value; divided by

459 (b) the school district's ADM.

460 (7) "Property tax yield per ADM" means:

461 (a) the product of:

462 (i) a school district's derived net taxable value; and

463 (ii) the base tax effort rate; divided by

464 (b) the school district's ADM.

465 (8) "School Equalization Fund" or "Fund" means the fund created in Section
466 53A-21-602.

467 ~~[(8)]~~ (9) "Statewide average property tax base per ADM" means the quotient of:

468 (a) the sum of all school districts' derived net taxable value; divided by

469 (b) the sum of all school districts' ADM.

470 Section 7. Section **53A-21-601** is enacted to read:

471 **Part 6. School Equalization**

472 **53A-21-601. Definitions.**

473 As used in this part:

474 (1) "Enrollment" means enrollment in a school district or charter school as of the

475 October 1 enrollment counts.

476 (2) "Three-year average enrollment growth" means an amount calculated by:

477 (a) subtracting the enrollment in the year that is three years prior to the current year
478 from the enrollment in the current year; and

479 (b) dividing the number resulting from the subtraction under Subsection (2)(a) by
480 three.

481 Section 8. Section **53A-21-602** is enacted to read:

482 **53A-21-602. School Equalization Fund -- Sources of revenue -- Interest.**

483 (1) There is created a special revenue fund within the Education Fund known as the
484 "School Equalization Fund."

485 (2) (a) The fund shall be funded by:

486 (i) sales and use tax revenues deposited in accordance with Section 59-12-103; and

487 (ii) legislative appropriations.

488 (b) Any interest earned on the fund shall be deposited into the fund.

489 (3) The State Board of Education shall distribute revenues deposited into the fund in
490 accordance with Section 53A-21-603.

491 (4) A school district or charter school that receives an allocation from the School
492 Equalization Fund:

493 (a) shall first use funds to abate property taxes imposed for bond payments made in
494 accordance with Section 11-14-310; and

495 (b) if property taxes imposed for bond payments are fully abated in accordance with
496 Subsection (4)(a), shall first use the funds in place of property tax levies imposed under

497 Sections 53A-16-107, 53A-16-110, 53A-17a-133, 53A-17a-134, 53A-17a-145, and

498 63G-7-704, and then may use the funds for any capital outlay or general fund purpose.

499 Section 9. Section **53A-21-603** is enacted to read:

500 **53A-21-603. School Equalization Program -- Allocations.**

501 (1) There is created the "School Equalization Program," as described in this section.

502 (2) For fiscal years beginning on or after July 1, 2012, the State Board of Education
503 shall annually allocate School Equalization Program funds in accordance with Subsection (3).

504 (3) Except as provided in Subsection (4), the State Board of Education shall annually:

505 (a) determine the amount of funds available in the School Equalization Fund for
506 allocation;

507 (b) distribute 75% of the available funds to school districts in proportion to each school
508 district's percentage of statewide enrollment in the current year; and

509 (c) distribute 25% of the available funds to school districts in proportion to each school
510 district's percentage of the combined total of three-year average enrollment growth in all school
511 districts with an increase in three-year average enrollment growth.

512 (4) (a) In making allocations under Subsection (3), the State Board of Education shall
513 allocate funds in fiscal year 2012-13 only to the extent that the related certified tax rate
514 reduction under Section 59-2-924.5 does not reduce a school district's certified tax rate below
515 the minimum basic tax rate imposed under Section 53A-17a-135.

516 (b) The State Board of Education shall allocate any funds that are not allocated due to
517 Subsection (4)(a) to other school districts in accordance with the allocation methodology under
518 Subsection (3).

519 (5) By April 1, 2012, the State Board of Education shall notify the Tax Commission
520 and each school district of projected allocations under this section for fiscal year 2012-13.

521 (6) If a new school district is created or school district boundaries are adjusted, the
522 enrollment and three year average enrollment growth shall be calculated on the basis of
523 enrollment in school district schools located within that school district's newly created or
524 adjusted boundaries.

525 Section 10. Section **59-1-401** is amended to read:

526 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
527 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
528 **interest.**

529 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

552 (I) this title;

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

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

555 (IV) Section 19-6-410.5;

556 (V) Section 19-6-714;

557 (VI) Section 19-6-805;

558 (VII) Section 34A-2-202;

559 (VIII) Section 40-6-14;

- 560 (IX) Section 69-2-5;
- 561 (X) Section 69-2-5.5; or
- 562 (XI) Section 69-2-5.6; or
- 563 (B) another amount that by statute is subject to a penalty imposed under this section.
- 564 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 565 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 566 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 567 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 568 (D) Chapter 3, Tax Equivalent Property Act; or
- 569 (E) Chapter 4, Privilege Tax.
- 570 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 571 tax, fee, or charge.
- 572 (2) (a) The due date for filing a return is:
- 573 (i) if the person filing the return is not allowed by law an extension of time for filing
- 574 the return, the day on which the return is due as provided by law; or
- 575 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 576 return, the earlier of:
- 577 (A) the date the person files the return; or
- 578 (B) the last day of that extension of time as allowed by law.
- 579 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 580 return after the due date described in Subsection (2)(a).
- 581 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 582 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 583 tax, fee, or charge:
- 584 (A) \$20; or
- 585 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 586 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 587 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 588 (A) \$20; or
- 589 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 590 filed no later than five days after the due date described in Subsection (2)(a);

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

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

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

597 (i) an amended return; or

598 (ii) a return with no tax due.

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

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

603 (ii) the person:

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

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

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

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

610 (iv) the person:

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

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

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

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

616 (v) (A) the commission:

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

619 (II) is considered to have denied a request for reconsideration under Subsection
620 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed

621 request for agency action; and

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

624 (I) issues the order constituting final agency action described in Subsection
625 (3)(a)(v)(A)(I); or

626 (II) is considered to have denied the request for reconsideration described in
627 Subsection (3)(a)(v)(A)(II); or

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

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

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

633 (A) \$20; or

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

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

637 (A) \$20; or

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

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

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

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

652 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the

653 excess of the required installment over the amount, if any, of the installment paid on or before
654 the due date for the installment.

655 (ii) The period of the underpayment shall run from the due date for the installment to
656 whichever of the following dates is the earlier:

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

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

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

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

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

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

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

676 (6) If a person does not file a return within an extension of time allowed by Section
677 59-7-505 or 59-10-516, the person:

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

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

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

681 (A) \$20; or

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

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

685 (A) \$20; or

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

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

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

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

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

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

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

703 (i) The notice of proposed penalty shall:

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

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

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

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

709 or

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

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

714 (iv) (A) If the commission determines that a person is liable for a penalty under this

715 Subsection (7), the commission shall assess the penalty and give notice and demand for
716 payment.

717 (B) The commission shall mail the notice and demand for payment described in
718 Subsection (7)(b)(iv)(A):

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

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

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

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

725 (A) the seller meets one or more of the criteria described in Subsection
726 59-12-107(1)(a); and

727 (B) the commission or a county, city, or town may require the seller to collect a tax
728 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); or

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

730 (A) the seller meets one or more of the criteria described in Subsection
731 59-12-107(1)(a); and

732 (B) the commission or a county, city, or town may require the seller to collect a tax
733 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c).

734 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
735 subject to the penalty under Subsection (7)(a)(ii) if:

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

738 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
739 and

740 (II) the commission or a county, city, or town may require the seller to collect a tax
741 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); or

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

743 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
744 and

745 (II) the commission or a county, city, or town may require the seller to collect a tax

746 under Subsections 59-12-103(2)(a) through ~~(d)~~ (c); and

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

750 (8) The penalty for failure to file an information return, information report, or a
751 complete supporting schedule is \$50 for each information return, information report, or
752 supporting schedule up to a maximum of \$1,000.

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

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

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

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

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

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

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

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

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

771 (A) a return;

772 (B) an affidavit;

773 (C) a claim; or

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

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

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

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

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

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

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

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

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

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

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

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

793 (i) shall be imposed by the commission;

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

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

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

799 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
800 commission may make rules prescribing the documents that are similar to Subsections
801 (11)(a)(i)(A) through (C).

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

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

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

810 (A) be less than \$500; or

811 (B) exceed \$1,000.

812 (c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this
813 title or any lawful requirement of the commission, fails to make, render, sign, or verify a return
814 or to supply information within the time required by law, or who makes, renders, signs, or
815 verifies a false or fraudulent return or statement, or who supplies false or fraudulent
816 information, is guilty of a third degree felony.

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

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

820 (B) exceed \$5,000.

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

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

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

827 (B) exceed \$25,000.

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

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

831 (I) a return;

832 (II) an affidavit;

833 (III) a claim; or

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

835 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
836 Subsection (12)(e)(i)(A):

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

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

839 commission.

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

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

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

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

844 (D) advising in the preparation or presentation of any portion of a document described
845 in Subsection (12)(e)(i)(A);

846 (E) aiding in the preparation or presentation of any portion of a document described in
847 Subsection (12)(e)(i)(A);

848 (F) assisting in the preparation or presentation of any portion of a document described
849 in Subsection (12)(e)(i)(A); or

850 (G) counseling in the preparation or presentation of any portion of a document
851 described in Subsection (12)(e)(i)(A).

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

853 (A) regardless of whether the person for which the document described in Subsection
854 (12)(e)(i)(A) is prepared or presented:

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

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

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

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

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

861 (B) exceed \$25,000.

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

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

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

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

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

871 (13) Upon making a record of its actions, and upon reasonable cause shown, the
872 commission may waive, reduce, or compromise any of the penalties or interest imposed under
873 this part.

874 Section 11. Section **59-2-404** is amended to read:

875 **59-2-404. Uniform fee on aircraft -- Collection of fee by commission --**
876 **Distribution of fees.**

877 (1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
878 beginning on January 1, 2009, an aircraft, required to be registered with the state is:

879 (a) exempt from the tax imposed by Section 59-2-103; and

880 (b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee
881 of \$25.

882 (2) (a) The uniform fee shall be collected by the commission with the registration fee
883 and distributed to the county in which the aircraft is based, in accordance with Subsection (3).

884 (b) A based aircraft is an aircraft which is hangared, tied down, or parked at the airport
885 for a plurality of the year.

886 (3) (a) [~~The~~] Forty-five percent of the uniform fees received by a county under
887 Subsection (2) shall be distributed to each taxing entity within the county that is not a school
888 district in the same proportion in which revenues collected from the ad valorem property tax
889 are distributed.

890 (b) Each taxing entity described in Subsection (3)(a) that receives revenues from the
891 uniform fee imposed by this section shall distribute the revenues in the same proportion in
892 which revenues collected from the ad valorem property tax are distributed.

893 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
894 be distributed by the county to each school district within the county in proportion to the school
895 district's percentage of the total current year enrollment in all of the school districts within the
896 county, as of October 1 enrollment counts.

897 (4) The commission shall promulgate rules to implement this section.

898 Section 12. Section **59-2-405** is amended to read:

899 **59-2-405. Uniform fee on tangible personal property required to be registered**
900 **with the state -- Distribution of revenues -- Appeals.**

901 (1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt
902 from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2,
903 Subsection (6).

904 (2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a
905 statewide uniform fee in lieu of the ad valorem tax on:

906 (i) motor vehicles required to be registered with the state that weigh 12,001 pounds or
907 more;

908 (ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with
909 the state;

910 (iii) watercraft required to be registered with the state;

911 (iv) recreational vehicles required to be registered with the state; and

912 (v) all other tangible personal property required to be registered with the state before it
913 is used on a public highway, on a public waterway, on public land, or in the air.

914 (b) The following tangible personal property is exempt from the statewide uniform fee
915 imposed by this section:

916 (i) aircraft;

917 (ii) state-assessed commercial vehicles;

918 (iii) tangible personal property subject to a uniform fee imposed by:

919 (A) Section 59-2-405.1;

920 (B) Section 59-2-405.2; or

921 (C) Section 59-2-405.3; and

922 (iv) personal property that is exempt from state or county ad valorem property taxes
923 under the laws of this state or of the federal government.

924 (3) Beginning on January 1, 1999, the uniform fee is 1.5% of the fair market value of
925 the personal property, as established by the commission.

926 (4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is
927 brought into the state and is required to be registered in Utah shall, as a condition of
928 registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by
929 the state of origin have been paid for the current calendar year.

930 (5) (a) [~~The~~] Forty-five percent of the revenues collected in each county from the
931 uniform fee shall be distributed by the county to each taxing entity that is not a school district

932 in which the property described in Subsection (2) is located in the same proportion in which
933 revenue collected from ad valorem real property tax is distributed.

934 (b) ~~Each~~ A taxing entity shall distribute the revenues received under Subsection
935 (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is
936 distributed.

937 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
938 be distributed by the county to each school district within the county in proportion to the school
939 district's percentage of the total current year enrollment in all of the school districts within the
940 county, as of October 1 enrollment counts.

941 (6) An appeal relating to the uniform fee imposed on the tangible personal property
942 described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

943 Section 13. Section **59-2-405.1** is amended to read:

944 **59-2-405.1. Uniform fee on certain vehicles weighing 12,000 pounds or less --**
945 **Distribution of revenues -- Appeals.**

946 (1) The property described in Subsection (2) is exempt from ad valorem property taxes
947 pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

948 (2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a
949 statewide uniform fee in lieu of the ad valorem tax on:

950 (i) motor vehicles as defined in Section 41-1a-102 that:

951 (A) are required to be registered with the state; and

952 (B) weigh 12,000 pounds or less; and

953 (ii) state-assessed commercial vehicles required to be registered with the state that
954 weigh 12,000 pounds or less.

955 (b) The following tangible personal property is exempt from the statewide uniform fee
956 imposed by this section:

957 (i) aircraft;

958 (ii) tangible personal property subject to a uniform fee imposed by:

959 (A) Section 59-2-405;

960 (B) Section 59-2-405.2; or

961 (C) Section 59-2-405.3; and

962 (iii) tangible personal property that is exempt from state or county ad valorem property

963 taxes under the laws of this state or of the federal government.

964 (3) (a) Except as provided in Subsections (3)(b) and (c), beginning on January 1, 1999,
965 the uniform fee for purposes of this section is as follows:

966	Age of Vehicle	Uniform Fee
967	12 or more years	\$10
968	9 or more years but less than 12 years	\$50
969	6 or more years but less than 9 years	\$80
970	3 or more years but less than 6 years	\$110
971	Less than 3 years	\$150

972 (b) For registrations under Section 41-1a-215.5, beginning on January 1, 2007, the
973 uniform fee for purposes of this section is as follows:

974	Age of Vehicle	Uniform Fee
975	12 or more years	\$5
976	9 or more years but less than 12 years	\$25
977	6 or more years but less than 9 years	\$40
978	3 or more years but less than 6 years	\$55
979	Less than 3 years	\$75

980 (c) Notwithstanding Subsections (3)(a) and (b), beginning on September 1, 2001, for a
981 motor vehicle issued a temporary sports event registration certificate in accordance with
982 Section 41-3-306, the uniform fee for purposes of this section is \$5 for the event period
983 specified on the temporary sports event registration certificate regardless of the age of the
984 motor vehicle.

985 (4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is
986 brought into the state and is required to be registered in Utah shall, as a condition of
987 registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by
988 the state of origin have been paid for the current calendar year.

989 (5) (a) [~~The~~] Forty-five percent of the revenues collected in each county from the
990 uniform fee shall be distributed by the county to each taxing entity that is not a school district
991 in which the property described in Subsection (2) is located in the same proportion in which
992 revenue collected from ad valorem real property tax is distributed.

993 (b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in
994 the same proportion in which revenue collected from ad valorem real property tax is
995 distributed.

996 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
997 be distributed by the county to each school district within the county in proportion to the school
998 district's percentage of the total current year enrollment in all of the school districts within the
999 county, as of October 1 enrollment counts.

1000 Section 14. Section **59-2-405.2** is amended to read:

1001 **59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal**
1002 **property -- Distribution of revenues -- Rulemaking authority -- Determining the length of**
1003 **a vessel.**

1004 (1) As used in this section:

1005 (a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor
1006 vehicle that:

1007 (A) is an:

1008 (I) all-terrain type I vehicle as defined in Section 41-22-2; or

1009 (II) all-terrain type II vehicle as defined in Section 41-22-2;

1010 (B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
1011 Vehicles; and

1012 (C) has:

1013 (I) an engine with more than 150 cubic centimeters displacement;

1014 (II) a motor that produces more than five horsepower; or

1015 (III) an electric motor; and

1016 (ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a
1017 snowmobile.

1018 (b) "Camper" means a camper:

1019 (i) as defined in Section 41-1a-102; and

1020 (ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
1021 Registration.

1022 (c) (i) "Canoe" means a vessel that:

1023 (A) is long and narrow;

- 1024 (B) has curved sides; and
1025 (C) is tapered:
1026 (I) to two pointed ends; or
1027 (II) to one pointed end and is blunt on the other end; and
1028 (ii) "canoe" includes:
1029 (A) a collapsible inflatable canoe;
1030 (B) a kayak;
1031 (C) a racing shell;
1032 (D) a rowing scull; or
1033 (E) notwithstanding the definition of vessel in Subsection (1)(aa), a canoe with an
1034 outboard motor.
1035 (d) "Dealer" is as defined in Section 41-1a-102.
1036 (e) "Jon boat" means a vessel that:
1037 (i) has a square bow; and
1038 (ii) has a flat bottom.
1039 (f) "Motor vehicle" is as defined in Section 41-22-2.
1040 (g) "Other motorcycle" means a motor vehicle that:
1041 (i) is:
1042 (A) a motorcycle as defined in Section 41-1a-102; and
1043 (B) designed primarily for use and operation over unimproved terrain;
1044 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
1045 Registration; and
1046 (iii) has:
1047 (A) an engine with more than 150 cubic centimeters displacement; or
1048 (B) a motor that produces more than five horsepower.
1049 (h) (i) "Other trailer" means a portable vehicle without motive power that is primarily
1050 used:
1051 (A) to transport tangible personal property; and
1052 (B) for a purpose other than a commercial purpose; and
1053 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1054 purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a

1055 purpose other than a commercial purpose.

1056 (i) "Outboard motor" is as defined in Section 41-1a-102.

1057 (j) "Personal watercraft" means a personal watercraft:

1058 (i) as defined in Section 73-18-2; and

1059 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State

1060 Boating Act.

1061 (k) (i) "Pontoon" means a vessel that:

1062 (A) is:

1063 (I) supported by one or more floats; and

1064 (II) propelled by either inboard or outboard power; and

1065 (B) is not:

1066 (I) a houseboat; or

1067 (II) a collapsible inflatable vessel; and

1068 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1069 commission may by rule define the term "houseboat."

1070 (l) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption,

1071 or reduction:

1072 (i) of all or a portion of a qualifying payment;

1073 (ii) granted by a county during the refund period; and

1074 (iii) received by a qualifying person.

