

TAX REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends the Revenue and Taxation title and related provisions to address the sales and use taxation of food and food ingredients, adjust sales and use tax rates and revenue allocations, repeal an account that adjusts for decreased local sales and use tax revenues, and to provide income tax credits.

Highlighted Provisions:

This bill:

- ▶ repeals the Rural Health Care Facilities Account;
- ▶ increases the state sales and use tax rate on food and food ingredients to the general state sales and use tax rate;
- ▶ provides that food and food ingredients are taxable for purposes of certain local option sales and use taxes;
- ▶ modifies state and local sales and use tax rates and revenue allocations;
- ▶ enacts a refundable state earned income tax credit;
- ▶ enacts a refundable income-based tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

10-1-405 (Superseded 07/01/14), as last amended by Laws of Utah 2011, Chapter 309**10-1-405 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapter 424**11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384**59-1-210**, as last amended by Laws of Utah 2010, Chapter 278**59-1-401**, as last amended by Laws of Utah 2012, Chapters 312 and 357

- 33 **59-12-102 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
34 255, 312, 405, and 410
- 35 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
36 312, 405, 410, and 424
- 37 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
38 207, 212, 254, and 255
- 39 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,
40 212, 254, 255, and 424
- 41 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
- 42 **59-12-108**, as last amended by Laws of Utah 2012, Chapter 312
- 43 **59-12-401**, as last amended by Laws of Utah 2010, Chapter 9
- 44 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
- 45 **59-12-703**, as last amended by Laws of Utah 2012, Chapter 254
- 46 **59-12-802**, as last amended by Laws of Utah 2011, Chapter 309
- 47 **59-12-804**, as last amended by Laws of Utah 2011, Chapter 309
- 48 **59-12-1302**, as last amended by Laws of Utah 2012, Chapter 254
- 49 **59-12-1402**, as last amended by Laws of Utah 2012, Chapter 254
- 50 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263
- 51 **59-12-2103**, as last amended by Laws of Utah 2012, Chapters 254 and 352
- 52 **59-12-2204**, as enacted by Laws of Utah 2010, Chapter 263
- 53 **59-12-2213**, as last amended by Laws of Utah 2011, Chapter 223
- 54 **59-12-2215**, as enacted by Laws of Utah 2010, Chapter 263
- 55 **59-12-2216**, as enacted by Laws of Utah 2010, Chapter 263

56 ENACTS:

- 57 **59-10-1102.1**, Utah Code Annotated 1953
- 58 **59-10-1110**, Utah Code Annotated 1953
- 59 **59-10-1111**, Utah Code Annotated 1953

60 REPEALS:

- 61 **26-9-4**, as last amended by Laws of Utah 2010, Chapter 278

62

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

64 Section 1. Section **10-1-405 (Superseded 07/01/14)** is amended to read:

65 **10-1-405 (Superseded 07/01/14). Collection of taxes by commission -- Uniform**
66 **interlocal agreement -- Administrative charge -- Rulemaking authority.**

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

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

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

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

74 (A) except for:

75 (I) Subsection 59-12-103(2)[~~(g)~~](f);

76 (II) Section 59-12-104;

77 (III) Section 59-12-104.1;

78 (IV) Section 59-12-104.2;

79 (V) Section 59-12-104.3;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 (i) within the municipality;

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

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

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

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

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

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

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

132 Section 2. Section **10-1-405 (Effective 07/01/14)** is amended to read:

133 **10-1-405 (Effective 07/01/14). Collection of taxes by commission -- Uniform**
134 **interlocal agreement -- Administrative charge -- Rulemaking authority.**

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

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

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

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

142 (A) except for:

143 (I) Subsection 59-12-103(2)[(†)](h);

144 (II) Section 59-12-104;

145 (III) Section 59-12-104.1;

146 (IV) Section 59-12-104.2;

147 (V) Section 59-12-104.3;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

187 (i) within the municipality;

- 188 (ii) at a rate of 3.5%; and
189 (iii) from a telecommunications provider required to pay the municipal
190 telecommunications license tax on or after July 1, 2007; and
191 (b) the commission shall collect a municipal telecommunications license tax within the
192 municipality at the rate imposed by the municipality if:
193 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
194 telecommunications license tax under this part at a rate of up to 3.5%;
195 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
196 the rate of the municipal telecommunications license tax; and
197 (iii) a telecommunications provider is required to pay the municipal
198 telecommunications license tax on or after the day on which the ordinance described in
199 Subsection (4)(b)(ii) takes effect.

200 Section 3. Section **11-41-102** is amended to read:

201 **11-41-102. Definitions.**

202 As used in this chapter:

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

204 (a) (i) county; or

205 (ii) municipality; and

206 (b) person.

207 (2) "Municipality" means a:

208 (a) city; or

209 (b) town.

210 (3) "Payment" includes:

211 (a) a payment;

212 (b) a rebate;

213 (c) a refund; or

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

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

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

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

218 (c) retail shopping facility that has at least two anchor tenants if the total number of

219 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
220 feet; or

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

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

223 (i) imposed on transactions within a:

224 (A) county; or

225 (B) municipality; and

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

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

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

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

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

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

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

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

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

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

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

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

240 (i) to a person;

241 (ii) by a:

242 (A) county; or

243 (B) municipality;

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

245 (A) county; or

246 (B) municipality; and

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

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

250 Section 4. Section **59-1-210** is amended to read:

251 **59-1-210. General powers and duties.**

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

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

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

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

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

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

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

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

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

276 (9) to confer with, advise, and direct county treasurers, assessors, and other county
277 officers in matters relating to the assessment and equalization of property for taxation and the
278 collection of taxes;

279 (10) to provide for and hold annually at such time and place as may be convenient a
280 district or state convention of county assessors, auditors, and other county officers to consider

281 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative
282 to taxation and methods of assessment, to which county assessors and other officers called to
283 attend shall attend at county expense;

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

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

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

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

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

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

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

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

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

310 (20) to carefully examine all cases where evasion or violation of the laws for
311 assessment and taxation of property is alleged, to ascertain whether existing laws are defective

312 or improperly administered;

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

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

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

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

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

326 (26) unless otherwise provided by statute, to adopt ~~[a schedule of]~~ fees;

327 (a) assessed for services provided by the commission~~[, unless otherwise provided by~~
328 ~~statute. The fee shall be]~~;

329 (b) that are part of a schedule of fees;

330 (c) that are reasonable and fair~~[, and shall]~~;

331 (d) that reflect the cost of services provided~~[. Each fee established in this manner shall~~
332 ~~be]~~;

333 (e) that are submitted to and approved by the Legislature as part of the commission's
334 annual appropriations request~~[. The commission]~~; and

335 (f) that may not ~~[charge or collect any fee proposed in this manner]~~ be charged or
336 collected without approval by the Legislature; and

337 (27) to comply with the procedures and requirements of Title 63G, Chapter 4,
338 Administrative Procedures Act, in its adjudicative proceedings~~[, and]~~.

339 ~~[(28) to distribute the money deposited into the Rural Health Care Facilities Account as~~
340 ~~required by Section 26-9-4.]~~

341 Section 5. Section **59-1-401** is amended to read:

342 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**

343 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
344 **interest.**

345 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

368 (I) this title;

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

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

371 (IV) Section 19-6-410.5;

372 (V) Section 19-6-714;

373 (VI) Section 19-6-805;

- 374 (VII) Section 32B-2-304;
- 375 (VIII) Section 34A-2-202;
- 376 (IX) Section 40-6-14;
- 377 (X) Section 69-2-5;
- 378 (XI) Section 69-2-5.5; or
- 379 (XII) Section 69-2-5.6; or
- 380 (B) another amount that by statute is subject to a penalty imposed under this section.
- 381 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 382 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 383 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 384 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 385 (D) Chapter 3, Tax Equivalent Property Act; or
- 386 (E) Chapter 4, Privilege Tax.
- 387 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 388 tax, fee, or charge.
- 389 (2) (a) The due date for filing a return is:
- 390 (i) if the person filing the return is not allowed by law an extension of time for filing
- 391 the return, the day on which the return is due as provided by law; or
- 392 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 393 return, the earlier of:
- 394 (A) the date the person files the return; or
- 395 (B) the last day of that extension of time as allowed by law.
- 396 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 397 return after the due date described in Subsection (2)(a).
- 398 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 399 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 400 tax, fee, or charge:
- 401 (A) \$20; or
- 402 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 403 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 404 fee, or charge, beginning on the activation date for the tax, fee, or charge:

405 (A) \$20; or
406 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
407 filed no later than five days after the due date described in Subsection (2)(a);
408 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
409 more than five days after the due date but no later than 15 days after the due date described in
410 Subsection (2)(a); or
411 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
412 filed more than 15 days after the due date described in Subsection (2)(a).
413 (d) This Subsection (2) does not apply to:
414 (i) an amended return; or
415 (ii) a return with no tax due.
416 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
417 (i) the person files a return on or before the due date for filing a return described in
418 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
419 date;
420 (ii) the person:
421 (A) is subject to a penalty under Subsection (2)(b); and
422 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
423 due date for filing a return described in Subsection (2)(a);
424 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
425 (B) the commission estimates an amount of tax due for that person in accordance with
426 Subsection 59-1-1406(2);
427 (iv) the person:
428 (A) is mailed a notice of deficiency; and
429 (B) within a 30-day period after the day on which the notice of deficiency described in
430 Subsection (3)(a)(iv)(A) is mailed:
431 (I) does not file a petition for redetermination or a request for agency action; and
432 (II) fails to pay the tax, fee, or charge due on a return;
433 (v) (A) the commission:
434 (I) issues an order constituting final agency action resulting from a timely filed petition
435 for redetermination or a timely filed request for agency action; or

436 (II) is considered to have denied a request for reconsideration under Subsection
437 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
438 request for agency action; and

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

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

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

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

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

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

450 (A) \$20; or

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

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

454 (A) \$20; or

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

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

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

464 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
465 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
466 shall be added a penalty in an amount determined by applying the interest rate provided under

467 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period
468 of the underpayment.

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

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

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

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

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

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

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

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

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

493 (6) If a person does not file a return within an extension of time allowed by Section
494 59-7-505 or 59-10-516, the person:

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

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

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

- 498 (A) \$20; or
- 499 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as
500 provided by law, not including the extension of time; and
- 501 (ii) a late pay penalty in an amount equal to the greater of:
- 502 (A) \$20; or
- 503 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
504 due as provided by law, not including the extension of time.
- 505 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
506 in this Subsection (7)(a).
- 507 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,
508 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
509 is due to negligence.
- 510 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a
511 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire
512 underpayment.
- 513 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,
514 the penalty is the greater of \$500 per period or 50% of the entire underpayment.
- 515 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or
516 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.
- 517 (b) If the commission determines that a person is liable for a penalty imposed under
518 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed
519 penalty.
- 520 (i) The notice of proposed penalty shall:
- 521 (A) set forth the basis of the assessment; and
- 522 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.
- 523 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
524 penalty is proposed may:
- 525 (A) pay the amount of the proposed penalty at the place and time stated in the notice;
526 or
- 527 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).
- 528 (iii) A person against whom a penalty is proposed in accordance with this Subsection

529 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
530 the commission.

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

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

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

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

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

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

542 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
543 or is a seller required to pay or collect and remit sales and use taxes under Subsection
544 59-12-107(2)(b); and

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

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

548 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
549 or is a seller required to pay or collect and remit sales and use taxes under Subsection
550 59-12-107(2)(b); and

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

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

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

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

559 59-12-107(2)(b); and

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

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

563 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
564 or is a seller required to pay or collect and remit sales and use taxes under Subsection
565 59-12-107(2)(b); and

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

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

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

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

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

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

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

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

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

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

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

590 (i) commits an act described in Subsection (11)(b) with respect to one or more of the

591 following documents:

592 (A) a return;

593 (B) an affidavit;

594 (C) a claim; or

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

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

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

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

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

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

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

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

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

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

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

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

614 (i) shall be imposed by the commission;

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

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

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

620 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
621 commission may make rules prescribing the documents that are similar to Subsections

622 (11)(a)(i)(A) through (C).