1075 (m) (i) "Qualifying payment" means the payment made:

1076 (A) of a uniform statewide fee in accordance with this section:

1077 (I) by a qualifying person;

1078 (II) to a county; and

1079 (III) during the refund period; and

1080 (B) on an item of qualifying tangible personal property; and

1081 (ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for

1082 an item of qualifying tangible personal property, the qualifying payment for that qualifying

1083 tangible personal property is equal to the difference between:

1084 (A) the payment described in this Subsection (1)(m) for that item of qualifying tangible

1085 personal property; and

- 1086 (B) the amount of the qualifying adjustment, exemption, or reduction.
- 1087 (n) "Qualifying person" means a person that paid a uniform statewide fee:
- 1088 (i) during the refund period;
- 1089 (ii) in accordance with this section; and
- 1090 (iii) on an item of qualifying tangible personal property.
- 1091 (o) "Qualifying tangible personal property" means a:
- 1092 (i) qualifying vehicle; or
- 1093 (ii) qualifying watercraft.
- 1094 (p) "Qualifying vehicle" means:
- 1095 (i) an all-terrain vehicle with an engine displacement that is 100 or more cubic
- 1096 centimeters but 150 or less cubic centimeters;
- 1097 (ii) an other motorcycle with an engine displacement that is 100 or more cubic
- 1098 centimeters but 150 or less cubic centimeters;
- 1099 (iii) a small motor vehicle with an engine displacement that is 100 or more cubic
- 1100 centimeters but 150 or less cubic centimeters;
- 1101 (iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters
- 1102 but 150 or less cubic centimeters; or
- 1103 (v) a street motorcycle with an engine displacement that is 100 or more cubic
- 1104 centimeters but 150 or less cubic centimeters.
- 1105 (q) "Qualifying watercraft" means a:
- 1106 (i) canoe;
- 1107 (ii) collapsible inflatable vessel;
- 1108 (iii) jon boat;
- 1109 (iv) pontoon;
- 1110 (v) sailboat; or
- 1111 (vi) utility boat.
- 1112 (r) "Refund period" means the time period:
- 1113 (i) beginning on January 1, 2006; and
- 1114 (ii) ending on December 29, 2006.
- 1115 (s) "Sailboat" means a sailboat as defined in Section 73-18-2.
- 1116 (t) (i) "Small motor vehicle" means a motor vehicle that:

- 1117 (A) is required to be registered in accordance with Title 41, Motor Vehicles; and
1118 (B) has:
- 1119 (I) an engine with 150 or less cubic centimeters displacement; or
1120 (II) a motor that produces five or less horsepower; and
1121 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1122 commission may by rule develop a process for an owner of a motor vehicle to certify whether
1123 the motor vehicle has:
- 1124 (A) an engine with 150 or less cubic centimeters displacement; or
1125 (B) a motor that produces five or less horsepower.
- 1126 (u) "Snowmobile" means a motor vehicle that:
1127 (i) is a snowmobile as defined in Section 41-22-2;
1128 (ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
1129 Vehicles; and
- 1130 (iii) has:
- 1131 (A) an engine with more than 150 cubic centimeters displacement; or
1132 (B) a motor that produces more than five horsepower.
- 1133 (v) "Street motorcycle" means a motor vehicle that:
1134 (i) is:
1135 (A) a motorcycle as defined in Section 41-1a-102; and
1136 (B) designed primarily for use and operation on highways;
1137 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
1138 Registration; and
- 1139 (iii) has:
- 1140 (A) an engine with more than 150 cubic centimeters displacement; or
1141 (B) a motor that produces more than five horsepower.
- 1142 (w) "Tangible personal property owner" means a person that owns an item of
1143 qualifying tangible personal property.
- 1144 (x) "Tent trailer" means a portable vehicle without motive power that:
1145 (i) is constructed with collapsible side walls that:
1146 (A) fold for towing by a motor vehicle; and
1147 (B) unfold at a campsite;

- 1148 (ii) is designed as a temporary dwelling for travel, recreational, or vacation use;
- 1149 (iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
- 1150 Registration; and
- 1151 (iv) does not require a special highway movement permit when drawn by a
- 1152 self-propelled motor vehicle.
- 1153 (y) (i) Except as provided in Subsection (1)(y)(ii), "travel trailer" means a travel trailer:
- 1154 (A) as defined in Section 41-1a-102; and
- 1155 (B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
- 1156 Registration; and
- 1157 (ii) notwithstanding Subsection (1)(y)(i), "travel trailer" does not include:
- 1158 (A) a camper; or
- 1159 (B) a tent trailer.
- 1160 (z) (i) "Utility boat" means a vessel that:
- 1161 (A) has:
- 1162 (I) two or three bench seating;
- 1163 (II) an outboard motor; and
- 1164 (III) a hull made of aluminum, fiberglass, or wood; and
- 1165 (B) does not have:
- 1166 (I) decking;
- 1167 (II) a permanent canopy; or
- 1168 (III) a floor other than the hull; and
- 1169 (ii) notwithstanding Subsection (1)(z)(i), "utility boat" does not include a collapsible
- 1170 inflatable vessel.
- 1171 (aa) "Vessel" means a vessel:
- 1172 (i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
- 1173 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
- 1174 Boating Act.
- 1175 (2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
- 1176 beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:
- 1177 (i) exempt from the tax imposed by Section 59-2-103; and
- 1178 (ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as

1179 provided in this section.

1180 (b) The following tangible personal property applies to Subsection (2)(a) if that

1181 tangible personal property is required to be registered with the state:

1182 (i) an all-terrain vehicle;

1183 (ii) a camper;

1184 (iii) an other motorcycle;

1185 (iv) an other trailer;

1186 (v) a personal watercraft;

1187 (vi) a small motor vehicle;

1188 (vii) a snowmobile;

1189 (viii) a street motorcycle;

1190 (ix) a tent trailer;

1191 (x) a travel trailer; and

1192 (xi) a vessel if that vessel is less than 31 feet in length as determined under Subsection

1193 (6).

1194 (3) For purposes of this section, the uniform statewide fees are:

1195 (a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

1196 Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
1197 12 or more years	\$10
1198 9 or more years but less than 12 years	\$20
1199 6 or more years but less than 9 years	\$30
1200 3 or more years but less than 6 years	\$35
1201 Less than 3 years	\$45

1202 (b) for a camper or a tent trailer:

1203 Age of Camper or Tent Trailer	Uniform Statewide Fee
1204 12 or more years	\$10
1205 9 or more years but less than 12 years	\$25
1206 6 or more years but less than 9 years	\$35
1207 3 or more years but less than 6 years	\$50

1208	Less than 3 years	\$70
1209	(c) for an other trailer:	
1210	Age of Other Trailer	Uniform Statewide Fee
1211	12 or more years	\$10
1212	9 or more years but less than 12 years	\$15
1213	6 or more years but less than 9 years	\$20
1214	3 or more years but less than 6 years	\$25
1215	Less than 3 years	\$30
1216	(d) for a personal watercraft:	
1217	Age of Personal Watercraft	Uniform Statewide Fee
1218	12 or more years	\$10
1219	9 or more years but less than 12 years	\$25
1220	6 or more years but less than 9 years	\$35
1221	3 or more years but less than 6 years	\$45
1222	Less than 3 years	\$55
1223	(e) for a small motor vehicle:	
1224	Age of Small Motor Vehicle	Uniform Statewide Fee
1225	6 or more years	\$10
1226	3 or more years but less than 6 years	\$15
1227	Less than 3 years	\$25
1228	(f) for a street motorcycle:	
1229	Age of Street Motorcycle	Uniform Statewide Fee
1230	12 or more years	\$10
1231	9 or more years but less than 12 years	\$35
1232	6 or more years but less than 9 years	\$50
1233	3 or more years but less than 6 years	\$70
1234	Less than 3 years	\$95
1235	(g) for a travel trailer:	

1236	Age of Travel Trailer	Uniform Statewide Fee
1237	12 or more years	\$20
1238	9 or more years but less than 12 years	\$65
1239	6 or more years but less than 9 years	\$90
1240	3 or more years but less than 6 years	\$135
1241	Less than 3 years	\$175
1242	(h) \$10 regardless of the age of the vessel if the vessel is:	
1243	(i) less than 15 feet in length;	
1244	(ii) a canoe;	
1245	(iii) a jon boat; or	
1246	(iv) a utility boat;	
1247	(i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:	
1248	Length of Vessel	Uniform Statewide Fee
1249	15 feet or more in length but less than 19 feet in length	\$15
1250	19 feet or more in length but less than 23 feet in length	\$25
1251	23 feet or more in length but less than 27 feet in length	\$40
1252	27 feet or more in length but less than 31 feet in length	\$75
1253	(j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,	
1254	sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:	
1255	Age of Vessel	Uniform Statewide Fee
1256	12 or more years	\$25
1257	9 or more years but less than 12 years	\$65
1258	6 or more years but less than 9 years	\$80
1259	3 or more years but less than 6 years	\$110
1260	Less than 3 years	\$150
1261	(k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,	
1262	sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:	

	Age of Vessel	Uniform Statewide Fee
1263		
1264	12 or more years	\$50
1265	9 or more years but less than 12 years	\$120
1266	6 or more years but less than 9 years	\$175
1267	3 or more years but less than 6 years	\$220
1268	Less than 3 years	\$275

1269 (l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
 1270 sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

	Age of Vessel	Uniform Statewide Fee
1271		
1272	12 or more years	\$100
1273	9 or more years but less than 12 years	\$180
1274	6 or more years but less than 9 years	\$240
1275	3 or more years but less than 6 years	\$310
1276	Less than 3 years	\$400

1277 (m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
 1278 sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

	Age of Vessel	Uniform Statewide Fee
1279		
1280	12 or more years	\$120
1281	9 or more years but less than 12 years	\$250
1282	6 or more years but less than 9 years	\$350
1283	3 or more years but less than 6 years	\$500
1284	Less than 3 years	\$700

1285 (4) Notwithstanding Section 59-2-407, tangible personal property subject to the
 1286 uniform statewide fees imposed by this section that is brought into the state shall, as a
 1287 condition of registration, be subject to the uniform statewide fees unless all property taxes or
 1288 uniform fees imposed by the state of origin have been paid for the current calendar year.

1289 (5) (a) ~~[The]~~ Forty-five percent of the revenues collected in ~~[each]~~ a county from the
 1290 uniform statewide fees imposed by this section shall be distributed by the county to each taxing
 1291 entity that is not a school district in which each item of tangible personal property subject to the

1292 uniform statewide fees is located in the same proportion in which revenues collected from the
1293 ad valorem property tax are distributed.

1294 (b) Each taxing entity described in Subsection (5)(a) that receives revenues from the
1295 uniform statewide fees imposed by this section shall distribute the revenues in the same
1296 proportion in which revenues collected from the ad valorem property tax are distributed.

1297 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
1298 be distributed by the county to each school district within the county in proportion to the school
1299 district's percentage of the total current year enrollment in all of the school districts within the
1300 county, as of October 1 enrollment counts.

1301 (6) (a) For purposes of the uniform statewide fee imposed by this section, the length of
1302 a vessel shall be determined as provided in this Subsection (6).

1303 (b) (i) Except as provided in Subsection (6)(b)(ii), the length of a vessel shall be
1304 measured as follows:

1305 (A) the length of a vessel shall be measured in a straight line; and

1306 (B) the length of a vessel is equal to the distance between the bow of the vessel and the
1307 stern of the vessel.

1308 (ii) Notwithstanding Subsection (6)(b)(i), the length of a vessel may not include the
1309 length of:

1310 (A) a swim deck;

1311 (B) a ladder;

1312 (C) an outboard motor; or

1313 (D) an appurtenance or attachment similar to Subsections (6)(b)(ii)(A) through (C) as
1314 determined by the commission by rule.

1315 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1316 the commission may by rule define what constitutes an appurtenance or attachment similar to
1317 Subsections (6)(b)(ii)(A) through (C).

1318 (c) The length of a vessel:

1319 (i) (A) for a new vessel, is the length:

1320 (D) listed on the manufacturer's statement of origin if the length of the vessel measured
1321 under Subsection (6)(b) is equal to the length of the vessel listed on the manufacturer's
1322 statement of origin; or

1323 (II) listed on a form submitted to the commission by a dealer in accordance with
1324 Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b) is not equal to
1325 the length of the vessel listed on the manufacturer's statement of origin; or

1326 (B) for a vessel other than a new vessel, is the length:

1327 (I) corresponding to the model number if the length of the vessel measured under
1328 Subsection (6)(b) is equal to the length of the vessel determined by reference to the model
1329 number; or

1330 (II) listed on a form submitted to the commission by an owner of the vessel in
1331 accordance with Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b)
1332 is not equal to the length of the vessel determined by reference to the model number; and

1333 (ii) (A) is determined at the time of the:

1334 (I) first registration as defined in Section 41-1a-102 that occurs on or after January 1,
1335 2006; or

1336 (II) first renewal of registration that occurs on or after January 1, 2006; and

1337 (B) may be determined after the time described in Subsection (6)(c)(ii)(A) only if the
1338 commission requests that a dealer or an owner submit a form to the commission in accordance
1339 with Subsection (6)(d).

1340 (d) (i) A form under Subsection (6)(c) shall:

1341 (A) be developed by the commission;

1342 (B) be provided by the commission to:

1343 (I) a dealer; or

1344 (II) an owner of a vessel;

1345 (C) provide for the reporting of the length of a vessel;

1346 (D) be submitted to the commission at the time the length of the vessel is determined in
1347 accordance with Subsection (6)(c)(ii);

1348 (E) be signed by:

1349 (I) if the form is submitted by a dealer, that dealer; or

1350 (II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

1351 (F) include a certification that the information set forth in the form is true.

1352 (ii) A certification made under Subsection (6)(d)(i)(F) is considered as if made under
1353 oath and subject to the same penalties as provided by law for perjury.

1354 (iii) (A) A dealer or an owner that submits a form to the commission under Subsection
1355 (6)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

1356 (I) the commission;

1357 (II) the county assessor; or

1358 (III) the commission and the county assessor.

1359 (B) The consent described in Subsection (6)(d)(iii)(A) is a condition to the acceptance
1360 of any form.

1361 (7) (a) A county that collected a qualifying payment from a qualifying person during
1362 the refund period shall issue a refund to the qualifying person as described in Subsection (7)(b)
1363 if:

1364 (i) the difference described in Subsection (7)(b) is \$1 or more; and

1365 (ii) the qualifying person submitted a form in accordance with Subsections (7)(c) and
1366 (d).

1367 (b) The refund amount shall be calculated as follows:

1368 (i) for a qualifying vehicle, the refund amount is equal to the difference between:

1369 (A) the qualifying payment the qualifying person paid on the qualifying vehicle during
1370 the refund period; and

1371 (B) the amount of the statewide uniform fee:

1372 (I) for that qualifying vehicle; and

1373 (II) that the qualifying person would have been required to pay:

1374 (Aa) during the refund period; and

1375 (Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session,
1376 Chapter 3, Section 1, been in effect during the refund period; and

1377 (ii) for a qualifying watercraft, the refund amount is equal to the difference between:

1378 (A) the qualifying payment the qualifying person paid on the qualifying watercraft
1379 during the refund period; and

1380 (B) the amount of the statewide uniform fee:

1381 (I) for that qualifying watercraft;

1382 (II) that the qualifying person would have been required to pay:

1383 (Aa) during the refund period; and

1384 (Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session,

1385 Chapter 3, Section 1, been in effect during the refund period.

1386 (c) Before the county issues a refund to the qualifying person in accordance with
1387 Subsection (7)(a) the qualifying person shall submit a form to the county to verify the
1388 qualifying person is entitled to the refund.

1389 (d) (i) A form under Subsection (7)(c) or (8) shall:

1390 (A) be developed by the commission;

1391 (B) be provided by the commission to the counties;

1392 (C) be provided by the county to the qualifying person or tangible personal property
1393 owner;

1394 (D) provide for the reporting of the following:

1395 (I) for a qualifying vehicle:

1396 (Aa) the type of qualifying vehicle; and

1397 (Bb) the amount of cubic centimeters displacement;

1398 (II) for a qualifying watercraft:

1399 (Aa) the length of the qualifying watercraft;

1400 (Bb) the age of the qualifying watercraft; and

1401 (Cc) the type of qualifying watercraft;

1402 (E) be signed by the qualifying person or tangible personal property owner; and

1403 (F) include a certification that the information set forth in the form is true.

1404 (ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under
1405 oath and subject to the same penalties as provided by law for perjury.

1406 (iii) (A) A qualifying person or tangible personal property owner that submits a form to
1407 a county under Subsection (7)(c) or (8) is considered to have given the qualifying person's
1408 consent to an audit or review by:

1409 (I) the commission;

1410 (II) the county assessor; or

1411 (III) the commission and the county assessor.

1412 (B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance
1413 of any form.

1414 (e) The county shall make changes to the commission's records with the information
1415 received by the county from the form submitted in accordance with Subsection (7)(c).

1416 (8) A county shall change its records regarding an item of qualifying tangible personal
1417 property if the tangible personal property owner submits a form to the county in accordance
1418 with Subsection (7)(d).

1419 (9) (a) For purposes of this Subsection (9) "owner of tangible personal property" means
1420 a person that was required to pay a uniform statewide fee:

1421 (i) during the refund period;

1422 (ii) in accordance with this section; and

1423 (iii) on an item of tangible personal property subject to the uniform statewide fees
1424 imposed by this section.

1425 (b) A county that collected revenues from uniform statewide fees imposed by this
1426 section during the refund period shall notify an owner of tangible personal property:

1427 (i) of the tangible personal property classification changes made to this section
1428 pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

1429 (ii) that the owner of tangible personal property may obtain and file a form to modify
1430 the county's records regarding the owner's tangible personal property; and

1431 (iii) that the owner may be entitled to a refund pursuant to Subsection (7).

1432 Section 15. Section **59-2-405.3** is amended to read:

1433 **59-2-405.3. Uniform statewide fee on motor homes -- Distribution of revenues.**

1434 (1) For purposes of this section, "motor home" means:

1435 (a) a motor home, as defined in Section 13-14-102, that is required to be registered
1436 with the state; or

1437 (b) a self-propelled vehicle that is:

1438 (i) modified for primary use as a temporary dwelling for travel, recreational, or
1439 vacation use; and

1440 (ii) required to be registered with the state.

1441 (2) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
1442 beginning on January 1, 2006, a motor home is:

1443 (a) exempt from the tax imposed by Section 59-2-103; and

1444 (b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee
1445 as provided in Subsection (3).

1446 (3) The uniform statewide fee described in Subsection (2)(b) is:

1447 (a) beginning on January 1, 2006, and ending December 31, 2007, 1.25% of the fair
1448 market value of the motor home, as established by the commission; and

1449 (b) beginning on January 1, 2008, 1% of the fair market value of the motor home, as
1450 established by the commission.

1451 (4) Notwithstanding Section 59-2-407, a motor home subject to the uniform statewide
1452 fee imposed by this section that is brought into the state shall, as a condition of registration, be
1453 subject to the uniform statewide fee unless all property taxes or uniform fees imposed by the
1454 state of origin have been paid for the current calendar year.

1455 (5) (a) Each county shall distribute 45% of the revenue collected by the county from
1456 the uniform statewide fee imposed by this section to each taxing entity that is not a school
1457 district in which each motor home subject to the uniform statewide fee is located in the same
1458 proportion in which revenue collected from the ad valorem property tax is distributed.

1459 (b) Each taxing entity described in Subsection (5)(a) that receives revenue from the
1460 uniform statewide fee imposed by this section shall distribute the revenue in the same
1461 proportion in which revenue collected from the ad valorem property tax is distributed.

1462 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
1463 be distributed by the county to each school district within the county in proportion to the school
1464 district's percentage of the total current year enrollment in all of the school districts within the
1465 county, as of October 1 enrollment counts.

1466 (6) An appeal relating to the uniform statewide fee imposed on a motor home by this
1467 section shall be filed pursuant to Section 59-2-1005.

1468 Section 16. Section **59-2-919.3** is enacted to read:

1469 **59-2-919.3. Limitation on property tax -- Bond issuance.**

1470 (1) For the taxable year beginning on January 1, 2012 and ending on December 31,
1471 2012, a taxing entity may not levy a tax rate that exceeds its certified tax rate calculated in
1472 accordance with Section 59-2-924.

1473 (2) Subsection (1) may not be construed to limit the ability of a taxing entity to:

1474 (a) submit a bond proposal to voters in accordance with applicable law; or

1475 (b) issue general obligation bonds previously approved by the taxing entity's voters.

1476 Section 17. Section **59-2-924.5** is enacted to read:

1477 **59-2-924.5. Reduction of certified tax rate for school districts based on school**

1478 **equalization allocation.**

1479 For the 2012 tax year, the certified tax rate of each school district shall be decreased by
1480 the amount necessary to reduce revenues for that school district by the projected amount of the
1481 allocation that the State Board of Education will make to that school district under Section
1482 53A-21-603 for fiscal year 2012-13.