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

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

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

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

632 (B) exceed \$1,000.

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

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

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

641 (B) exceed \$5,000.

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

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

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

648 (B) exceed \$25,000.

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

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

652 (I) a return;

- 653 (II) an affidavit;
- 654 (III) a claim; or
- 655 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
- 656 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
- 657 Subsection (12)(e)(i)(A):
- 658 (I) is false or fraudulent as to any material matter; and
- 659 (II) could be used in connection with any material matter administered by the
- 660 commission.
- 661 (ii) The following acts apply to Subsection (12)(e)(i):
- 662 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 663 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 664 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 665 (D) advising in the preparation or presentation of any portion of a document described
- 666 in Subsection (12)(e)(i)(A);
- 667 (E) aiding in the preparation or presentation of any portion of a document described in
- 668 Subsection (12)(e)(i)(A);
- 669 (F) assisting in the preparation or presentation of any portion of a document described
- 670 in Subsection (12)(e)(i)(A); or
- 671 (G) counseling in the preparation or presentation of any portion of a document
- 672 described in Subsection (12)(e)(i)(A).
- 673 (iii) This Subsection (12)(e) applies:
- 674 (A) regardless of whether the person for which the document described in Subsection
- 675 (12)(e)(i)(A) is prepared or presented:
- 676 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 677 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 678 (B) in addition to any other penalty provided by law.
- 679 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
- 680 penalty may not:
- 681 (A) be less than \$1,500; or
- 682 (B) exceed \$25,000.
- 683 (v) The commission may seek a court order to enjoin a person from engaging in

684 conduct that is subject to a penalty under this Subsection (12)(e).

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

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

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

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

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

695 Section 6. Section **59-10-1102.1** is enacted to read:

696 **59-10-1102.1. Apportionment of tax credit.**

697 A nonresident individual or a part-year resident individual that claims a tax credit in
698 accordance with Section 59-10-1110 or 59-10-1111 may only claim an apportioned amount of
699 the tax credit equal to the product of:

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

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

705 Section 7. Section **59-10-1110** is enacted to read:

706 **59-10-1110. State earned income tax credit.**

707 (1) As used in this section, "federal earned income tax credit" means the amount of a
708 federal earned income tax credit a claimant claims as allowed for a taxable year in accordance
709 with Section 32, Internal Revenue Code, on the claimant's federal individual income tax return.

710 (2) Except as provided in Section 59-10-1102.1 and subject to Subsection (3), a
711 claimant may claim a refundable earned income tax credit equal to 5% of the federal earned
712 income tax credit.

713 (3) A claimant may not carry forward or carry back a tax credit provided for under this
714 section.

715 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
716 commission may make rules providing procedures for issuing refunds for a tax credit claimed
717 under this section.

718 Section 8. Section **59-10-1111** is enacted to read:

719 **59-10-1111. Income-based tax credit.**

720 (1) Except as provided in Section 59-10-1102.1 and subject to Subsection (2), a
721 claimant may claim a refundable income-based tax credit equal to the product of:

722 (a) the total number of personal exemptions the claimant claims as allowed as a
723 personal exemption deduction on the claimant's federal individual income tax return for the
724 taxable year; and

725 (b) (i) \$80 if the claimant's adjusted gross income for the taxable year is at least \$0 but
726 is less than or equal to \$35,000; or

727 (ii) \$40 if the claimant's adjusted gross income for the taxable year is greater than
728 \$35,000 but is less than or equal to \$60,000.

729 (2) A claimant may not carry forward or carry back a tax credit provided for under this
730 section.

731 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
732 commission may make rules providing procedures for issuing refunds for a tax credit claimed
733 under this section.

734 Section 9. Section **59-12-102 (Superseded 07/01/14)** is amended to read:

735 **59-12-102 (Superseded 07/01/14). Definitions.**

736 As used in this chapter:

737 (1) "800 service" means a telecommunications service that:

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

739 (b) is typically marketed:

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

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

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

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

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

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

- 746 Federal Communications Commission.
- 747 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 748 (i) a subscriber purchases;
- 749 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 750 the subscriber's:
- 751 (A) prerecorded announcement; or
- 752 (B) live service; and
- 753 (iii) is typically marketed:
- 754 (A) under the name 900 service; or
- 755 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 756 Communications Commission.
- 757 (b) "900 service" does not include a charge for:
- 758 (i) a collection service a seller of a telecommunications service provides to a
- 759 subscriber; or
- 760 (ii) the following a subscriber sells to the subscriber's customer:
- 761 (A) a product; or
- 762 (B) a service.
- 763 (3) (a) "Admission or user fees" includes season passes.
- 764 (b) "Admission or user fees" does not include annual membership dues to private
- 765 organizations.
- 766 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 767 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 768 Agreement after November 12, 2002.
- 769 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 770 (a) listed under Subsection (6); and
- 771 (b) that are imposed within a local taxing jurisdiction.
- 772 (6) "Agreement sales and use tax" means a tax imposed under:
- 773 (a) Subsection 59-12-103(2)(a)(i)(A);
- 774 (b) Subsection 59-12-103(2)(b)(i);
- 775 [~~(c) Subsection 59-12-103(2)(c)(i);~~]
- 776 [~~(d) Subsection 59-12-103(2)(d)(i)(A)(I);~~]

- 777 ~~[(c)]~~ (c) Section 59-12-204;
- 778 ~~[(d)]~~ (d) Section 59-12-401;
- 779 ~~[(e)]~~ (e) Section 59-12-402;
- 780 ~~[(f)]~~ (f) Section 59-12-703;
- 781 ~~[(g)]~~ (g) Section 59-12-802;
- 782 ~~[(h)]~~ (h) Section 59-12-804;
- 783 ~~[(i)]~~ (i) Section 59-12-1102;
- 784 ~~[(j)]~~ (j) Section 59-12-1302;
- 785 ~~[(k)]~~ (k) Section 59-12-1402;
- 786 ~~[(l)]~~ (l) Section 59-12-1802;
- 787 ~~[(m)]~~ (m) Section 59-12-2003;
- 788 ~~[(n)]~~ (n) Section 59-12-2103;
- 789 ~~[(o)]~~ (o) Section 59-12-2213;
- 790 ~~[(p)]~~ (p) Section 59-12-2214;
- 791 ~~[(q)]~~ (q) Section 59-12-2215;
- 792 ~~[(r)]~~ (r) Section 59-12-2216;
- 793 ~~[(s)]~~ (s) Section 59-12-2217; or
- 794 ~~[(t)]~~ (t) Section 59-12-2218.
- 795 (7) "Aircraft" is as defined in Section 72-10-102.
- 796 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 797 (a) except for:
- 798 (i) an airline as defined in Section 59-2-102; or
- 799 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 800 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 801 state, of an airline; and
- 802 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 803 whether the business entity performs the following in this state:
- 804 (i) check, diagnose, overhaul, and repair:
- 805 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 806 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 807 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

- 808 engine;
- 809 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 810 aircraft:
- 811 (A) an inspection;
- 812 (B) a repair, including a structural repair or modification;
- 813 (C) changing landing gear; and
- 814 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 815 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 816 completely apply new paint to the fixed wing turbine powered aircraft; and
- 817 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 818 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 819 authority that certifies the fixed wing turbine powered aircraft.
- 820 (9) "Alcoholic beverage" means a beverage that:
- 821 (a) is suitable for human consumption; and
- 822 (b) contains .5% or more alcohol by volume.
- 823 (10) "Alternative energy" means:
- 824 (a) biomass energy;
- 825 (b) geothermal energy;
- 826 (c) hydroelectric energy;
- 827 (d) solar energy;
- 828 (e) wind energy; or
- 829 (f) energy that is derived from:
- 830 (i) coal-to-liquids;
- 831 (ii) nuclear fuel;
- 832 (iii) oil-impregnated diatomaceous earth;
- 833 (iv) oil sands;
- 834 (v) oil shale; or
- 835 (vi) petroleum coke.
- 836 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 837 facility" means a facility that:
- 838 (i) uses alternative energy to produce electricity; and

839 (ii) has a production capacity of 2 megawatts or greater.