1483 Section 18. Section **59-12-102** is amended to read:

1484 **59-12-102. Definitions.**

1485 As used in this chapter:

1486 (1) "800 service" means a telecommunications service that:

1487 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1488 (b) is typically marketed:

1489 (i) under the name 800 toll-free calling;

1490 (ii) under the name 855 toll-free calling;

1491 (iii) under the name 866 toll-free calling;

1492 (iv) under the name 877 toll-free calling;

1493 (v) under the name 888 toll-free calling; or

1494 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

1495 Federal Communications Commission.

1496 (2) (a) "900 service" means an inbound toll telecommunications service that:

1497 (i) a subscriber purchases;

1498 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1499 the subscriber's:

1500 (A) prerecorded announcement; or

1501 (B) live service; and

1502 (iii) is typically marketed:

1503 (A) under the name 900 service; or

1504 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

1505 Communications Commission.

1506 (b) "900 service" does not include a charge for:

1507 (i) a collection service a seller of a telecommunications service provides to a

1508 subscriber; or

- 1509 (ii) the following a subscriber sells to the subscriber's customer:
- 1510 (A) a product; or
- 1511 (B) a service.
- 1512 (3) (a) "Admission or user fees" includes season passes.
- 1513 (b) "Admission or user fees" does not include annual membership dues to private
- 1514 organizations.
- 1515 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1516 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1517 Agreement after November 12, 2002.
- 1518 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1519 (a) listed under Subsection (6); and
- 1520 (b) that are imposed within a local taxing jurisdiction.
- 1521 (6) "Agreement sales and use tax" means a tax imposed under:
- 1522 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1523 (b) Subsection 59-12-103(2)(b)(i);
- 1524 [~~(c) Subsection 59-12-103(2)(c)(i);~~]
- 1525 [~~(d) Subsection 59-12-103(2)(d)(i)(A)(I);~~]
- 1526 [~~(e)~~ (c) Section 59-12-204;
- 1527 [~~(f)~~ (d) Section 59-12-401;
- 1528 [~~(g)~~ (e) Section 59-12-402;
- 1529 [~~(h)~~ (f) Section 59-12-703;
- 1530 [~~(i)~~ (g) Section 59-12-802;
- 1531 [~~(j)~~ (h) Section 59-12-804;
- 1532 [~~(k)~~ (i) Section 59-12-1102;
- 1533 [~~(l)~~ (j) Section 59-12-1302;
- 1534 [~~(m)~~ (k) Section 59-12-1402;
- 1535 [~~(n)~~ (l) Section 59-12-1802;
- 1536 [~~(o)~~ (m) Section 59-12-2003;
- 1537 [~~(p)~~ (n) Section 59-12-2103;
- 1538 [~~(q)~~ (o) Section 59-12-2213;
- 1539 [~~(r)~~ (p) Section 59-12-2214;

- 1540 ~~[(s)]~~ (q) Section 59-12-2215;
- 1541 ~~[(t)]~~ (r) Section 59-12-2216;
- 1542 ~~[(u)]~~ (s) Section 59-12-2217; or
- 1543 ~~[(v)]~~ (t) Section 59-12-2218.
- 1544 (7) "Aircraft" is as defined in Section 72-10-102.
- 1545 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1546 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
- 1547 in Subsection 59-12-107(1)(f) of an airline; and
- 1548 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1549 whether the business entity performs the following in this state:
- 1550 (i) check, diagnose, overhaul, and repair:
- 1551 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1552 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1553 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1554 engine;
- 1555 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1556 aircraft:
- 1557 (A) an inspection;
- 1558 (B) a repair, including a structural repair or modification;
- 1559 (C) changing landing gear; and
- 1560 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1561 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1562 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1563 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1564 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1565 authority that certifies the fixed wing turbine powered aircraft.
- 1566 (9) "Alcoholic beverage" means a beverage that:
- 1567 (a) is suitable for human consumption; and
- 1568 (b) contains .5% or more alcohol by volume.
- 1569 (10) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1570 provision of telecommunications service.

- 1571 (b) "Ancillary service" includes:
- 1572 (i) a conference bridging service;
- 1573 (ii) a detailed communications billing service;
- 1574 (iii) directory assistance;
- 1575 (iv) a vertical service; or
- 1576 (v) a voice mail service.
- 1577 (11) "Area agency on aging" is as defined in Section 62A-3-101.
- 1578 (12) "Assisted amusement device" means an amusement device, skill device, or ride
- 1579 device that is started and stopped by an individual:
- 1580 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 1581 device, skill device, or ride device; and
- 1582 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 1583 or ride device.
- 1584 (13) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 1585 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 1586 by an individual:
- 1587 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 1588 property; and
- 1589 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 1590 property.
- 1591 (14) "Authorized carrier" means:
- 1592 (a) in the case of vehicles operated over public highways, the holder of credentials
- 1593 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 1594 Plan and the International Fuel Tax Agreement;
- 1595 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 1596 certificate or air carrier's operating certificate; or
- 1597 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 1598 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 1599 (15) (a) Except as provided in Subsection (15)(b), "biomass energy" means any of the
- 1600 following that is used as the primary source of energy to produce fuel or electricity:
- 1601 (i) material from a plant or tree; or

- 1602 (ii) other organic matter that is available on a renewable basis, including:
- 1603 (A) slash and brush from forests and woodlands;
- 1604 (B) animal waste;
- 1605 (C) methane produced:
- 1606 (I) at landfills; or
- 1607 (II) as a byproduct of the treatment of wastewater residuals;
- 1608 (D) aquatic plants; and
- 1609 (E) agricultural products.
- 1610 (b) "Biomass energy" does not include:
- 1611 (i) black liquor;
- 1612 (ii) treated woods; or
- 1613 (iii) biomass from municipal solid waste other than methane produced:
- 1614 (A) at landfills; or
- 1615 (B) as a byproduct of the treatment of wastewater residuals.
- 1616 (16) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1617 property, products, or services if the tangible personal property, products, or services are:
- 1618 (i) distinct and identifiable; and
- 1619 (ii) sold for one nonitemized price.
- 1620 (b) "Bundled transaction" does not include:
- 1621 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1622 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1623 the transaction;
- 1624 (ii) the sale of real property;
- 1625 (iii) the sale of services to real property;
- 1626 (iv) the retail sale of tangible personal property and a service if:
- 1627 (A) the tangible personal property:
- 1628 (I) is essential to the use of the service; and
- 1629 (II) is provided exclusively in connection with the service; and
- 1630 (B) the service is the true object of the transaction;
- 1631 (v) the retail sale of two services if:
- 1632 (A) one service is provided that is essential to the use or receipt of a second service;

- 1633 (B) the first service is provided exclusively in connection with the second service; and
1634 (C) the second service is the true object of the transaction;
- 1635 (vi) a transaction that includes tangible personal property or a product subject to
1636 taxation under this chapter and tangible personal property or a product that is not subject to
1637 taxation under this chapter if the:
- 1638 (A) seller's purchase price of the tangible personal property or product subject to
1639 taxation under this chapter is de minimis; or
- 1640 (B) seller's sales price of the tangible personal property or product subject to taxation
1641 under this chapter is de minimis; and
- 1642 (vii) the retail sale of tangible personal property that is not subject to taxation under
1643 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 1644 (A) that retail sale includes:
- 1645 (I) food and food ingredients;
- 1646 (II) a drug;
- 1647 (III) durable medical equipment;
- 1648 (IV) mobility enhancing equipment;
- 1649 (V) an over-the-counter drug;
- 1650 (VI) a prosthetic device; or
- 1651 (VII) a medical supply; and
- 1652 (B) subject to Subsection (16)(f):
- 1653 (I) the seller's purchase price of the tangible personal property subject to taxation under
1654 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1655 (II) the seller's sales price of the tangible personal property subject to taxation under
1656 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 1657 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a
1658 service that is distinct and identifiable does not include:
- 1659 (A) packaging that:
- 1660 (I) accompanies the sale of the tangible personal property, product, or service; and
1661 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1662 service;
- 1663 (B) tangible personal property, a product, or a service provided free of charge with the

1664 purchase of another item of tangible personal property, a product, or a service; or

1665 (C) an item of tangible personal property, a product, or a service included in the
1666 definition of "purchase price."

1667 (ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a
1668 product, or a service is provided free of charge with the purchase of another item of tangible
1669 personal property, a product, or a service if the sales price of the purchased item of tangible
1670 personal property, product, or service does not vary depending on the inclusion of the tangible
1671 personal property, product, or service provided free of charge.

1672 (d) (i) For purposes of Subsection (16)(a)(ii), property sold for one nonitemized price
1673 does not include a price that is separately identified by tangible personal property, product, or
1674 service on the following, regardless of whether the following is in paper format or electronic
1675 format:

1676 (A) a binding sales document; or

1677 (B) another supporting sales-related document that is available to a purchaser.

1678 (ii) For purposes of Subsection (16)(d)(i), a binding sales document or another
1679 supporting sales-related document that is available to a purchaser includes:

1680 (A) a bill of sale;

1681 (B) a contract;

1682 (C) an invoice;

1683 (D) a lease agreement;

1684 (E) a periodic notice of rates and services;

1685 (F) a price list;

1686 (G) a rate card;

1687 (H) a receipt; or

1688 (I) a service agreement.

1689 (e) (i) For purposes of Subsection (16)(b)(vi), the sales price of tangible personal
1690 property or a product subject to taxation under this chapter is de minimis if:

1691 (A) the seller's purchase price of the tangible personal property or product is 10% or
1692 less of the seller's total purchase price of the bundled transaction; or

1693 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1694 the seller's total sales price of the bundled transaction.

1695 (ii) For purposes of Subsection (16)(b)(vi), a seller:

1696 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1697 purchase price or sales price of the tangible personal property or product subject to taxation
1698 under this chapter is de minimis; and

1699 (B) may not use a combination of the seller's purchase price and the seller's sales price
1700 to determine if the purchase price or sales price of the tangible personal property or product
1701 subject to taxation under this chapter is de minimis.

1702 (iii) For purposes of Subsection (16)(b)(vi), a seller shall use the full term of a service
1703 contract to determine if the sales price of tangible personal property or a product is de minimis.

1704 (f) For purposes of Subsection (16)(b)(vii)(B), a seller may not use a combination of
1705 the seller's purchase price and the seller's sales price to determine if tangible personal property
1706 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1707 price of that retail sale.

1708 (17) "Certified automated system" means software certified by the governing board of
1709 the agreement that:

1710 (a) calculates the agreement sales and use tax imposed within a local taxing
1711 jurisdiction:

1712 (i) on a transaction; and

1713 (ii) in the states that are members of the agreement;

1714 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1715 member of the agreement; and

1716 (c) maintains a record of the transaction described in Subsection (17)(a)(i).

1717 (18) "Certified service provider" means an agent certified:

1718 (a) by the governing board of the agreement; and

1719 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1720 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1721 own purchases.

1722 (19) (a) Subject to Subsection (19)(b), "clothing" means all human wearing apparel
1723 suitable for general use.

1724 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1725 commission shall make rules:

- 1726 (i) listing the items that constitute "clothing"; and
1727 (ii) that are consistent with the list of items that constitute "clothing" under the
1728 agreement.
- 1729 (20) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 1730 (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1731 fuels that does not constitute industrial use under Subsection (48) or residential use under
1732 Subsection (94).
- 1733 (22) (a) "Common carrier" means a person engaged in or transacting the business of
1734 transporting passengers, freight, merchandise, or other property for hire within this state.
- 1735 (b) (i) "Common carrier" does not include a person who, at the time the person is
1736 traveling to or from that person's place of employment, transports a passenger to or from the
1737 passenger's place of employment.
- 1738 (ii) For purposes of Subsection (22)(b)(i), in accordance with Title 63G, Chapter 3,
1739 Utah Administrative Rulemaking Act, the commission may make rules defining what
1740 constitutes a person's place of employment.
- 1741 (23) "Component part" includes:
- 1742 (a) poultry, dairy, and other livestock feed, and their components;
1743 (b) baling ties and twine used in the baling of hay and straw;
1744 (c) fuel used for providing temperature control of orchards and commercial
1745 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1746 off-highway type farm machinery; and
1747 (d) feed, seeds, and seedlings.
- 1748 (24) "Computer" means an electronic device that accepts information:
- 1749 (a) (i) in digital form; or
1750 (ii) in a form similar to digital form; and
1751 (b) manipulates that information for a result based on a sequence of instructions.
- 1752 (25) "Computer software" means a set of coded instructions designed to cause:
- 1753 (a) a computer to perform a task; or
1754 (b) automatic data processing equipment to perform a task.
- 1755 (26) (a) "Conference bridging service" means an ancillary service that links two or
1756 more participants of an audio conference call or video conference call.

1757 (b) "Conference bridging service" includes providing a telephone number as part of the
1758 ancillary service described in Subsection (26)(a).

1759 (c) "Conference bridging service" does not include a telecommunications service used
1760 to reach the ancillary service described in Subsection (26)(a).

1761 (27) "Construction materials" means any tangible personal property that will be
1762 converted into real property.

1763 (28) "Delivered electronically" means delivered to a purchaser by means other than
1764 tangible storage media.

1765 (29) (a) "Delivery charge" means a charge:

1766 (i) by a seller of:

1767 (A) tangible personal property;

1768 (B) a product transferred electronically; or

1769 (C) services; and

1770 (ii) for preparation and delivery of the tangible personal property, product transferred
1771 electronically, or services described in Subsection (29)(a)(i) to a location designated by the
1772 purchaser.

1773 (b) "Delivery charge" includes a charge for the following:

1774 (i) transportation;

1775 (ii) shipping;

1776 (iii) postage;

1777 (iv) handling;

1778 (v) crating; or

1779 (vi) packing.

1780 (30) "Detailed telecommunications billing service" means an ancillary service of
1781 separately stating information pertaining to individual calls on a customer's billing statement.

1782 (31) "Dietary supplement" means a product, other than tobacco, that:

1783 (a) is intended to supplement the diet;

1784 (b) contains one or more of the following dietary ingredients:

1785 (i) a vitamin;

1786 (ii) a mineral;

1787 (iii) an herb or other botanical;

- 1788 (iv) an amino acid;
- 1789 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1790 dietary intake; or
- 1791 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1792 described in Subsections (31)(b)(i) through (v);
- 1793 (c) (i) except as provided in Subsection (31)(c)(ii), is intended for ingestion in:
- 1794 (A) tablet form;
- 1795 (B) capsule form;
- 1796 (C) powder form;
- 1797 (D) softgel form;
- 1798 (E) gelcap form; or
- 1799 (F) liquid form; or
- 1800 (ii) notwithstanding Subsection (31)(c)(i), if the product is not intended for ingestion in
1801 a form described in Subsections (31)(c)(i)(A) through (F), is not represented:
- 1802 (A) as conventional food; and
- 1803 (B) for use as a sole item of:
- 1804 (I) a meal; or
- 1805 (II) the diet; and
- 1806 (d) is required to be labeled as a dietary supplement:
- 1807 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1808 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1809 (32) (a) "Direct mail" means printed material delivered or distributed by United States
1810 mail or other delivery service:
- 1811 (i) to:
- 1812 (A) a mass audience; or
- 1813 (B) addressees on a mailing list provided:
- 1814 (I) by a purchaser of the mailing list; or
- 1815 (II) at the discretion of the purchaser of the mailing list; and
- 1816 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1817 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1818 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1819 (c) "Direct mail" does not include multiple items of printed material delivered to a
1820 single address.

1821 (33) "Directory assistance" means an ancillary service of providing:

1822 (a) address information; or

1823 (b) telephone number information.

1824 (34) (a) "Disposable home medical equipment or supplies" means medical equipment
1825 or supplies that:

1826 (i) cannot withstand repeated use; and

1827 (ii) are purchased by, for, or on behalf of a person other than:

1828 (A) a health care facility as defined in Section 26-21-2;

1829 (B) a health care provider as defined in Section 78B-3-403;

1830 (C) an office of a health care provider described in Subsection (34)(a)(ii)(B); or

1831 (D) a person similar to a person described in Subsections (34)(a)(ii)(A) through (C).

1832 (b) "Disposable home medical equipment or supplies" does not include:

1833 (i) a drug;

1834 (ii) durable medical equipment;

1835 (iii) a hearing aid;

1836 (iv) a hearing aid accessory;

1837 (v) mobility enhancing equipment; or

1838 (vi) tangible personal property used to correct impaired vision, including:

1839 (A) eyeglasses; or

1840 (B) contact lenses.

1841 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1842 commission may by rule define what constitutes medical equipment or supplies.

1843 (35) (a) "Drug" means a compound, substance, or preparation, or a component of a
1844 compound, substance, or preparation that is:

1845 (i) recognized in:

1846 (A) the official United States Pharmacopoeia;

1847 (B) the official Homeopathic Pharmacopoeia of the United States;

1848 (C) the official National Formulary; or

1849 (D) a supplement to a publication listed in Subsections (35)(a)(i)(A) through (C);

- 1850 (ii) intended for use in the:
- 1851 (A) diagnosis of disease;
- 1852 (B) cure of disease;
- 1853 (C) mitigation of disease;
- 1854 (D) treatment of disease; or
- 1855 (E) prevention of disease; or
- 1856 (iii) intended to affect:
- 1857 (A) the structure of the body; or
- 1858 (B) any function of the body.
- 1859 (b) "Drug" does not include:
- 1860 (i) food and food ingredients;
- 1861 (ii) a dietary supplement;
- 1862 (iii) an alcoholic beverage; or
- 1863 (iv) a prosthetic device.
- 1864 (36) (a) Except as provided in Subsection (36)(c), "durable medical equipment" means
- 1865 equipment that:
- 1866 (i) can withstand repeated use;
- 1867 (ii) is primarily and customarily used to serve a medical purpose;
- 1868 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1869 (iv) is not worn in or on the body.
- 1870 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1871 equipment described in Subsection (36)(a).
- 1872 (c) Notwithstanding Subsection (36)(a), "durable medical equipment" does not include
- 1873 mobility enhancing equipment.
- 1874 (37) "Electronic" means:
- 1875 (a) relating to technology; and
- 1876 (b) having:
- 1877 (i) electrical capabilities;
- 1878 (ii) digital capabilities;
- 1879 (iii) magnetic capabilities;
- 1880 (iv) wireless capabilities;

- 1881 (v) optical capabilities;
- 1882 (vi) electromagnetic capabilities; or
- 1883 (vii) capabilities similar to Subsections (37)(b)(i) through (vi).
- 1884 (38) "Employee" is as defined in Section 59-10-401.
- 1885 (39) "Fixed guideway" means a public transit facility that uses and occupies:
- 1886 (a) rail for the use of public transit; or
- 1887 (b) a separate right-of-way for the use of public transit.
- 1888 (40) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1889 (a) is powered by turbine engines;
- 1890 (b) operates on jet fuel; and
- 1891 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1892 (41) "Fixed wireless service" means a telecommunications service that provides radio
- 1893 communication between fixed points.
- 1894 (42) (a) "Food and food ingredients" means substances:
- 1895 (i) regardless of whether the substances are in:
- 1896 (A) liquid form;
- 1897 (B) concentrated form;
- 1898 (C) solid form;
- 1899 (D) frozen form;
- 1900 (E) dried form; or
- 1901 (F) dehydrated form; and
- 1902 (ii) that are:
- 1903 (A) sold for:
- 1904 (I) ingestion by humans; or
- 1905 (II) chewing by humans; and
- 1906 (B) consumed for the substance's:
- 1907 (I) taste; or
- 1908 (II) nutritional value.
- 1909 (b) "Food and food ingredients" includes an item described in Subsection (78)(b)(iii).
- 1910 (c) "Food and food ingredients" does not include:
- 1911 (i) an alcoholic beverage;

- 1912 (ii) tobacco; or
- 1913 (iii) prepared food.
- 1914 (43) (a) "Fundraising sales" means sales:
- 1915 (i) (A) made by a school; or
- 1916 (B) made by a school student;
- 1917 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1918 materials, or provide transportation; and
- 1919 (iii) that are part of an officially sanctioned school activity.
- 1920 (b) For purposes of Subsection (43)(a)(iii), "officially sanctioned school activity"
- 1921 means a school activity:
- 1922 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1923 district governing the authorization and supervision of fundraising activities;
- 1924 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1925 educational personnel by direct payment, commissions, or payment in kind; and
- 1926 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1927 controlled by the school or school district.
- 1928 (44) "Geothermal energy" means energy contained in heat that continuously flows
- 1929 outward from the earth that is used as the sole source of energy to produce electricity.
- 1930 (45) "Governing board of the agreement" means the governing board of the agreement
- 1931 that is:
- 1932 (a) authorized to administer the agreement; and
- 1933 (b) established in accordance with the agreement.
- 1934 (46) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 1935 (i) the executive branch of the state, including all departments, institutions, boards,
- 1936 divisions, bureaus, offices, commissions, and committees;
- 1937 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 1938 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 1939 (iii) the legislative branch of the state, including the House of Representatives, the
- 1940 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 1941 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 1942 Analyst;

- 1943 (iv) the National Guard;
- 1944 (v) an independent entity as defined in Section 63E-1-102; or
- 1945 (vi) a political subdivision as defined in Section 17B-1-102.
- 1946 (b) "Governmental entity" does not include the state systems of public and higher
- 1947 education, including:
- 1948 (i) a college campus of the Utah College of Applied Technology;
- 1949 (ii) a school;
- 1950 (iii) the State Board of Education;
- 1951 (iv) the State Board of Regents; or
- 1952 (v) a state institution of higher education as defined in Section 53B-3-102.
- 1953 (47) "Hydroelectric energy" means water used as the sole source of energy to produce
- 1954 electricity.
- 1955 (48) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 1956 other fuels:
- 1957 (a) in mining or extraction of minerals;
- 1958 (b) in agricultural operations to produce an agricultural product up to the time of
- 1959 harvest or placing the agricultural product into a storage facility, including:
- 1960 (i) commercial greenhouses;
- 1961 (ii) irrigation pumps;
- 1962 (iii) farm machinery;
- 1963 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 1964 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 1965 (v) other farming activities;
- 1966 (c) in manufacturing tangible personal property at an establishment described in SIC
- 1967 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 1968 Executive Office of the President, Office of Management and Budget;
- 1969 (d) by a scrap recycler if:
- 1970 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1971 one or more of the following items into prepared grades of processed materials for use in new
- 1972 products:
- 1973 (A) iron;

- 1974 (B) steel;
- 1975 (C) nonferrous metal;
- 1976 (D) paper;
- 1977 (E) glass;
- 1978 (F) plastic;
- 1979 (G) textile; or
- 1980 (H) rubber; and
- 1981 (ii) the new products under Subsection (48)(d)(i) would otherwise be made with
- 1982 nonrecycled materials; or
- 1983 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 1984 cogeneration facility as defined in Section 54-2-1.
- 1985 (49) (a) Except as provided in Subsection (49)(b), "installation charge" means a charge
- 1986 for installing:
- 1987 (i) tangible personal property; or
- 1988 (ii) a product transferred electronically.
- 1989 (b) "Installation charge" does not include a charge for repairs or renovations of:
- 1990 (i) tangible personal property; or
- 1991 (ii) a product transferred electronically.
- 1992 (50) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1993 personal property or a product transferred electronically for:
- 1994 (i) (A) a fixed term; or
- 1995 (B) an indeterminate term; and
- 1996 (ii) consideration.
- 1997 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1998 amount of consideration may be increased or decreased by reference to the amount realized
- 1999 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2000 Code.
- 2001 (c) "Lease" or "rental" does not include:
- 2002 (i) a transfer of possession or control of property under a security agreement or
- 2003 deferred payment plan that requires the transfer of title upon completion of the required
- 2004 payments;

- 2005 (ii) a transfer of possession or control of property under an agreement that requires the
2006 transfer of title:
- 2007 (A) upon completion of required payments; and
2008 (B) if the payment of an option price does not exceed the greater of:
2009 (I) \$100; or
2010 (II) 1% of the total required payments; or
- 2011 (iii) providing tangible personal property along with an operator for a fixed period of
2012 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2013 designed.
- 2014 (d) For purposes of Subsection (50)(c)(iii), an operator is necessary for equipment to
2015 perform as designed if the operator's duties exceed the:
- 2016 (i) set-up of tangible personal property;
2017 (ii) maintenance of tangible personal property; or
2018 (iii) inspection of tangible personal property.
- 2019 (51) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2020 if the tangible storage media is not physically transferred to the purchaser.
- 2021 (52) "Local taxing jurisdiction" means a:
- 2022 (a) county that is authorized to impose an agreement sales and use tax;
2023 (b) city that is authorized to impose an agreement sales and use tax; or
2024 (c) town that is authorized to impose an agreement sales and use tax.
- 2025 (53) "Manufactured home" is as defined in Section 58-56-3.
- 2026 (54) For purposes of Section 59-12-104, "manufacturing facility" means:
- 2027 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2028 Industrial Classification Manual of the federal Executive Office of the President, Office of
2029 Management and Budget;
- 2030 (b) a scrap recycler if:
- 2031 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2032 one or more of the following items into prepared grades of processed materials for use in new
2033 products:
- 2034 (A) iron;
2035 (B) steel;

- 2036 (C) nonferrous metal;
- 2037 (D) paper;
- 2038 (E) glass;
- 2039 (F) plastic;
- 2040 (G) textile; or
- 2041 (H) rubber; and
- 2042 (ii) the new products under Subsection (54)(b)(i) would otherwise be made with
- 2043 nonrecycled materials; or
- 2044 (c) a cogeneration facility as defined in Section 54-2-1.
- 2045 (55) "Member of the immediate family of the producer" means a person who is related
- 2046 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2047 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2048 (i) an adopted child or adopted stepchild; or
- 2049 (ii) a foster child or foster stepchild;
- 2050 (b) grandchild or stepgrandchild;
- 2051 (c) grandparent or stepgrandparent;
- 2052 (d) nephew or stepnephew;
- 2053 (e) niece or stepniece;
- 2054 (f) parent or stepparent;
- 2055 (g) sibling or stepsibling;
- 2056 (h) spouse;
- 2057 (i) person who is the spouse of a person described in Subsections (55)(a) through (g);
- 2058 or
- 2059 (j) person similar to a person described in Subsections (55)(a) through (i) as
- 2060 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2061 Administrative Rulemaking Act.
- 2062 (56) "Mobile home" is as defined in Section 58-56-3.
- 2063 (57) "Mobile telecommunications service" is as defined in the Mobile
- 2064 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2065 (58) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 2066 the technology used, if:

- 2067 (i) the origination point of the conveyance, routing, or transmission is not fixed;
2068 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
2069 (iii) the origination point described in Subsection (58)(a)(i) and the termination point
2070 described in Subsection (58)(a)(ii) are not fixed.
- 2071 (b) "Mobile wireless service" includes a telecommunications service that is provided
2072 by a commercial mobile radio service provider.
- 2073 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2074 commission may by rule define "commercial mobile radio service provider."
- 2075 (59) (a) Except as provided in Subsection (59)(c), "mobility enhancing equipment"
2076 means equipment that is:
- 2077 (i) primarily and customarily used to provide or increase the ability to move from one
2078 place to another;
- 2079 (ii) appropriate for use in a:
- 2080 (A) home; or
2081 (B) motor vehicle; and
2082 (iii) not generally used by persons with normal mobility.
- 2083 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2084 the equipment described in Subsection (59)(a).
- 2085 (c) Notwithstanding Subsection (59)(a), "mobility enhancing equipment" does not
2086 include:
- 2087 (i) a motor vehicle;
2088 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2089 vehicle manufacturer;
- 2090 (iii) durable medical equipment; or
2091 (iv) a prosthetic device.
- 2092 (60) "Model 1 seller" means a seller registered under the agreement that has selected a
2093 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2094 functions for agreement sales and use taxes other than the seller's obligation under Section
2095 59-12-124 to remit a tax on the seller's own purchases.
- 2096 (61) "Model 2 seller" means a seller registered under the agreement that:
2097 (a) except as provided in Subsection (61)(b), has selected a certified automated system

- 2098 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2099 (b) notwithstanding Subsection (61)(a), retains responsibility for remitting all of the
- 2100 sales tax:
- 2101 (i) collected by the seller; and
- 2102 (ii) to the appropriate local taxing jurisdiction.
- 2103 (62) (a) Subject to Subsection (62)(b), "model 3 seller" means a seller registered under
- 2104 the agreement that has:
- 2105 (i) sales in at least five states that are members of the agreement;
- 2106 (ii) total annual sales revenues of at least \$500,000,000;
- 2107 (iii) a proprietary system that calculates the amount of tax:
- 2108 (A) for an agreement sales and use tax; and
- 2109 (B) due to each local taxing jurisdiction; and
- 2110 (iv) entered into a performance agreement with the governing board of the agreement.
- 2111 (b) For purposes of Subsection (62)(a), "model 3 seller" includes an affiliated group of
- 2112 sellers using the same proprietary system.
- 2113 (63) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 2114 model 1 seller, model 2 seller, or model 3 seller.
- 2115 (64) "Modular home" means a modular unit as defined in Section 58-56-3.
- 2116 (65) "Motor vehicle" is as defined in Section 41-1a-102.
- 2117 (66) "Oil shale" means a group of fine black to dark brown shales containing
- 2118 bituminous material that yields petroleum upon distillation.
- 2119 (67) (a) "Other fuels" means products that burn independently to produce heat or
- 2120 energy.
- 2121 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 2122 personal property.
- 2123 (68) (a) "Paging service" means a telecommunications service that provides
- 2124 transmission of a coded radio signal for the purpose of activating a specific pager.
- 2125 (b) For purposes of Subsection (68)(a), the transmission of a coded radio signal
- 2126 includes a transmission by message or sound.
- 2127 (69) "Pawnbroker" is as defined in Section 13-32a-102.
- 2128 (70) "Pawn transaction" is as defined in Section 13-32a-102.

2129 (71) (a) "Permanently attached to real property" means that for tangible personal
2130 property attached to real property:

2131 (i) the attachment of the tangible personal property to the real property:

2132 (A) is essential to the use of the tangible personal property; and

2133 (B) suggests that the tangible personal property will remain attached to the real
2134 property in the same place over the useful life of the tangible personal property; or

2135 (ii) if the tangible personal property is detached from the real property, the detachment
2136 would:

2137 (A) cause substantial damage to the tangible personal property; or

2138 (B) require substantial alteration or repair of the real property to which the tangible
2139 personal property is attached.

2140 (b) "Permanently attached to real property" includes:

2141 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2142 (A) essential to the operation of the tangible personal property; and

2143 (B) attached only to facilitate the operation of the tangible personal property;

2144 (ii) a temporary detachment of tangible personal property from real property for a
2145 repair or renovation if the repair or renovation is performed where the tangible personal
2146 property and real property are located; or

2147 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2148 Subsection (71)(c)(iii) or (iv).

2149 (c) "Permanently attached to real property" does not include:

2150 (i) the attachment of portable or movable tangible personal property to real property if
2151 that portable or movable tangible personal property is attached to real property only for:

2152 (A) convenience;

2153 (B) stability; or

2154 (C) for an obvious temporary purpose;

2155 (ii) the detachment of tangible personal property from real property except for the
2156 detachment described in Subsection (71)(b)(ii);

2157 (iii) an attachment of the following tangible personal property to real property if the
2158 attachment to real property is only through a line that supplies water, electricity, gas,
2159 telecommunications, cable, or supplies a similar item as determined by the commission by rule

2160 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2161 (A) a computer;

2162 (B) a telephone;

2163 (C) a television; or

2164 (D) tangible personal property similar to Subsections (71)(c)(iii)(A) through (C) as
2165 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2166 Administrative Rulemaking Act; or

2167 (iv) an item listed in Subsection (111)(c).

2168 (72) "Person" includes any individual, firm, partnership, joint venture, association,
2169 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2170 municipality, district, or other local governmental entity of the state, or any group or
2171 combination acting as a unit.

2172 (73) "Place of primary use":

2173 (a) for telecommunications service other than mobile telecommunications service,
2174 means the street address representative of where the customer's use of the telecommunications
2175 service primarily occurs, which shall be:

2176 (i) the residential street address of the customer; or

2177 (ii) the primary business street address of the customer; or

2178 (b) for mobile telecommunications service, is as defined in the Mobile
2179 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2180 (74) (a) "Postpaid calling service" means a telecommunications service a person
2181 obtains by making a payment on a call-by-call basis:

2182 (i) through the use of a:

2183 (A) bank card;

2184 (B) credit card;

2185 (C) debit card; or

2186 (D) travel card; or

2187 (ii) by a charge made to a telephone number that is not associated with the origination
2188 or termination of the telecommunications service.

2189 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2190 service, that would be a prepaid wireless calling service if the service were exclusively a

- 2191 telecommunications service.
- 2192 (75) "Postproduction" means an activity related to the finishing or duplication of a
2193 medium described in Subsection 59-12-104(54)(a).
- 2194 (76) "Prepaid calling service" means a telecommunications service:
- 2195 (a) that allows a purchaser access to telecommunications service that is exclusively
2196 telecommunications service;
- 2197 (b) that:
- 2198 (i) is paid for in advance; and
- 2199 (ii) enables the origination of a call using an:
- 2200 (A) access number; or
- 2201 (B) authorization code;
- 2202 (c) that is dialed:
- 2203 (i) manually; or
- 2204 (ii) electronically; and
- 2205 (d) sold in predetermined units or dollars that decline:
- 2206 (i) by a known amount; and
- 2207 (ii) with use.
- 2208 (77) "Prepaid wireless calling service" means a telecommunications service:
- 2209 (a) that provides the right to utilize:
- 2210 (i) mobile wireless service; and
- 2211 (ii) other service that is not a telecommunications service, including:
- 2212 (A) the download of a product transferred electronically;
- 2213 (B) a content service; or
- 2214 (C) an ancillary service;
- 2215 (b) that:
- 2216 (i) is paid for in advance; and
- 2217 (ii) enables the origination of a call using an:
- 2218 (A) access number; or
- 2219 (B) authorization code;
- 2220 (c) that is dialed:
- 2221 (i) manually; or

- 2222 (ii) electronically; and
- 2223 (d) sold in predetermined units or dollars that decline:
- 2224 (i) by a known amount; and
- 2225 (ii) with use.
- 2226 (78) (a) "Prepared food" means:
- 2227 (i) food:
- 2228 (A) sold in a heated state; or
- 2229 (B) heated by a seller;
- 2230 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2231 item; or
- 2232 (iii) except as provided in Subsection (78)(c), food sold with an eating utensil provided
- 2233 by the seller, including a:
- 2234 (A) plate;
- 2235 (B) knife;
- 2236 (C) fork;
- 2237 (D) spoon;
- 2238 (E) glass;
- 2239 (F) cup;
- 2240 (G) napkin; or
- 2241 (H) straw.
- 2242 (b) "Prepared food" does not include:
- 2243 (i) food that a seller only:
- 2244 (A) cuts;
- 2245 (B) repackages; or
- 2246 (C) pasteurizes; or
- 2247 (ii) (A) the following:
- 2248 (I) raw egg;
- 2249 (II) raw fish;
- 2250 (III) raw meat;
- 2251 (IV) raw poultry; or
- 2252 (V) a food containing an item described in Subsections (78)(b)(ii)(A)(I) through (IV);

2253 and

2254 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

2255 Food and Drug Administration's Food Code that a consumer cook the items described in

2256 Subsection (78)(b)(ii)(A) to prevent food borne illness; or

2257 (iii) the following if sold without eating utensils provided by the seller:

2258 (A) food and food ingredients sold by a seller if the seller's proper primary

2259 classification under the 2002 North American Industry Classification System of the federal

2260 Executive Office of the President, Office of Management and Budget, is manufacturing in

2261 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

2262 Manufacturing;

2263 (B) food and food ingredients sold in an unheated state:

2264 (I) by weight or volume; and

2265 (II) as a single item; or

2266 (C) a bakery item, including:

2267 (I) a bagel;

2268 (II) a bar;

2269 (III) a biscuit;

2270 (IV) bread;

2271 (V) a bun;

2272 (VI) a cake;

2273 (VII) a cookie;

2274 (VIII) a croissant;

2275 (IX) a danish;

2276 (X) a donut;

2277 (XI) a muffin;

2278 (XII) a pastry;

2279 (XIII) a pie;

2280 (XIV) a roll;

2281 (XV) a tart;

2282 (XVI) a torte; or

2283 (XVII) a tortilla.

2284 (c) Notwithstanding Subsection (78)(a)(iii), an eating utensil provided by the seller
2285 does not include the following used to transport the food:

2286 (i) a container; or

2287 (ii) packaging.

2288 (79) "Prescription" means an order, formula, or recipe that is issued:

2289 (a) (i) orally;

2290 (ii) in writing;

2291 (iii) electronically; or

2292 (iv) by any other manner of transmission; and

2293 (b) by a licensed practitioner authorized by the laws of a state.

2294 (80) (a) Except as provided in Subsection (80)(b)(ii) or (iii), "prewritten computer
2295 software" means computer software that is not designed and developed:

2296 (i) by the author or other creator of the computer software; and

2297 (ii) to the specifications of a specific purchaser.

2298 (b) "Prewritten computer software" includes:

2299 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
2300 software is not designed and developed:

2301 (A) by the author or other creator of the computer software; and

2302 (B) to the specifications of a specific purchaser;

2303 (ii) notwithstanding Subsection (80)(a), computer software designed and developed by
2304 the author or other creator of the computer software to the specifications of a specific purchaser
2305 if the computer software is sold to a person other than the purchaser; or

2306 (iii) notwithstanding Subsection (80)(a) and except as provided in Subsection (80)(c),
2307 prewritten computer software or a prewritten portion of prewritten computer software:

2308 (A) that is modified or enhanced to any degree; and

2309 (B) if the modification or enhancement described in Subsection (80)(b)(iii)(A) is
2310 designed and developed to the specifications of a specific purchaser.

2311 (c) Notwithstanding Subsection (80)(b)(iii), "prewritten computer software" does not
2312 include a modification or enhancement described in Subsection (80)(b)(iii) if the charges for
2313 the modification or enhancement are:

2314 (i) reasonable; and

- 2315 (ii) separately stated on the invoice or other statement of price provided to the
2316 purchaser.
- 2317 (81) (a) "Private communication service" means a telecommunications service:
2318 (i) that entitles a customer to exclusive or priority use of one or more communications
2319 channels between or among termination points; and
2320 (ii) regardless of the manner in which the one or more communications channels are
2321 connected.
- 2322 (b) "Private communications service" includes the following provided in connection
2323 with the use of one or more communications channels:
2324 (i) an extension line;
2325 (ii) a station;
2326 (iii) switching capacity; or
2327 (iv) another associated service that is provided in connection with the use of one or
2328 more communications channels as defined in Section 59-12-215.
- 2329 (82) (a) "Prosthetic device" means a device that is worn on or in the body to:
2330 (i) artificially replace a missing portion of the body;
2331 (ii) prevent or correct a physical deformity or physical malfunction; or
2332 (iii) support a weak or deformed portion of the body.
- 2333 (b) "Prosthetic device" includes:
2334 (i) parts used in the repairs or renovation of a prosthetic device;
2335 (ii) replacement parts for a prosthetic device;
2336 (iii) a dental prosthesis; or
2337 (iv) a hearing aid.
- 2338 (c) "Prosthetic device" does not include:
2339 (i) corrective eyeglasses; or
2340 (ii) contact lenses.
- 2341 (83) (a) "Protective equipment" means an item:
2342 (i) for human wear; and
2343 (ii) that is:
2344 (A) designed as protection:
2345 (I) to the wearer against injury or disease; or

- 2346 (II) against damage or injury of other persons or property; and
2347 (B) not suitable for general use.
- 2348 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2349 commission shall make rules:
- 2350 (i) listing the items that constitute "protective equipment"; and
2351 (ii) that are consistent with the list of items that constitute "protective equipment"
2352 under the agreement.
- 2353 (84) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2354 printed matter, other than a photocopy:
- 2355 (i) regardless of:
2356 (A) characteristics;
2357 (B) copyright;
2358 (C) form;
2359 (D) format;
2360 (E) method of reproduction; or
2361 (F) source; and
2362 (ii) made available in printed or electronic format.
- 2363 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2364 commission may by rule define the term "photocopy."
- 2365 (85) (a) "Purchase price" and "sales price" mean the total amount of consideration:
2366 (i) valued in money; and
2367 (ii) for which tangible personal property, a product transferred electronically, or
2368 services are:
- 2369 (A) sold;
2370 (B) leased; or
2371 (C) rented.
- 2372 (b) "Purchase price" and "sales price" include:
2373 (i) the seller's cost of the tangible personal property, a product transferred
2374 electronically, or services sold;
2375 (ii) expenses of the seller, including:
2376 (A) the cost of materials used;

- 2377 (B) a labor cost;
- 2378 (C) a service cost;
- 2379 (D) interest;
- 2380 (E) a loss;
- 2381 (F) the cost of transportation to the seller; or
- 2382 (G) a tax imposed on the seller;
- 2383 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2384 (iv) consideration a seller receives from a person other than the purchaser if:
- 2385 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2386 and
- 2387 (II) the consideration described in Subsection (85)(b)(iv)(A)(I) is directly related to a
- 2388 price reduction or discount on the sale;
- 2389 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2390 purchaser;
- 2391 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2392 the seller at the time of the sale to the purchaser; and
- 2393 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2394 seller to claim a price reduction or discount; and
- 2395 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2396 coupon, or other documentation with the understanding that the person other than the seller
- 2397 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2398 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2399 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2400 available to any patron of a seller does not constitute membership in a group or organization
- 2401 allowed a price reduction or discount; or
- 2402 (III) the price reduction or discount is identified as a third party price reduction or
- 2403 discount on the:
- 2404 (Aa) invoice the purchaser receives; or
- 2405 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2406 (c) "Purchase price" and "sales price" do not include:
- 2407 (i) a discount:

- 2408 (A) in a form including:
- 2409 (I) cash;
- 2410 (II) term; or
- 2411 (III) coupon;
- 2412 (B) that is allowed by a seller;
- 2413 (C) taken by a purchaser on a sale; and
- 2414 (D) that is not reimbursed by a third party; or
- 2415 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 2416 provided to the purchaser:
- 2417 (A) the following from credit extended on the sale of tangible personal property or
- 2418 services:
- 2419 (I) a carrying charge;
- 2420 (II) a financing charge; or
- 2421 (III) an interest charge;
- 2422 (B) a delivery charge;
- 2423 (C) an installation charge;
- 2424 (D) a manufacturer rebate on a motor vehicle; or
- 2425 (E) a tax or fee legally imposed directly on the consumer.
- 2426 (86) "Purchaser" means a person to whom:
- 2427 (a) a sale of tangible personal property is made;
- 2428 (b) a product is transferred electronically; or
- 2429 (c) a service is furnished.
- 2430 (87) "Regularly rented" means:
- 2431 (a) rented to a guest for value three or more times during a calendar year; or
- 2432 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 2433 value.
- 2434 (88) "Renewable energy" means:
- 2435 (a) biomass energy;
- 2436 (b) hydroelectric energy;
- 2437 (c) geothermal energy;
- 2438 (d) solar energy; or

- 2439 (e) wind energy.
- 2440 (89) (a) "Renewable energy production facility" means a facility that:
- 2441 (i) uses renewable energy to produce electricity; and
- 2442 (ii) has a production capacity of 20 kilowatts or greater.
- 2443 (b) A facility is a renewable energy production facility regardless of whether the
- 2444 facility is:
- 2445 (i) connected to an electric grid; or
- 2446 (ii) located on the premises of an electricity consumer.
- 2447 (90) "Rental" is as defined in Subsection (50).
- 2448 (91) "Repairs or renovations of tangible personal property" means:
- 2449 (a) a repair or renovation of tangible personal property that is not permanently attached
- 2450 to real property; or
- 2451 (b) attaching tangible personal property or a product that is transferred electronically to
- 2452 other tangible personal property if the other tangible personal property to which the tangible
- 2453 personal property or product that is transferred electronically is attached is not permanently
- 2454 attached to real property.
- 2455 (92) "Research and development" means the process of inquiry or experimentation
- 2456 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 2457 preparing those devices, technologies, or applications for marketing.
- 2458 (93) (a) "Residential telecommunications services" means a telecommunications
- 2459 service or an ancillary service that is provided to an individual for personal use:
- 2460 (i) at a residential address; or
- 2461 (ii) at an institution, including a nursing home or a school, if the telecommunications
- 2462 service or ancillary service is provided to and paid for by the individual residing at the
- 2463 institution rather than the institution.
- 2464 (b) For purposes of Subsection (93)(a), a residential address includes an:
- 2465 (i) apartment; or
- 2466 (ii) other individual dwelling unit.
- 2467 (94) "Residential use" means the use in or around a home, apartment building, sleeping
- 2468 quarters, and similar facilities or accommodations.
- 2469 (95) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other

2470 than:

2471 (a) resale;

2472 (b) sublease; or

2473 (c) subrent.

2474 (96) (a) "Retailer" means any person engaged in a regularly organized business in
2475 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2476 who is selling to the user or consumer and not for resale.

2477 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2478 engaged in the business of selling to users or consumers within the state.

2479 (97) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2480 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2481 Subsection 59-12-103(1), for consideration.

2482 (b) "Sale" includes:

2483 (i) installment and credit sales;

2484 (ii) any closed transaction constituting a sale;

2485 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2486 chapter;

2487 (iv) any transaction if the possession of property is transferred but the seller retains the
2488 title as security for the payment of the price; and

2489 (v) any transaction under which right to possession, operation, or use of any article of
2490 tangible personal property is granted under a lease or contract and the transfer of possession
2491 would be taxable if an outright sale were made.

2492 (98) "Sale at retail" is as defined in Subsection (95).

2493 (99) "Sale-leaseback transaction" means a transaction by which title to tangible
2494 personal property or a product transferred electronically that is subject to a tax under this
2495 chapter is transferred:

2496 (a) by a purchaser-lessee;

2497 (b) to a lessor;

2498 (c) for consideration; and

2499 (d) if:

2500 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

2501 of the tangible personal property or product transferred electronically;

2502 (ii) the sale of the tangible personal property or product transferred electronically to the

2503 lessor is intended as a form of financing:

2504 (A) for the tangible personal property or product transferred electronically; and

2505 (B) to the purchaser-lessee; and

2506 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2507 is required to:

2508 (A) capitalize the tangible personal property or product transferred electronically for

2509 financial reporting purposes; and

2510 (B) account for the lease payments as payments made under a financing arrangement.

2511 (100) "Sales price" is as defined in Subsection (85).

2512 (101) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2513 amounts charged by a school:

2514 (i) sales that are directly related to the school's educational functions or activities

2515 including:

2516 (A) the sale of:

2517 (I) textbooks;

2518 (II) textbook fees;

2519 (III) laboratory fees;

2520 (IV) laboratory supplies; or

2521 (V) safety equipment;

2522 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

2523 that:

2524 (I) a student is specifically required to wear as a condition of participation in a

2525 school-related event or school-related activity; and

2526 (II) is not readily adaptable to general or continued usage to the extent that it takes the

2527 place of ordinary clothing;

2528 (C) sales of the following if the net or gross revenues generated by the sales are

2529 deposited into a school district fund or school fund dedicated to school meals:

2530 (I) food and food ingredients; or

2531 (II) prepared food; or

- 2532 (D) transportation charges for official school activities; or
2533 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2534 event or school-related activity.
- 2535 (b) "Sales relating to schools" does not include:
2536 (i) bookstore sales of items that are not educational materials or supplies;
2537 (ii) except as provided in Subsection (101)(a)(i)(B):
2538 (A) clothing;
2539 (B) clothing accessories or equipment;
2540 (C) protective equipment; or
2541 (D) sports or recreational equipment; or
2542 (iii) amounts paid to or amounts charged by a school for admission to a school-related
2543 event or school-related activity if the amounts paid or charged are passed through to a person:
2544 (A) other than a:
2545 (I) school;
2546 (II) nonprofit organization authorized by a school board or a governing body of a
2547 private school to organize and direct a competitive secondary school activity; or
2548 (III) nonprofit association authorized by a school board or a governing body of a
2549 private school to organize and direct a competitive secondary school activity; and
2550 (B) that is required to collect sales and use taxes under this chapter.
2551 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2552 commission may make rules defining the term "passed through."
- 2553 (102) For purposes of this section and Section 59-12-104, "school":
2554 (a) means:
2555 (i) an elementary school or a secondary school that:
2556 (A) is a:
2557 (I) public school; or
2558 (II) private school; and
2559 (B) provides instruction for one or more grades kindergarten through 12; or
2560 (ii) a public school district; and
2561 (b) includes the Electronic High School as defined in Section 53A-15-1002.
2562 (103) "Seller" means a person that makes a sale, lease, or rental of:

- 2563 (a) tangible personal property;
- 2564 (b) a product transferred electronically; or
- 2565 (c) a service.
- 2566 (104) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2567 means tangible personal property or a product transferred electronically if the tangible personal
- 2568 property or product transferred electronically is:
- 2569 (i) used primarily in the process of:
- 2570 (A) (I) manufacturing a semiconductor;
- 2571 (II) fabricating a semiconductor; or
- 2572 (III) research or development of a:
- 2573 (Aa) semiconductor; or
- 2574 (Bb) semiconductor manufacturing process; or
- 2575 (B) maintaining an environment suitable for a semiconductor; or
- 2576 (ii) consumed primarily in the process of:
- 2577 (A) (I) manufacturing a semiconductor;
- 2578 (II) fabricating a semiconductor; or
- 2579 (III) research or development of a:
- 2580 (Aa) semiconductor; or
- 2581 (Bb) semiconductor manufacturing process; or
- 2582 (B) maintaining an environment suitable for a semiconductor.
- 2583 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2584 includes:
- 2585 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2586 transferred electronically described in Subsection (104)(a); or
- 2587 (ii) a chemical, catalyst, or other material used to:
- 2588 (A) produce or induce in a semiconductor a:
- 2589 (I) chemical change; or
- 2590 (II) physical change;
- 2591 (B) remove impurities from a semiconductor; or
- 2592 (C) improve the marketable condition of a semiconductor.
- 2593 (105) "Senior citizen center" means a facility having the primary purpose of providing

2594 services to the aged as defined in Section 62A-3-101.

2595 (106) "Simplified electronic return" means the electronic return:

2596 (a) described in Section 318(C) of the agreement; and

2597 (b) approved by the governing board of the agreement.

2598 (107) "Solar energy" means the sun used as the sole source of energy for producing
2599 electricity.

2600 (108) (a) "Sports or recreational equipment" means an item:

2601 (i) designed for human use; and

2602 (ii) that is:

2603 (A) worn in conjunction with:

2604 (I) an athletic activity; or

2605 (II) a recreational activity; and

2606 (B) not suitable for general use.

2607 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2608 commission shall make rules:

2609 (i) listing the items that constitute "sports or recreational equipment"; and

2610 (ii) that are consistent with the list of items that constitute "sports or recreational
2611 equipment" under the agreement.

2612 (109) "State" means the state of Utah, its departments, and agencies.

2613 (110) "Storage" means any keeping or retention of tangible personal property or any
2614 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
2615 sale in the regular course of business.

2616 (111) (a) Except as provided in Subsection (111)(d) or (e), "tangible personal property"
2617 means personal property that:

2618 (i) may be:

2619 (A) seen;

2620 (B) weighed;

2621 (C) measured;

2622 (D) felt; or

2623 (E) touched; or

2624 (ii) is in any manner perceptible to the senses.

2625 (b) "Tangible personal property" includes:

2626 (i) electricity;

2627 (ii) water;

2628 (iii) gas;

2629 (iv) steam; or

2630 (v) prewritten computer software.

2631 (c) "Tangible personal property" includes the following regardless of whether the item
2632 is attached to real property:

2633 (i) a dishwasher;

2634 (ii) a dryer;

2635 (iii) a freezer;

2636 (iv) a microwave;

2637 (v) a refrigerator;

2638 (vi) a stove;

2639 (vii) a washer; or

2640 (viii) an item similar to Subsections (111)(c)(i) through (vii) as determined by the
2641 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2642 Rulemaking Act.

2643 (d) "Tangible personal property" does not include a product that is transferred
2644 electronically.

2645 (e) "Tangible personal property" does not include the following if attached to real
2646 property, regardless of whether the attachment to real property is only through a line that
2647 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2648 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2649 Rulemaking Act:

2650 (i) a hot water heater;

2651 (ii) a water filtration system; or

2652 (iii) a water softener system.

2653 (112) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
2654 and require further processing other than mechanical blending before becoming finished
2655 petroleum products.

2656 (113) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2657 software" means an item listed in Subsection (113)(b) if that item is purchased or leased
2658 primarily to enable or facilitate one or more of the following to function:

2659 (i) telecommunications switching or routing equipment, machinery, or software; or
2660 (ii) telecommunications transmission equipment, machinery, or software.

2661 (b) The following apply to Subsection (113)(a):

2662 (i) a pole;

2663 (ii) software;

2664 (iii) a supplementary power supply;

2665 (iv) temperature or environmental equipment or machinery;

2666 (v) test equipment;

2667 (vi) a tower; or

2668 (vii) equipment, machinery, or software that functions similarly to an item listed in

2669 Subsections (113)(b)(i) through (vi) as determined by the commission by rule made in

2670 accordance with Subsection (113)(c).

2671 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2672 commission may by rule define what constitutes equipment, machinery, or software that

2673 functions similarly to an item listed in Subsections (113)(b)(i) through (vi).

2674 (114) "Telecommunications equipment, machinery, or software required for 911

2675 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

2676 Sec. 20.18.

2677 (115) "Telecommunications maintenance or repair equipment, machinery, or software"

2678 means equipment, machinery, or software purchased or leased primarily to maintain or repair

2679 one or more of the following, regardless of whether the equipment, machinery, or software is

2680 purchased or leased as a spare part or as an upgrade or modification to one or more of the

2681 following:

2682 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2683 (b) telecommunications switching or routing equipment, machinery, or software; or

2684 (c) telecommunications transmission equipment, machinery, or software.

2685 (116) (a) "Telecommunications service" means the electronic conveyance, routing, or

2686 transmission of audio, data, video, voice, or any other information or signal to a point, or

2687 among or between points.

2688 (b) "Telecommunications service" includes:

2689 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2690 processing application is used to act:

2691 (A) on the code, form, or protocol of the content;

2692 (B) for the purpose of electronic conveyance, routing, or transmission; and

2693 (C) regardless of whether the service:

2694 (I) is referred to as voice over Internet protocol service; or

2695 (II) is classified by the Federal Communications Commission as enhanced or value
2696 added;

2697 (ii) an 800 service;

2698 (iii) a 900 service;

2699 (iv) a fixed wireless service;

2700 (v) a mobile wireless service;

2701 (vi) a postpaid calling service;

2702 (vii) a prepaid calling service;

2703 (viii) a prepaid wireless calling service; or

2704 (ix) a private communications service.

2705 (c) "Telecommunications service" does not include:

2706 (i) advertising, including directory advertising;

2707 (ii) an ancillary service;

2708 (iii) a billing and collection service provided to a third party;

2709 (iv) a data processing and information service if:

2710 (A) the data processing and information service allows data to be:

2711 (I) (Aa) acquired;

2712 (Bb) generated;

2713 (Cc) processed;

2714 (Dd) retrieved; or

2715 (Ee) stored; and

2716 (II) delivered by an electronic transmission to a purchaser; and

2717 (B) the purchaser's primary purpose for the underlying transaction is the processed data

2718 or information;

2719 (v) installation or maintenance of the following on a customer's premises:

2720 (A) equipment; or

2721 (B) wiring;

2722 (vi) Internet access service;

2723 (vii) a paging service;

2724 (viii) a product transferred electronically, including:

2725 (A) music;

2726 (B) reading material;

2727 (C) a ring tone;

2728 (D) software; or

2729 (E) video;

2730 (ix) a radio and television audio and video programming service:

2731 (A) regardless of the medium; and

2732 (B) including:

2733 (I) furnishing conveyance, routing, or transmission of a television audio and video

2734 programming service by a programming service provider;

2735 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

2736 (III) audio and video programming services delivered by a commercial mobile radio

2737 service provider as defined in 47 C.F.R. Sec. 20.3;

2738 (x) a value-added nonvoice data service; or

2739 (xi) tangible personal property.

2740 (117) (a) "Telecommunications service provider" means a person that:

2741 (i) owns, controls, operates, or manages a telecommunications service; and

2742 (ii) engages in an activity described in Subsection (117)(a)(i) for the shared use with or

2743 resale to any person of the telecommunications service.

2744 (b) A person described in Subsection (117)(a) is a telecommunications service provider

2745 whether or not the Public Service Commission of Utah regulates:

2746 (i) that person; or

2747 (ii) the telecommunications service that the person owns, controls, operates, or

2748 manages.

2749 (118) (a) "Telecommunications switching or routing equipment, machinery, or
2750 software" means an item listed in Subsection (118)(b) if that item is purchased or leased
2751 primarily for switching or routing:

- 2752 (i) an ancillary service;
- 2753 (ii) data communications;
- 2754 (iii) voice communications; or
- 2755 (iv) telecommunications service.

2756 (b) The following apply to Subsection (118)(a):

- 2757 (i) a bridge;
- 2758 (ii) a computer;
- 2759 (iii) a cross connect;
- 2760 (iv) a modem;
- 2761 (v) a multiplexer;
- 2762 (vi) plug in circuitry;
- 2763 (vii) a router;
- 2764 (viii) software;
- 2765 (ix) a switch; or
- 2766 (x) equipment, machinery, or software that functions similarly to an item listed in
2767 Subsections (118)(b)(i) through (ix) as determined by the commission by rule made in
2768 accordance with Subsection (118)(c).

2769 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2770 commission may by rule define what constitutes equipment, machinery, or software that
2771 functions similarly to an item listed in Subsections (118)(b)(i) through (ix).

2772 (119) (a) "Telecommunications transmission equipment, machinery, or software"
2773 means an item listed in Subsection (119)(b) if that item is purchased or leased primarily for
2774 sending, receiving, or transporting:

- 2775 (i) an ancillary service;
- 2776 (ii) data communications;
- 2777 (iii) voice communications; or
- 2778 (iv) telecommunications service.

2779 (b) The following apply to Subsection (119)(a):

- 2780 (i) an amplifier;
2781 (ii) a cable;
2782 (iii) a closure;
2783 (iv) a conduit;
2784 (v) a controller;
2785 (vi) a duplexer;
2786 (vii) a filter;
2787 (viii) an input device;
2788 (ix) an input/output device;
2789 (x) an insulator;
2790 (xi) microwave machinery or equipment;
2791 (xii) an oscillator;
2792 (xiii) an output device;
2793 (xiv) a pedestal;
2794 (xv) a power converter;
2795 (xvi) a power supply;
2796 (xvii) a radio channel;
2797 (xviii) a radio receiver;
2798 (xix) a radio transmitter;
2799 (xx) a repeater;
2800 (xxi) software;
2801 (xxii) a terminal;
2802 (xxiii) a timing unit;
2803 (xxiv) a transformer;
2804 (xxv) a wire; or
2805 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2806 Subsections (119)(b)(i) through (xxv) as determined by the commission by rule made in
2807 accordance with Subsection (119)(c).

2808 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2809 commission may by rule define what constitutes equipment, machinery, or software that
2810 functions similarly to an item listed in Subsections (119)(b)(i) through (xxv).

2811 (120) "Tobacco" means:

2812 (a) a cigarette;

2813 (b) a cigar;

2814 (c) chewing tobacco;

2815 (d) pipe tobacco; or

2816 (e) any other item that contains tobacco.

2817 (121) "Unassisted amusement device" means an amusement device, skill device, or
2818 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2819 the amusement device, skill device, or ride device.

2820 (122) (a) "Use" means the exercise of any right or power over tangible personal
2821 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2822 incident to the ownership or the leasing of that tangible personal property, product transferred
2823 electronically, or service.

2824 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2825 property, a product transferred electronically, or a service in the regular course of business and
2826 held for resale.

2827 (123) "Value-added nonvoice data service" means a service:

2828 (a) that otherwise meets the definition of a telecommunications service except that a
2829 computer processing application is used to act primarily for a purpose other than conveyance,
2830 routing, or transmission; and

2831 (b) with respect to which a computer processing application is used to act on data or
2832 information:

2833 (i) code;

2834 (ii) content;

2835 (iii) form; or

2836 (iv) protocol.

2837 (124) (a) Subject to Subsection (124)(b), "vehicle" means the following that are
2838 required to be titled, registered, or titled and registered:

2839 (i) an aircraft as defined in Section 72-10-102;

2840 (ii) a vehicle as defined in Section 41-1a-102;

2841 (iii) an off-highway vehicle as defined in Section 41-22-2; or

- 2842 (iv) a vessel as defined in Section 41-1a-102.
- 2843 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 2844 (i) a vehicle described in Subsection (124)(a); or
- 2845 (ii) (A) a locomotive;
- 2846 (B) a freight car;
- 2847 (C) railroad work equipment; or
- 2848 (D) other railroad rolling stock.
- 2849 (125) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 2850 exchanging a vehicle as defined in Subsection (124).
- 2851 (126) (a) "Vertical service" means an ancillary service that:
- 2852 (i) is offered in connection with one or more telecommunications services; and
- 2853 (ii) offers an advanced calling feature that allows a customer to:
- 2854 (A) identify a caller; and
- 2855 (B) manage multiple calls and call connections.
- 2856 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2857 conference bridging service.
- 2858 (127) (a) "Voice mail service" means an ancillary service that enables a customer to
- 2859 receive, send, or store a recorded message.
- 2860 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2861 to have in order to utilize a voice mail service.
- 2862 (128) (a) Except as provided in Subsection (128)(b), "waste energy facility" means a
- 2863 facility that generates electricity:
- 2864 (i) using as the primary source of energy waste materials that would be placed in a
- 2865 landfill or refuse pit if it were not used to generate electricity, including:
- 2866 (A) tires;
- 2867 (B) waste coal; or
- 2868 (C) oil shale; and
- 2869 (ii) in amounts greater than actually required for the operation of the facility.
- 2870 (b) "Waste energy facility" does not include a facility that incinerates:
- 2871 (i) municipal solid waste;
- 2872 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

- 2873 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2874 (129) "Watercraft" means a vessel as defined in Section 73-18-2.
- 2875 (130) "Wind energy" means wind used as the sole source of energy to produce
2876 electricity.
- 2877 (131) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2878 location by the United States Postal Service.
- 2879 Section 19. Section **59-12-103** is amended to read:
- 2880 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2881 **tax revenues.**
- 2882 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2883 charged for the following transactions:
- 2884 (a) retail sales of tangible personal property made within the state;
- 2885 (b) amounts paid for:
- 2886 (i) telecommunications service, other than mobile telecommunications service, that
2887 originates and terminates within the boundaries of this state;
- 2888 (ii) mobile telecommunications service that originates and terminates within the
2889 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2890 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 2891 (iii) an ancillary service associated with a:
- 2892 (A) telecommunications service described in Subsection (1)(b)(i); or
- 2893 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 2894 (c) sales of the following for commercial use:
- 2895 (i) gas;
- 2896 (ii) electricity;
- 2897 (iii) heat;
- 2898 (iv) coal;
- 2899 (v) fuel oil; or
- 2900 (vi) other fuels;
- 2901 (d) sales of the following for residential use:
- 2902 (i) gas;
- 2903 (ii) electricity;

- 2904 (iii) heat;
- 2905 (iv) coal;
- 2906 (v) fuel oil; or
- 2907 (vi) other fuels;
- 2908 (e) sales of prepared food;
- 2909 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2910 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2911 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2912 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2913 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2914 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2915 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2916 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2917 exhibition, cultural, or athletic activity;
- 2918 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2919 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2920 (i) the tangible personal property; and
- 2921 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2922 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 2923 of that tangible personal property;
- 2924 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2925 assisted cleaning or washing of tangible personal property;
- 2926 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2927 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2928 (j) amounts paid or charged for laundry or dry cleaning services;
- 2929 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2930 this state the tangible personal property is:
- 2931 (i) stored;
- 2932 (ii) used; or
- 2933 (iii) otherwise consumed;
- 2934 (l) amounts paid or charged for tangible personal property if within this state the

2935 tangible personal property is:

2936 (i) stored;

2937 (ii) used; or

2938 (iii) consumed; and

2939 (m) amounts paid or charged for a sale:

2940 (i) (A) of a product that:

2941 (I) is transferred electronically; and

2942 (II) would be subject to a tax under this chapter if the product was transferred in a

2943 manner other than electronically; or

2944 (B) of a repair or renovation of a product that:

2945 (I) is transferred electronically; and

2946 (II) would be subject to a tax under this chapter if the product was transferred in a

2947 manner other than electronically; and

2948 (ii) regardless of whether the sale provides:

2949 (A) a right of permanent use of the product; or

2950 (B) a right to use the product that is less than a permanent use, including a right:

2951 (I) for a definite or specified length of time; and

2952 (II) that terminates upon the occurrence of a condition.

2953 (2) (a) Except as provided in [~~Subsections (2)(b) through (e)~~] Subsection (2)(b) or (c),

2954 a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the

2955 sum of:

2956 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2957 (A) 4.70%; and

2958 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

2959 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2960 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

2961 State Sales and Use Tax Act; and

2962 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

2963 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2964 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

2965 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2966 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2967 transaction under this chapter other than this part.

2968 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c) or (d), a state tax and a local tax
2969 is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2970 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2971 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2972 transaction under this chapter other than this part.

2973 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
2974 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

2975 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2976 a tax rate of 1.75%; and]~~

2977 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2978 amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

2979 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and
2980 tangible personal property other than food and food ingredients, a state tax and a local tax is
2981 imposed on the entire bundled transaction equal to the sum of:]~~

2982 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

2983 ~~[(f) the tax rate described in Subsection (2)(a)(i)(A); and]~~

2984 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2985 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2986 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2987 Additional State Sales and Use Tax Act; and]~~

2988 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2989 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2990 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2991 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

2992 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2993 described in Subsection (2)(a)(ii).]~~

2994 ~~[(ii)]~~ (c) (i) Subject to Subsection (2)~~[(d)(iii)]~~(c)(ii), for a bundled transaction ~~[other
2995 than a bundled transaction described in Subsection (2)(d)(i)]:~~

2996 (A) if the sales price of the bundled transaction is attributable to tangible personal

2997 property, a product, or a service that is subject to taxation under this chapter and tangible
 2998 personal property, a product, or service that is not subject to taxation under this chapter, the
 2999 entire bundled transaction is subject to taxation under this chapter unless:

3000 (I) the seller is able to identify by reasonable and verifiable standards the tangible
 3001 personal property, product, or service that is not subject to taxation under this chapter from the
 3002 books and records the seller keeps in the seller's regular course of business; or

3003 (II) state or federal law provides otherwise; or

3004 (B) if the sales price of a bundled transaction is attributable to two or more items of
 3005 tangible personal property, products, or services that are subject to taxation under this chapter
 3006 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
 3007 higher tax rate unless:

3008 (I) the seller is able to identify by reasonable and verifiable standards the tangible
 3009 personal property, product, or service that is subject to taxation under this chapter at the lower
 3010 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3011 (II) state or federal law provides otherwise.

3012 ~~[(iii)]~~ (ii) For purposes of Subsection (2)~~[(d)(ii)]~~(c)(i), books and records that a seller
 3013 keeps in the seller's regular course of business includes books and records the seller keeps in
 3014 the regular course of business for nontax purposes.

3015 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f) and (g)]~~(e) and (f), a tax rate repeal or tax rate
 3016 change for a tax rate imposed under the following shall take effect on the first day of a calendar
 3017 quarter:

3018 (i) Subsection (2)(a)(i)(A); or

3019 (ii) Subsection (2)(b)(i)~~;~~;

3020 ~~[(iii) Subsection (2)(c)(i); or]~~

3021 ~~[(iv) Subsection (2)(d)(i)(A)(f).]~~

3022 ~~[(f)]~~ (e) (i) A tax rate increase shall take effect on the first day of the first billing period
 3023 that begins after the effective date of the tax rate increase if the billing period for the
 3024 transaction begins before the effective date of a tax rate increase imposed under:

3025 (A) Subsection (2)(a)(i)(A); or

3026 (B) Subsection (2)(b)(i)~~;~~;

3027 ~~[(C) Subsection (2)(c)(i); or]~~

3028 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3029 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3030 billing period that began before the effective date of the repeal of the tax or the tax rate

3031 decrease if the billing period for the transaction begins before the effective date of the repeal of

3032 the tax or the tax rate decrease imposed under:

3033 (A) Subsection (2)(a)(i)(A); or

3034 (B) Subsection (2)(b)(i)[~~;~~].

3035 ~~[(C) Subsection (2)(c)(i); or]~~

3036 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3037 ~~[(g)]~~ (f) (i) For a tax rate described in Subsection (2)~~[(g)]~~(f)(ii), if a tax due on a

3038 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a

3039 tax rate repeal or change in a tax rate takes effect:

3040 (A) on the first day of a calendar quarter; and

3041 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3042 (ii) Subsection (2)~~[(g)]~~(f)(i) applies to the tax rates described in the following:

3043 (A) Subsection (2)(a)(i)(A); or

3044 (B) Subsection (2)(b)(i)[~~;~~].

3045 ~~[(C) Subsection (2)(c)(i); or]~~

3046 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3047 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

3048 the commission may by rule define the term "catalogue sale."

3049 (3) (a) The following state taxes shall be deposited into the General Fund:

3050 (i) the tax imposed by Subsection (2)(a)(i)(A); and

3051 (ii) the tax imposed by Subsection (2)(b)(i)[~~;~~].

3052 ~~[(iii) the tax imposed by Subsection (2)(c)(i); or]~~

3053 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

3054 (b) The following local taxes shall be distributed to a county, city, or town as provided

3055 in this chapter:

3056 (i) the tax imposed by Subsection (2)(a)(ii); and

3057 (ii) the tax imposed by Subsection (2)(b)(ii)[~~;~~].

3058 ~~[(iii) the tax imposed by Subsection (2)(c)(ii); and]~~

3059 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(B).]~~
3060 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3061 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
3062 through (g):
3063 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
3064 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
3065 (B) for the fiscal year; or
3066 (ii) \$17,500,000.
3067 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3068 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3069 Department of Natural Resources to:
3070 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3071 protect sensitive plant and animal species; or
3072 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3073 act, to political subdivisions of the state to implement the measures described in Subsections
3074 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
3075 (ii) Money transferred to the Department of Natural Resources under Subsection
3076 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3077 person to list or attempt to have listed a species as threatened or endangered under the
3078 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
3079 (iii) At the end of each fiscal year:
3080 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3081 Conservation and Development Fund created in Section 73-10-24;
3082 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3083 Program Subaccount created in Section 73-10c-5; and
3084 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3085 Program Subaccount created in Section 73-10c-5.
3086 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3087 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3088 created in Section 4-18-6.
3089 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

3090 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3091 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3092 water rights.

3093 (ii) At the end of each fiscal year:

3094 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3095 Conservation and Development Fund created in Section 73-10-24;

3096 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3097 Program Subaccount created in Section 73-10c-5; and

3098 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3099 Program Subaccount created in Section 73-10c-5.

3100 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3101 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3102 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3103 (ii) In addition to the uses allowed of the Water Resources Conservation and
3104 Development Fund under Section 73-10-24, the Water Resources Conservation and
3105 Development Fund may also be used to:

3106 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3107 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3108 quantifying surface and ground water resources and describing the hydrologic systems of an
3109 area in sufficient detail so as to enable local and state resource managers to plan for and
3110 accommodate growth in water use without jeopardizing the resource;

3111 (B) fund state required dam safety improvements; and

3112 (C) protect the state's interest in interstate water compact allocations, including the
3113 hiring of technical and legal staff.

3114 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3115 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3116 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3117 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3118 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3119 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3120 (i) provide for the installation and repair of collection, treatment, storage, and

3121 distribution facilities for any public water system, as defined in Section 19-4-102;

3122 (ii) develop underground sources of water, including springs and wells; and

3123 (iii) develop surface water sources.

3124 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

3125 2006, the difference between the following amounts shall be expended as provided in this

3126 Subsection (5), if that difference is greater than \$1:

3127 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the

3128 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3129 (ii) \$17,500,000.

3130 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3131 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

3132 credits; and

3133 (B) expended by the Department of Natural Resources for watershed rehabilitation or

3134 restoration.

3135 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

3136 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund

3137 created in Section 73-10-24.

3138 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

3139 remaining difference described in Subsection (5)(a) shall be:

3140 (A) transferred each fiscal year to the Division of Water Resources as dedicated

3141 credits; and

3142 (B) expended by the Division of Water Resources for cloud-seeding projects

3143 authorized by Title 73, Chapter 15, Modification of Weather.

3144 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

3145 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

3146 created in Section 73-10-24.

3147 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the

3148 remaining difference described in Subsection (5)(a) shall be deposited into the Water

3149 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

3150 Division of Water Resources for:

3151 (i) preconstruction costs:

3152 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3153 26, Bear River Development Act; and

3154 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3155 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3156 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3157 Chapter 26, Bear River Development Act;

3158 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3159 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3160 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3161 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3162 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
3163 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

3164 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
3165 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
3166 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3167 incurred for employing additional technical staff for the administration of water rights.

3168 (g) At the end of each fiscal year, any unexpended dedicated credits described in
3169 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
3170 Fund created in Section 73-10-24.

3171 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3172 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3173 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3174 the Transportation Fund created by Section 72-2-102.

3175 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
3176 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
3177 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
3178 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
3179 transactions under Subsection (1).

3180 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
3181 have been paid off and the highway projects completed that are intended to be paid from
3182 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the

3183 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
 3184 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
 3185 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
 3186 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3187 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in
 3188 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into
 3189 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the
 3190 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the
 3191 following taxes, which represents a portion of the approximately 17% of sales and use tax
 3192 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 3193 (i) the tax imposed by Subsection (2)(a)(i)(A); and
- 3194 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 3195 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 3196 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

3197 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
 3198 Subsection (7)(a), and until Subsection (8)(c) applies, for a fiscal year beginning on or after
 3199 July 1, 2011, the Division of Finance shall deposit into the Centennial Highway Fund
 3200 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
 3201 (3)(a) equal to ~~[8.3%]~~ 7.6% of the revenues collected from the following taxes, which
 3202 represents a portion of the approximately 17% of sales and use tax revenues generated annually
 3203 by the sales and use tax on vehicles and vehicle-related products:

- 3204 (i) the tax imposed by Subsection (2)(a)(i)(A); and
- 3205 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 3206 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 3207 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

3208 (c) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
 3209 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
 3210 highway projects completed that are intended to be paid from revenues deposited in the
 3211 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
 3212 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
 3213 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes

3214 listed under Subsection (3)(a) equal to ~~[8.3%]~~ 7.6% of the revenues collected from the
 3215 following taxes, which represents a portion of the approximately 17% of sales and use tax
 3216 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

3217 (i) the tax imposed by Subsection (2)(a)(i)(A); and

3218 (ii) the tax imposed by Subsection (2)(b)(i)~~[⁺]~~.

3219 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~

3220 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

3221 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
 3222 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
 3223 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

3224 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
 3225 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit
 3226 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
 3227 Critical Highway Needs Fund created by Section 72-2-125.

3228 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
 3229 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
 3230 have been paid off and the highway projects completed that are included in the prioritized
 3231 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
 3232 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
 3233 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
 3234 of 2005 created by Section 72-2-124.

3235 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
 3236 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
 3237 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

3238 (11) (a) ~~[(⁺)]~~ Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection~~
 3239 ~~(11)(a)(ii); and]~~ until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
 3240 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
 3241 amount of tax revenue generated by a .025% tax rate on the transactions described in
 3242 Subsection (1).

3243 ~~[(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit~~
 3244 ~~into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged~~

3245 for food and food ingredients, except for tax revenue generated by a bundled transaction
3246 attributable to food and food ingredients and tangible personal property other than food and
3247 food ingredients described in Subsection (2)(c).]

3248 (b) [(i)] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~
3249 ~~(11)(b)(ii);~~] and in addition to any amounts deposited under Subsections (7), (9), and (10),
3250 when the general obligation bonds authorized by Section 63B-16-101 have been paid off and
3251 the highway projects completed that are included in the prioritized project list under Subsection
3252 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance
3253 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
3254 amount of tax revenue generated by a .025% tax rate on the transactions described in
3255 Subsection (1).

3256 [(ii) ~~For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit~~
3257 ~~into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~
3258 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~
3259 ~~transaction attributable to food and food ingredients and tangible personal property other than~~
3260 ~~food and food ingredients described in Subsection (2)(c).]~~

3261 (12) [(a)] Notwithstanding Subsection (3)(a), [~~and except as provided in Subsection~~
3262 ~~(12)(b);~~] beginning on January 1, 2009, the Division of Finance shall deposit into the
3263 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3264 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3265 chokepoints in construction management.

3266 [(b) ~~For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~
3267 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~
3268 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~
3269 ~~and food ingredients and tangible personal property other than food and food ingredients~~
3270 ~~described in Subsection (2)(c).]~~

3271 (13) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3272 Finance shall deposit into the School Equalization Fund created in Section 53A-21-602 7.5%
3273 of the revenues collected from the state sales and use taxes imposed under Subsection
3274 (2)(a)(i)(A) and Subsection (2)(b)(i).

3275 Section 20. Section **59-12-104.2** is amended to read:

3276 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
3277 **Nation.**

3278 (1) As used in this section "tribal taxing area" means the geographical area that:

3279 (a) is subject to the taxing authority of the Navajo Nation; and

3280 (b) consists of:

3281 (i) notwithstanding the issuance of a patent, all land:

3282 (A) within the limits of an Indian reservation under the jurisdiction of the federal
3283 government; and

3284 (B) including any rights-of-way running through the reservation; and

3285 (ii) all Indian allotments the Indian titles to which have not been extinguished,
3286 including any rights-of-way running through an Indian allotment.

3287 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
3288 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
3289 imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~] to the extent permitted under
3290 Subsection (2)(b) if:

3291 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
3292 provided within:

3293 (A) the state; and

3294 (B) a tribal taxing area;

3295 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
3296 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

3297 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
3298 regard to whether or not the purchaser that pays or is charged for the accommodations and
3299 services is an enrolled member of the Navajo Nation; and

3300 (iv) the requirements of Subsection (4) are met.

3301 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
3302 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
3303 Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~]:

3304 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
3305 if that difference is greater than \$0; and

3306 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief

3307 if the difference described in Subsection (3) is equal to or less than \$0.

3308 (3) The difference described in Subsection (2)(b) is equal to the difference between:

3309 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~]

3310 on the amounts paid by or charged to a purchaser for accommodations and services described

3311 in Subsection 59-12-103(1)(i); less

3312 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or

3313 charged to a purchaser for the accommodations and services described in Subsection

3314 59-12-103(1)(i).

3315 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax

3316 imposed on amounts paid by or charged to a purchaser for accommodations and services

3317 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under

3318 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the

3319 calendar quarter after a 90-day period beginning on the date the commission receives notice

3320 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

3321 (b) The notice described in Subsection (4)(a) shall state:

3322 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on

3323 amounts paid by or charged to a purchaser for accommodations and services described in

3324 Subsection 59-12-103(1)(i);

3325 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);

3326 and

3327 (iii) the new rate of the tax described in Subsection (4)(b)(i).

3328 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

3329 (a) shall review the exemption provided for in this section one or more times every five

3330 years;

3331 (b) shall determine on or before the November interim meeting of the year in which the

3332 Revenue and Taxation Interim Committee reviews the exemption provided for in this section

3333 whether the exemption should be:

3334 (i) continued;

3335 (ii) modified; or

3336 (iii) repealed; and

3337 (c) may review any other issue related to the exemption provided for in this section as

3338 determined by the Revenue and Taxation Interim Committee.

3339 Section 21. Section **59-12-108** is amended to read:

3340 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
3341 **Certain amounts allocated to local taxing jurisdictions.**

3342 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
3343 chapter of \$50,000 or more for the previous calendar year shall:

3344 (i) file a return with the commission:

3345 (A) monthly on or before the last day of the month immediately following the month
3346 for which the seller collects a tax under this chapter; and

3347 (B) for the month for which the seller collects a tax under this chapter; and

3348 (ii) except as provided in Subsection (1)(b), remit with the return required by
3349 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
3350 fee, or charge described in Subsection (1)(c):

3351 (A) if that seller's tax liability under this chapter for the previous calendar year is less
3352 than \$96,000, by any method permitted by the commission; or

3353 (B) if that seller's tax liability under this chapter for the previous calendar year is
3354 \$96,000 or more, by electronic funds transfer.

3355 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
3356 the amount the seller is required to remit to the commission for each tax, fee, or charge
3357 described in Subsection (1)(c) if that seller:

3358 (i) is required by Section 59-12-107 to file the return electronically; or

3359 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

3360 (B) files a simplified electronic return.

3361 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

3362 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3363 (ii) a fee under Section 19-6-716;

3364 (iii) a fee under Section 19-6-805;

3365 (iv) a charge under Section 69-2-5;

3366 (v) a charge under Section 69-2-5.5;

3367 (vi) a charge under Section 69-2-5.6; or

3368 (vii) a tax under this chapter.

3369 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
 3370 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
 3371 for making same-day payments other than by electronic funds transfer if making payments by
 3372 electronic funds transfer fails.

3373 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 3374 commission shall establish by rule procedures and requirements for determining the amount a
 3375 seller is required to remit to the commission under this Subsection (1).

3376 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
 3377 seller described in Subsection (4) may retain each month the amount allowed by this
 3378 Subsection (2).

3379 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
 3380 each month 1.31% of any amounts the seller is required to remit to the commission:

3381 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
 3382 and a local tax imposed in accordance with the following, for the month for which the seller is
 3383 filing a return in accordance with Subsection (1):

3384 (A) Subsection 59-12-103(2)(a); and

3385 (B) Subsection 59-12-103(2)(b); and

3386 [~~(C) Subsection 59-12-103(2)(d); and~~]

3387 (ii) for an agreement sales and use tax.

3388 [~~(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
 3389 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
 3390 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
 3391 accordance with Subsection 59-12-103(2)(c).]~~

3392 [~~(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
 3393 equal to the sum of:]~~

3394 [~~(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~

3395 [~~(F) the state tax and the local tax imposed in accordance with Subsection
 3396 59-12-103(2)(c).]~~

3397 [~~(H) the month for which the seller is filing a return in accordance with Subsection (1);
 3398 and]~~

3399 [~~(HH) an agreement sales and use tax; and]~~

3400 ~~[(B) 1.31% of the difference between:]~~
3401 ~~[(H) the amounts the seller would have been required to remit to the commission:]~~
3402 ~~[(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been~~
3403 ~~subject to the state tax and the local tax imposed in accordance with Subsection~~
3404 ~~59-12-103(2)(a);]~~
3405 ~~[(Bb) for the month for which the seller is filing a return in accordance with Subsection~~
3406 ~~(1); and]~~
3407 ~~[(Cc) for an agreement sales and use tax; and]~~
3408 ~~[(H) the amounts the seller is required to remit to the commission for:]~~
3409 ~~[(Aa) the state tax and the local tax imposed in accordance with Subsection~~
3410 ~~59-12-103(2)(c);]~~
3411 ~~[(Bb) the month for which the seller is filing a return in accordance with Subsection (1);~~
3412 ~~and]~~
3413 ~~[(Cc) an agreement sales and use tax.]~~
3414 ~~[(d)]~~ (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may
3415 retain each month 1% of any amounts the seller is required to remit to the commission:
3416 (i) for the month for which the seller is filing a return in accordance with Subsection
3417 (1); and
3418 (ii) under:
3419 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
3420 (B) Subsection 59-12-603(1)(a)(i)(A); or
3421 (C) Subsection 59-12-603(1)(a)(i)(B).
3422 (3) A state government entity that is required to remit taxes monthly in accordance
3423 with Subsection (1) may not retain any amount under Subsection (2).
3424 (4) A seller that has a tax liability under this chapter for the previous calendar year of
3425 less than \$50,000 may:
3426 (a) voluntarily meet the requirements of Subsection (1); and
3427 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
3428 amounts allowed by Subsection (2).
3429 (5) Penalties for late payment shall be as provided in Section 59-1-401.
3430 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted

3431 to the commission under this part, the commission shall each month calculate an amount equal
3432 to the difference between:

3433 (i) the total amount retained for that month by all sellers had the [percentages]
3434 percentage listed under [Subsections] Subsection (2)(b) [~~and (2)(c)(ii)~~] been 1.5%; and

3435 (ii) the total amount retained for that month by all sellers at the [percentages]
3436 percentage listed under [Subsections] Subsection (2)(b) [~~and (2)(c)(ii)~~].

3437 (b) The commission shall each month allocate the amount calculated under Subsection
3438 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
3439 tax that the commission distributes to each county, city, and town for that month compared to
3440 the total agreement sales and use tax that the commission distributes for that month to all
3441 counties, cities, and towns.

3442 (c) The amount the commission calculates under Subsection (6)(a) may not include an
3443 amount collected from a tax that:

3444 (i) the state imposes within a county, city, or town, including the unincorporated area
3445 of a county; and

3446 (ii) is not imposed within the entire state.

3447 Section 22. Section **59-12-401** is amended to read:

3448 **59-12-401. Resort communities tax authority for cities, towns, and military**
3449 **installation development authority -- Base -- Rate -- Collection fees.**

3450 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
3451 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
3452 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
3453 the transactions described in Subsection 59-12-103(1) located within the city or town.

3454 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
3455 section on:

3456 (i) the sale of:

3457 (A) a motor vehicle;

3458 (B) an aircraft;

3459 (C) a watercraft;

3460 (D) a modular home;

3461 (E) a manufactured home; or

3462 (F) a mobile home; or
3463 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3464 are exempt from taxation under Section 59-12-104~~;~~ and].

3465 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
3466 ~~food ingredients.~~]

3467 (c) For purposes of this Subsection (1), the location of a transaction shall be
3468 determined in accordance with Sections 59-12-211 through 59-12-215.

3469 [~~(d) A city or town imposing a tax under this section shall impose the tax on amounts~~
3470 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
3471 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
3472 ~~property other than food and food ingredients.~~]

3473 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3474 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3475 the state from its collection fees received in connection with the implementation of Subsection
3476 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3477 provided for in Subsection (1).

3478 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3479 those cities and towns according to the amount of revenue the respective cities and towns
3480 generate in that year through imposition of that tax.

3481 (3) (a) Subject to 63H-1-203, the military installation development authority created in
3482 Section 63H-1-201 may impose a tax under this section on the transactions described in
3483 Subsection 59-12-103(1) located within a project area described in a project area plan adopted
3484 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,
3485 as though the authority were a city or a town.

3486 (b) For purposes of calculating the permanent census population within a project area,
3487 the board as defined in Section 63H-1-102 shall:

3488 (i) count the population;

3489 (ii) adopt a resolution verifying the population number; and

3490 (iii) provide the commission any information required in Section 59-12-405.

3491 Section 23. Section **59-12-402** is amended to read:

3492 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**

3493 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
 3494 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**
 3495 **development authority.**

3496 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
 3497 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
 3498 66% of the municipality's permanent census population may, in addition to the sales tax
 3499 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
 3500 amount that is less than or equal to .5% on the transactions described in Subsection
 3501 59-12-103(1) located within the municipality.

3502 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
 3503 impose a tax under this section on:

3504 (i) the sale of:

3505 (A) a motor vehicle;

3506 (B) an aircraft;

3507 (C) a watercraft;

3508 (D) a modular home;

3509 (E) a manufactured home; or

3510 (F) a mobile home; or

3511 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 3512 are exempt from taxation under Section 59-12-104[~~;~~ and].

3513 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
 3514 ~~food ingredients.]~~

3515 (c) For purposes of this Subsection (1), the location of a transaction shall be
 3516 determined in accordance with Sections 59-12-211 through 59-12-215.

3517 [~~(d) A municipality imposing a tax under this section shall impose the tax on amounts~~
 3518 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
 3519 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
 3520 ~~property other than food and food ingredients.]~~

3521 (2) (a) An amount equal to the total of any costs incurred by the state in connection
 3522 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
 3523 the state from its collection fees received in connection with the implementation of Subsection

3524 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3525 provided for in Subsection (1).

3526 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3527 those cities and towns according to the amount of revenue the respective cities and towns
3528 generate in that year through imposition of that tax.

3529 (3) To impose an additional resort communities sales tax under this section, the
3530 governing body of the municipality shall:

3531 (a) pass a resolution approving the tax; and

3532 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
3533 in Subsection (4).

3534 (4) To obtain voter approval for an additional resort communities sales tax under
3535 Subsection (3)(b), a municipality shall:

3536 (a) hold the additional resort communities sales tax election during:

3537 (i) a regular general election; or

3538 (ii) a municipal general election; and

3539 (b) publish notice of the election:

3540 (i) 15 days or more before the day on which the election is held; and

3541 (ii) (A) in a newspaper of general circulation in the municipality; and

3542 (B) as required in Section 45-1-101.

3543 (5) An ordinance approving an additional resort communities sales tax under this
3544 section shall provide an effective date for the tax as provided in Section 59-12-403.

3545 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
3546 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
3547 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
3548 Section 10-1-203.

3549 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
3550 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
3551 one class of businesses based on gross receipts pursuant to Section 10-1-203.

3552 (7) A military installation development authority authorized to impose a resort
3553 communities tax under Section 59-12-401 may not impose an additional resort communities
3554 sales tax under this section.

3555 Section 24. Section **59-12-703** is amended to read:

3556 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
 3557 **tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3558 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
 3559 that county, by majority vote of all members of the legislative body, so that each resident of the
 3560 county, except residents in municipalities that have already imposed a sales and use tax under
 3561 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
 3562 Organizations or Facilities, has an opportunity to express the resident's opinion on the
 3563 imposition of a local sales and use tax of .1% on the transactions described in Subsection
 3564 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
 3565 cultural, and zoological organizations, and rural radio stations, in that county.

3566 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
 3567 tax under this section on:

3568 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 3569 are exempt from taxation under Section 59-12-104; or

3570 (B) sales and uses within municipalities that have already imposed a sales and use tax
 3571 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
 3572 Zoological Organizations or Facilities[; ~~and~~].

3573 [~~(C) except as provided in Subsection (1)(c), amounts paid or charged for food and~~
 3574 ~~food ingredients.]~~

3575 (b) For purposes of this Subsection (1), the location of a transaction shall be
 3576 determined in accordance with Sections 59-12-211 through 59-12-215.

3577 [~~(c) A county legislative body imposing a tax under this section shall impose the tax on~~
 3578 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
 3579 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
 3580 ~~property other than food and food ingredients.]~~

3581 [~~(d)~~ (c)] The election shall follow the procedures outlined in Title 11, Chapter 14,
 3582 Local Government Bonding Act.

3583 (2) (a) If the county legislative body determines that a majority of the county's
 3584 registered voters voting on the imposition of the tax have voted in favor of the imposition of
 3585 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a

3586 majority vote of all members of the legislative body on the transactions:

3587 (i) described in Subsection (1); and

3588 (ii) within the county, including the cities and towns located in the county, except those
3589 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3590 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
3591 Facilities.

3592 (b) A county legislative body may revise county ordinances to reflect statutory changes
3593 to the distribution formula or eligible recipients of revenues generated from a tax imposed
3594 under Subsection (2)(a):

3595 (i) after the county legislative body submits an opinion question to residents of the
3596 county in accordance with Subsection (1) giving them the opportunity to express their opinion
3597 on the proposed revisions to county ordinances; and

3598 (ii) if the county legislative body determines that a majority of those voting on the
3599 opinion question have voted in favor of the revisions.

3600 (3) The money generated from any tax imposed under Subsection (2) shall be used for
3601 funding:

3602 (a) recreational and zoological facilities located within the county or a city or town
3603 located in the county, except a city or town that has already imposed a sales and use tax under
3604 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3605 Organizations or Facilities; and

3606 (b) ongoing operating expenses of:

3607 (i) recreational facilities described in Subsection (3)(a);

3608 (ii) botanical, cultural, and zoological organizations within the county; and

3609 (iii) rural radio stations within the county.

3610 (4) (a) A tax authorized under this part shall be:

3611 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3612 accordance with:

3613 (A) the same procedures used to administer, collect, and enforce the tax under:

3614 (I) Part 1, Tax Collection; or

3615 (II) Part 2, Local Sales and Use Tax Act; and

3616 (B) Chapter 1, General Taxation Policies; and

3617 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3618 period in accordance with this section.

3619 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3620 Subsections 59-12-205(2) through (6).

3621 (5) (a) For purposes of this Subsection (5):

3622 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3623 Annexation to County.

3624 (ii) "Annexing area" means an area that is annexed into a county.

3625 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3626 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3627 (A) on the first day of a calendar quarter; and

3628 (B) after a 90-day period beginning on the date the commission receives notice meeting
3629 the requirements of Subsection (5)(b)(ii) from the county.

3630 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3631 (A) that the county will enact or repeal a tax under this part;

3632 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3633 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3634 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3635 tax.

3636 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3637 (A) that begins after the effective date of the enactment of the tax; and

3638 (B) if the billing period for the transaction begins before the effective date of the
3639 enactment of the tax under this section.

3640 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3641 (A) that began before the effective date of the repeal of the tax; and

3642 (B) if the billing period for the transaction begins before the effective date of the repeal
3643 of the tax imposed under this section.

3644 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3645 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3646 Subsection (5)(b)(i) takes effect:

3647 (A) on the first day of a calendar quarter; and

3648 (B) beginning 60 days after the effective date of the enactment or repeal under
3649 Subsection (5)(b)(i).

3650 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3651 commission may by rule define the term "catalogue sale."

3652 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3653 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3654 part for an annexing area, the enactment or repeal shall take effect:

3655 (A) on the first day of a calendar quarter; and

3656 (B) after a 90-day period beginning on the date the commission receives notice meeting
3657 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3658 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3659 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3660 repeal of a tax under this part for the annexing area;

3661 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3662 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3663 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3664 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3665 (A) that begins after the effective date of the enactment of the tax; and

3666 (B) if the billing period for the transaction begins before the effective date of the
3667 enactment of the tax under this section.

3668 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3669 (A) that began before the effective date of the repeal of the tax; and

3670 (B) if the billing period for the transaction begins before the effective date of the repeal
3671 of the tax imposed under this section.

3672 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3673 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3674 Subsection (5)(e)(i) takes effect:

3675 (A) on the first day of a calendar quarter; and

3676 (B) beginning 60 days after the effective date of the enactment or repeal under
3677 Subsection (5)(e)(i).

3678 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3679 commission may by rule define the term "catalogue sale."

3680 Section 25. Section **59-12-802** is amended to read:

3681 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
3682 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

3683 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
3684 may impose a sales and use tax of up to 1%:

3685 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
3686 and

3687 (ii) subject to Subsection (3), to fund:

3688 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
3689 that county; or

3690 (B) for a county of the sixth class:

3691 (I) emergency medical services in that county;

3692 (II) federally qualified health centers in that county;

3693 (III) freestanding urgent care centers in that county;

3694 (IV) rural county health care facilities in that county;

3695 (V) rural health clinics in that county; or

3696 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

3697 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3698 tax under this section on:

3699 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3700 are exempt from taxation under Section 59-12-104; or

3701 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3702 a city that imposes a tax under Section 59-12-804~~[; and]~~.

3703 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
3704 ~~food ingredients.]~~

3705 (c) For purposes of this Subsection (1), the location of a transaction shall be
3706 determined in accordance with Sections 59-12-211 through 59-12-215.

3707 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~
3708 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
3709 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~

3710 ~~property other than food and food ingredients.]~~

3711 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
3712 obtain approval to impose the tax from a majority of the:

3713 (i) members of the county's legislative body; and

3714 (ii) county's registered voters voting on the imposition of the tax.

3715 (b) The county legislative body shall conduct the election according to the procedures
3716 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3717 (3) (a) The money generated by a tax imposed under Subsection (1) by a county
3718 legislative body of a county of the third, fourth, or fifth class may only be used for the
3719 financing of:

3720 (i) ongoing operating expenses of a rural county health care facility within that county;

3721 (ii) the acquisition of land for a rural county health care facility within that county; or

3722 (iii) the design, construction, equipping, or furnishing of a rural county health care
3723 facility within that county.

3724 (b) The money generated by a tax imposed under Subsection (1) by a county of the
3725 sixth class may only be used for the financing of:

3726 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3727 (1)(a)(ii)(B) within that county;

3728 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3729 (1)(a)(ii)(B) within that county;

3730 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3731 described in Subsection (1)(a)(ii)(B) within that county; or

3732 (iv) the provision of rural emergency medical services within that county.

3733 (4) (a) A tax under this section shall be:

3734 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3735 accordance with:

3736 (A) the same procedures used to administer, collect, and enforce the tax under:

3737 (I) Part 1, Tax Collection; or

3738 (II) Part 2, Local Sales and Use Tax Act; and

3739 (B) Chapter 1, General Taxation Policies; and

3740 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year

3741 period by the county legislative body as provided in Subsection (1).

3742 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3743 Subsections 59-12-205(2) through (6).

3744 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3745 under this section for the cost of administering this tax.

3746 Section 26. Section **59-12-804** is amended to read:

3747 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
3748 **collection, and enforcement of tax.**

3749 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3750 (i) on the transactions described in Subsection 59-12-103(1) located within the city;
3751 and

3752 (ii) to fund rural city hospitals in that city.

3753 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
3754 under this section on~~[-(i)]~~ the sales and uses described in Section 59-12-104 to the extent the
3755 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

3756 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and
3757 food ingredients.]~~

3758 (c) For purposes of this Subsection (1), the location of a transaction shall be
3759 determined in accordance with Sections 59-12-211 through 59-12-215.

3760 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on
3761 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3762 as part of a bundled transaction attributable to food and food ingredients and tangible personal
3763 property other than food and food ingredients.]~~

3764 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
3765 obtain approval to impose the tax from a majority of the:

3766 (i) members of the city legislative body; and

3767 (ii) city's registered voters voting on the imposition of the tax.

3768 (b) The city legislative body shall conduct the election according to the procedures and
3769 requirements of Title 11, Chapter 14, Local Government Bonding Act.

3770 (3) The money generated by a tax imposed under Subsection (1) may only be used for
3771 the financing of:

- 3772 (a) ongoing operating expenses of a rural city hospital;
- 3773 (b) the acquisition of land for a rural city hospital; or
- 3774 (c) the design, construction, equipping, or furnishing of a rural city hospital.
- 3775 (4) (a) A tax under this section shall be:
- 3776 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
- 3777 accordance with:
- 3778 (A) the same procedures used to administer, collect, and enforce the tax under:
- 3779 (I) Part 1, Tax Collection; or
- 3780 (II) Part 2, Local Sales and Use Tax Act; and
- 3781 (B) Chapter 1, General Taxation Policies; and
- 3782 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
- 3783 period by the city legislative body as provided in Subsection (1).
- 3784 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
- 3785 Subsections 59-12-205(2) through (6).
- 3786 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
- 3787 under this section for the cost of administering the tax.
- 3788 Section 27. Section **59-12-1201** is amended to read:
- 3789 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
- 3790 **collection, and enforcement of tax -- Administrative fee -- Deposits.**
- 3791 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
- 3792 short-term leases and rentals of motor vehicles not exceeding 30 days.
- 3793 (b) The tax imposed in this section is in addition to all other state, county, or municipal
- 3794 fees and taxes imposed on rentals of motor vehicles.
- 3795 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
- 3796 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.
- 3797 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
- 3798 take effect on the first day of the first billing period:
- 3799 (A) that begins after the effective date of the tax rate increase; and
- 3800 (B) if the billing period for the transaction begins before the effective date of a tax rate
- 3801 increase imposed under Subsection (1).
- 3802 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax

3803 rate decrease shall take effect on the first day of the last billing period:

3804 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3805 and

3806 (B) if the billing period for the transaction begins before the effective date of the repeal

3807 of the tax or the tax rate decrease imposed under Subsection (1).

3808 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

3809 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

3810 (b) the motor vehicle is rented as a personal household goods moving van; or

3811 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily

3812 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an

3813 insurance agreement.

3814 (4) (a) (i) The tax authorized under this section shall be administered, collected, and

3815 enforced in accordance with:

3816 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,

3817 Tax Collection; and

3818 (B) Chapter 1, General Taxation Policies.

3819 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to

3820 Subsections 59-12-103(4) through [~~(12)~~] (13) or Section 59-12-107.1 or 59-12-123.

3821 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this

3822 section for the costs of rendering its services under this section.

3823 (c) Except as provided under Subsection (4)(b), all revenue received by the

3824 commission under this section shall be deposited daily with the state treasurer and credited

3825 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section

3826 72-2-117.

3827 Section 28. Section **59-12-1302** is amended to read:

3828 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**

3829 **rate change -- Effective date -- Notice requirements.**

3830 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a

3831 tax as provided in this part in an amount that does not exceed 1%.

3832 (2) A town may impose a tax as provided in this part if the town imposed a license fee

3833 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,

3834 1996.

3835 (3) A town imposing a tax under this section shall:

3836 (a) except as provided in Subsection (4), impose the tax on the transactions described
3837 in Subsection 59-12-103(1) located within the town; and

3838 (b) provide an effective date for the tax as provided in Subsection (5).

3839 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
3840 section on~~[(+)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
3841 uses are exempt from taxation under Section 59-12-104~~[, and]~~.

3842 ~~[(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and~~
3843 ~~food ingredients.]~~

3844 (b) For purposes of this Subsection (4), the location of a transaction shall be
3845 determined in accordance with Sections 59-12-211 through 59-12-215.

3846 ~~[(c) A town imposing a tax under this section shall impose the tax on amounts paid or~~
3847 ~~charged for food and food ingredients if the food and food ingredients are sold as part of a~~
3848 ~~bundled transaction attributable to food and food ingredients and tangible personal property~~
3849 ~~other than food and food ingredients.]~~

3850 (5) (a) For purposes of this Subsection (5):

3851 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3852 Annexation.

3853 (ii) "Annexing area" means an area that is annexed into a town.

3854 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3855 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3856 or change shall take effect:

3857 (A) on the first day of a calendar quarter; and

3858 (B) after a 90-day period beginning on the date the commission receives notice meeting
3859 the requirements of Subsection (5)(b)(ii) from the town.

3860 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3861 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3862 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3863 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3864 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

3865 (5)(b)(ii)(A), the rate of the tax.

3866 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
3867 the first billing period:

3868 (A) that begins after the effective date of the enactment of the tax or the tax rate
3869 increase; and

3870 (B) if the billing period for the transaction begins before the effective date of the
3871 enactment of the tax or the tax rate increase imposed under Subsection (1).

3872 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3873 billing period:

3874 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3875 and

3876 (B) if the billing period for the transaction begins before the effective date of the repeal
3877 of the tax or the tax rate decrease imposed under Subsection (1).

3878 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3879 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3880 a tax described in Subsection (5)(b)(i) takes effect:

3881 (A) on the first day of a calendar quarter; and

3882 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3883 rate of the tax under Subsection (5)(b)(i).

3884 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3885 commission may by rule define the term "catalogue sale."

3886 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3887 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3888 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3889 effect:

3890 (A) on the first day of a calendar quarter; and

3891 (B) after a 90-day period beginning on the date the commission receives notice meeting
3892 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3893 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3894 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
3895 repeal, or change in the rate of a tax under this part for the annexing area;

- 3896 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
3897 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
3898 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3899 (5)(e)(ii)(A), the rate of the tax.
- 3900 (f) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
3901 the first billing period:
- 3902 (A) that begins after the effective date of the enactment of the tax or the tax rate
3903 increase; and
- 3904 (B) if the billing period for the transaction begins before the effective date of the
3905 enactment of the tax or the tax rate increase imposed under Subsection (1).
- 3906 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3907 billing period:
- 3908 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3909 and
- 3910 (B) if the billing period for the transaction begins before the effective date of the repeal
3911 of the tax or the tax rate decrease imposed under Subsection (1).
- 3912 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3913 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3914 a tax described in Subsection (5)(e)(i) takes effect:
- 3915 (A) on the first day of a calendar quarter; and
3916 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3917 rate of the tax under Subsection (5)(e)(i).
- 3918 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3919 commission may by rule define the term "catalogue sale."
- 3920 (6) The commission shall:
- 3921 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
3922 under this section to the town imposing the tax;
- 3923 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
3924 authorized under this section in accordance with:
- 3925 (i) the same procedures used to administer, collect, and enforce the tax under:
- 3926 (A) Part 1, Tax Collection; or

3927 (B) Part 2, Local Sales and Use Tax Act; and
 3928 (ii) Chapter 1, General Taxation Policies; and
 3929 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
 3930 collecting the tax as provided in Section 59-12-206.

3931 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
 3932 Subsections 59-12-205(2) through (6).

3933 Section 29. Section **59-12-1402** is amended to read:

3934 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
 3935 **of tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3936 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
 3937 legislative body subject to this part may submit an opinion question to the residents of that city
 3938 or town, by majority vote of all members of the legislative body, so that each resident of the
 3939 city or town has an opportunity to express the resident's opinion on the imposition of a local
 3940 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
 3941 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
 3942 and zoological organizations in that city or town.

3943 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
 3944 impose a tax under this section:

3945 (A) if the county in which the city or town is located imposes a tax under Part 7,
 3946 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
 3947 Facilities; or

3948 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
 3949 uses are exempt from taxation under Section 59-12-104[; and].

3950 [~~(C) except as provided in Subsection (1)(c), on amounts paid or charged for food and~~
 3951 ~~food ingredients.]~~

3952 (b) For purposes of this Subsection (1), the location of a transaction shall be
 3953 determined in accordance with Sections 59-12-211 through 59-12-215.

3954 [~~(c) A city or town legislative body imposing a tax under this section shall impose the~~
 3955 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
 3956 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
 3957 ~~personal property other than food and food ingredients.]~~

3958 ~~[(d)]~~ (c) The election shall be held at a regular general election or a municipal general
3959 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
3960 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
3961 Subsection (6).

3962 (2) If the city or town legislative body determines that a majority of the city's or town's
3963 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3964 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
3965 by a majority vote of all members of the legislative body.

3966 (3) The money generated from any tax imposed under Subsection (2) shall be used for
3967 financing:

3968 (a) recreational and zoological facilities within the city or town or within the
3969 geographic area of entities that are parties to an interlocal agreement, to which the city or town
3970 is a party, providing for recreational or zoological facilities; and

3971 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
3972 within the city or town or within the geographic area of entities that are parties to an interlocal
3973 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
3974 or zoological organizations.

3975 (4) (a) A tax authorized under this part shall be:

3976 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3977 accordance with:

3978 (A) the same procedures used to administer, collect, and enforce the tax under:

3979 (I) Part 1, Tax Collection; or

3980 (II) Part 2, Local Sales and Use Tax Act; and

3981 (B) Chapter 1, General Taxation Policies; and

3982 (ii) (A) levied for a period of eight years; and

3983 (B) may be reauthorized at the end of the eight-year period in accordance with this
3984 section.

3985 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3986 Subsections 59-12-205(2) through (6).

3987 (5) (a) For purposes of this Subsection (5):

3988 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part

3989 4, Annexation.

3990 (ii) "Annexing area" means an area that is annexed into a city or town.

3991 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3992 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3993 (A) on the first day of a calendar quarter; and

3994 (B) after a 90-day period beginning on the date the commission receives notice meeting
3995 the requirements of Subsection (5)(b)(ii) from the city or town.

3996 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3997 (A) that the city or town will enact or repeal a tax under this part;

3998 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3999 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4000 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
4001 the tax.

4002 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

4003 (A) that begins after the effective date of the enactment of the tax; and

4004 (B) if the billing period for the transaction begins before the effective date of the
4005 enactment of the tax under this section.

4006 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

4007 (A) that began before the effective date of the repeal of the tax; and

4008 (B) if the billing period for the transaction begins before the effective date of the repeal
4009 of the tax imposed under this section.

4010 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4011 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4012 Subsection (5)(b)(i) takes effect:

4013 (A) on the first day of a calendar quarter; and

4014 (B) beginning 60 days after the effective date of the enactment or repeal under
4015 Subsection (5)(b)(i).

4016 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4017 commission may by rule define the term "catalogue sale."

4018 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4019 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

4020 part for an annexing area, the enactment or repeal shall take effect:

4021 (A) on the first day of a calendar quarter; and

4022 (B) after a 90-day period beginning on the date the commission receives notice meeting
4023 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

4024 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4025 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4026 repeal a tax under this part for the annexing area;

4027 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4028 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4029 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4030 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

4031 (A) that begins after the effective date of the enactment of the tax; and

4032 (B) if the billing period for the transaction begins before the effective date of the
4033 enactment of the tax under this section.

4034 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

4035 (A) that began before the effective date of the repeal of the tax; and

4036 (B) if the billing period for the transaction begins before the effective date of the repeal
4037 of the tax imposed under this section.

4038 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4039 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4040 Subsection (5)(e)(i) takes effect:

4041 (A) on the first day of a calendar quarter; and

4042 (B) beginning 60 days after the effective date of the enactment or repeal under
4043 Subsection (5)(e)(i).

4044 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4045 commission may by rule define the term "catalogue sale."

4046 (6) (a) Before a city or town legislative body submits an opinion question to the
4047 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

4048 (i) submit to the county legislative body in which the city or town is located a written
4049 notice of the intent to submit the opinion question to the residents of the city or town; and

4050 (ii) receive from the county legislative body:

4051 (A) a written resolution passed by the county legislative body stating that the county
4052 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
4053 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

4054 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
4055 opinion question submitted to the residents of the county under Part 7, County Option Funding
4056 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
4057 or town legislative body to submit the opinion question to the residents of the city or town in
4058 accordance with this part.

4059 (b) (i) Within 60 days after the day the county legislative body receives from a city or
4060 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
4061 opinion question to the residents of the city or town, the county legislative body shall provide
4062 the city or town legislative body:

4063 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

4064 (B) written notice that the county legislative body will submit an opinion question to
4065 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
4066 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
4067 that part.

4068 (ii) If the county legislative body provides the city or town legislative body the written
4069 notice that the county legislative body will submit an opinion question as provided in
4070 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
4071 later than, from the date the county legislative body sends the written notice, the later of:

4072 (A) a 12-month period;

4073 (B) the next regular primary election; or

4074 (C) the next regular general election.

4075 (iii) Within 30 days of the date of the canvass of the election at which the opinion
4076 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
4077 city or town legislative body described in Subsection (6)(a) written results of the opinion
4078 question submitted by the county legislative body under Part 7, County Option Funding for
4079 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

4080 (A) (I) the city or town legislative body may not impose a tax under this part because a
4081 majority of the county's registered voters voted in favor of the county imposing the tax and the

4082 county legislative body by a majority vote approved the imposition of the tax; or
4083 (II) for at least 12 months from the date the written results are submitted to the city or
4084 town legislative body, the city or town legislative body may not submit to the county legislative
4085 body a written notice of the intent to submit an opinion question under this part because a
4086 majority of the county's registered voters voted against the county imposing the tax and the
4087 majority of the registered voters who are residents of the city or town described in Subsection
4088 (6)(a) voted against the imposition of the county tax; or

4089 (B) the city or town legislative body may submit the opinion question to the residents
4090 of the city or town in accordance with this part because although a majority of the county's
4091 registered voters voted against the county imposing the tax, the majority of the registered voters
4092 who are residents of the city or town voted for the imposition of the county tax.

4093 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
4094 provide a city or town legislative body described in Subsection (6)(a) a written resolution
4095 passed by the county legislative body stating that the county legislative body is not seeking to
4096 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
4097 Zoological Organizations or Facilities, which permits the city or town legislative body to
4098 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

4099 Section 30. Section **59-12-2003** is amended to read:

4100 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
4101 **transit districts.**

4102 (1) Subject to the other provisions of this section and except as provided in Subsection
4103 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
4104 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
4105 area of a county of the first or second class if, on January 1, 2008, there is a public transit
4106 district within any portion of that county of the first or second class.

4107 (2) The state may not impose a tax under this part within a county of the first or second
4108 class if within all of the cities, towns, and the unincorporated area of the county of the first or
4109 second class there is imposed a sales and use tax of:

4110 (a) .30% under Section 59-12-2213;

4111 (b) .30% under Section 59-12-2215; or

4112 (c) .30% under Section 59-12-2216.

4113 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
4114 rate imposed within a city, town, or the unincorporated area of a county of the first or second
4115 class is a percentage equal to the difference between:

4116 (i) .30%; and

4117 (ii) (A) for a city within the county of the first or second class, the highest tax rate
4118 imposed within that city under:

4119 (I) Section 59-12-2213;

4120 (II) Section 59-12-2215; or

4121 (III) Section 59-12-2216;

4122 (B) for a town within the county of the first or second class, the highest tax rate
4123 imposed within that town under:

4124 (I) Section 59-12-2213;

4125 (II) Section 59-12-2215; or

4126 (III) Section 59-12-2216; or

4127 (C) for the unincorporated area of the county of the first or second class, the highest tax
4128 rate imposed within that unincorporated area under:

4129 (I) Section 59-12-2213;

4130 (II) Section 59-12-2215; or

4131 (III) Section 59-12-2216.

4132 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
4133 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,
4134 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the
4135 first or second class is .30%, the state may not impose a tax under this part within that city,
4136 town, or unincorporated area.

4137 (4) ~~[(a)]~~ The state may not impose a tax under this part on~~[(+)]~~ the sales and uses
4138 described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under
4139 Section 59-12-104~~[-or]~~.

4140 ~~[(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and~~
4141 ~~food ingredients.]~~

4142 ~~[(b) The state shall impose a tax under this part on amounts paid or charged for food~~
4143 ~~and food ingredients if the food and food ingredients are sold as part of a bundled transaction~~

4144 attributable to food and ingredients and tangible personal property other than food and food
4145 ingredients.]

4146 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
4147 accordance with Sections 59-12-211 through 59-12-215.

4148 (6) The commission shall distribute the revenues the state collects from the sales and
4149 use tax under this part, after subtracting amounts a seller retains in accordance with Section
4150 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

4151 (a) within which the state imposes a tax under this part; and

4152 (b) in proportion to the revenues collected from the sales and use tax under this part
4153 within each city, town, and unincorporated area within which the state imposes a tax under this
4154 part.

4155 Section 31. Section **59-12-2103** is amended to read:

4156 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
4157 **from the tax -- Administration, collection, and enforcement of tax by commission --**
4158 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4159 (1) (a) Subject to the other provisions of this section and except as provided in
4160 Subsection (2), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town
4161 receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or
4162 town would have received a tax revenue distribution of less than .75% of the taxable sales
4163 within the boundaries of the city or town but for Subsection 59-12-205(3)(a), the city or town
4164 legislative body may impose a sales and use tax of up to .20% on the transactions:

4165 (i) described in Subsection 59-12-103(1); and

4166 (ii) within the city or town.

4167 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
4168 expend the revenues collected from the tax for the same purposes for which the city or town
4169 may expend the city's or town's general fund revenues.

4170 (c) For purposes of this Subsection (1), the location of a transaction shall be
4171 determined in accordance with Sections 59-12-211 through 59-12-215.

4172 (2) [(~~a~~)] A city or town legislative body may not impose a tax under this section on[
4173 (~~t~~)] the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4174 exempt from taxation under Section 59-12-104[~~and~~].

4175 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~
4176 ~~food ingredients.]~~

4177 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the~~
4178 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
4179 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
4180 ~~personal property other than food and food ingredients.]~~

4181 (3) To impose a tax under this part, a city or town legislative body shall obtain
4182 approval from a majority of the members of the city or town legislative body.

4183 (4) The commission shall transmit revenues collected within a city or town from a tax
4184 under this part:

4185 (a) to the city or town legislative body;

4186 (b) monthly; and

4187 (c) by electronic funds transfer.

4188 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
4189 collect, and enforce a tax under this part in accordance with:

4190 (i) the same procedures used to administer, collect, and enforce the tax under:

4191 (A) Part 1, Tax Collection; or

4192 (B) Part 2, Local Sales and Use Tax Act; and

4193 (ii) Chapter 1, General Taxation Policies.

4194 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

4195 (6) (a) The commission may retain an amount of tax collected under this part of not to
4196 exceed the lesser of:

4197 (i) 1.5%; or

4198 (ii) an amount equal to the cost to the commission of administering this part.

4199 (b) Any amount the commission retains under Subsection (6)(a) shall be:

4200 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

4201 (ii) used as provided in Subsection 59-12-206(2).

4202 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
4203 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
4204 repeal, or change shall take effect:

4205 (A) on the first day of a calendar quarter; and

4206 (B) after a 90-day period beginning on the date the commission receives notice meeting
4207 the requirements of Subsection (7)(a)(i) from the city or town.

4208 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

4209 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
4210 this part;

4211 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

4212 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

4213 (D) if the city or town enacts the tax or changes the rate of the tax described in
4214 Subsection (7)(a)(ii)(A), the rate of the tax.

4215 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
4216 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
4217 take effect on the first day of the first billing period that begins after the effective date of the
4218 enactment of the tax or the tax rate increase.

4219 (ii) If the billing period for a transaction begins before the effective date of the repeal
4220 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
4221 decrease shall take effect on the first day of the last billing period that began before the
4222 effective date of the repeal of the tax or the tax rate decrease.

4223 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
4224 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
4225 described in Subsection (7)(a)(i) takes effect:

4226 (A) on the first day of a calendar quarter; and

4227 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4228 rate of the tax under Subsection (7)(a)(i).

4229 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4230 commission may by rule define the term "catalogue sale."

4231 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
4232 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
4233 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
4234 effect:

4235 (A) on the first day of a calendar quarter; and

4236 (B) after a 90-day period beginning on the date the commission receives notice meeting

4237 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

4238 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

4239 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
4240 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

4241 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

4242 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

4243 (D) if the city or town enacts the tax or changes the rate of the tax described in
4244 Subsection (7)(d)(ii)(A), the rate of the tax.

4245 (e) (i) If the billing period for a transaction begins before the effective date of the
4246 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
4247 rate increase shall take effect on the first day of the first billing period that begins after the
4248 effective date of the enactment of the tax or the tax rate increase.

4249 (ii) If the billing period for a transaction begins before the effective date of the repeal
4250 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
4251 decrease shall take effect on the first day of the last billing period that began before the
4252 effective date of the repeal of the tax or the tax rate decrease.

4253 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
4254 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
4255 described in Subsection (7)(d)(i) takes effect:

4256 (A) on the first day of a calendar quarter; and

4257 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
4258 Subsection (7)(d)(i).

4259 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4260 commission may by rule define the term "catalogue sale".

4261 Section 32. Section **59-12-2204** is amended to read:

4262 **59-12-2204. Transactions that may not be subject to taxation under this part.**

4263 [~~(†)~~] A county, city, or town may not impose a sales and use tax under this part on[~~;~~
4264 ~~(a)~~] the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4265 exempt from taxation under Section 59-12-104[~~;~~ and].

4266 [~~(b) except as provided in Subsection (2), amounts paid or charged for food and food~~
4267 ~~ingredients.~~]

4268 ~~[(2) A county, city, or town imposing a sales and use tax under this part shall impose~~
4269 ~~the sales and use tax on amounts paid or charged for food and food ingredients if the food and~~
4270 ~~food ingredients are sold as part of a bundled transaction attributable to food and food~~
4271 ~~ingredients and tangible personal property other than food and food ingredients.]~~

4272 Section 33. **Effective dates.**

4273 (1) The amendments to the following sections take effect on January 1, 2012:

4274 (a) Section 59-2-404;

4275 (b) Section 59-2-405;

4276 (c) Section 59-2-405.1;

4277 (d) Section 59-2-405.2;

4278 (e) Section 59-2-405.3;

4279 (f) Section 59-2-919.3; and

4280 (g) Section 59-2-924.5.

4281 (2) The following sections take effect on January 1, 2012:

4282 (a) Section 53A-21-601;

4283 (b) Section 53A-21-602; and

4284 (c) Section 53A-21-603.

4285 (3) The amendments to the following sections take effect on July 1, 2012:

4286 (a) Section 10-1-405;

4287 (b) Section 11-41-102;

4288 (c) Section 53A-1a-513;

4289 (d) Section 53A-17a-133;

4290 (e) Section 53A-17a-134;

4291 (f) Section 53A-21-101.5;

4292 (g) Section 59-1-401;

4293 (h) Section 59-12-102;

4294 (i) Section 59-12-103;

4295 (j) Section 59-12-104.2;

4296 (k) Section 59-12-108;

4297 (l) Section 59-12-401;

4298 (m) Section 59-12-402;

- 4299 (n) Section 59-12-703;
- 4300 (o) Section 59-12-802;
- 4301 (p) Section 59-12-804;
- 4302 (q) Section 59-12-1201;
- 4303 (r) Section 59-12-1302;
- 4304 (s) Section 59-12-1402;
- 4305 (t) Section 59-12-2003;
- 4306 (u) Section 59-12-2103; and
- 4307 (v) Section 59-12-2204.