840 (b) A facility is an alternative energy electricity production facility regardless of
841 whether the facility is:

842 (i) connected to an electric grid; or

843 (ii) located on the premises of an electricity consumer.

844 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
845 provision of telecommunications service.

846 (b) "Ancillary service" includes:

847 (i) a conference bridging service;

848 (ii) a detailed communications billing service;

849 (iii) directory assistance;

850 (iv) a vertical service; or

851 (v) a voice mail service.

852 (13) "Area agency on aging" is as defined in Section 62A-3-101.

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

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

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

859 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
860 washing of tangible personal property if the cleaning or washing labor is primarily performed
861 by an individual:

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

864 (b) at the direction of the seller of the cleaning or washing of the tangible personal
865 property.

866 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

879 (B) animal waste;

880 (C) methane produced:

881 (I) at landfills; or

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

883 (D) aquatic plants; and

884 (E) agricultural products.

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

886 (i) black liquor;

887 (ii) treated woods; or

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

889 (A) at landfills; or

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

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

893 (i) distinct and identifiable; and

894 (ii) sold for one nonitemized price.

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

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

899 (ii) the sale of real property;

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

- 901 (iv) the retail sale of tangible personal property and a service if:
- 902 (A) the tangible personal property:
- 903 (I) is essential to the use of the service; and
- 904 (II) is provided exclusively in connection with the service; and
- 905 (B) the service is the true object of the transaction;
- 906 (v) the retail sale of two services if:
- 907 (A) one service is provided that is essential to the use or receipt of a second service;
- 908 (B) the first service is provided exclusively in connection with the second service; and
- 909 (C) the second service is the true object of the transaction;
- 910 (vi) a transaction that includes tangible personal property or a product subject to
- 911 taxation under this chapter and tangible personal property or a product that is not subject to
- 912 taxation under this chapter if the:
- 913 (A) seller's purchase price of the tangible personal property or product subject to
- 914 taxation under this chapter is de minimis; or
- 915 (B) seller's sales price of the tangible personal property or product subject to taxation
- 916 under this chapter is de minimis; and
- 917 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 918 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 919 (A) that retail sale includes:
- 920 (I) food and food ingredients;
- 921 (II) a drug;
- 922 (III) durable medical equipment;
- 923 (IV) mobility enhancing equipment;
- 924 (V) an over-the-counter drug;
- 925 (VI) a prosthetic device; or
- 926 (VII) a medical supply; and
- 927 (B) subject to Subsection (18)(f):
- 928 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 929 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 930 (II) the seller's sales price of the tangible personal property subject to taxation under
- 931 this chapter is 50% or less of the seller's total sales price of that retail sale.

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

934 (A) packaging that:

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

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

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

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

942 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
943 product, or a service is provided free of charge with the purchase of another item of tangible
944 personal property, a product, or a service if the sales price of the purchased item of tangible
945 personal property, product, or service does not vary depending on the inclusion of the tangible
946 personal property, product, or service provided free of charge.

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

951 (A) a binding sales document; or

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

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

955 (A) a bill of sale;

956 (B) a contract;

957 (C) an invoice;

958 (D) a lease agreement;

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

960 (F) a price list;

961 (G) a rate card;

962 (H) a receipt; or

963 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

987 (i) on a transaction; and

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

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

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

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

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

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

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

999 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1000 commission shall make rules:

1001 (i) listing the items that constitute "clothing"; and

1002 (ii) that are consistent with the list of items that constitute "clothing" under the
1003 agreement.

1004 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1005 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1006 fuels that does not constitute industrial use under Subsection (51) or residential use under
1007 Subsection (101).

1008 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1009 transporting passengers, freight, merchandise, or other property for hire within this state.

1010 (b) (i) "Common carrier" does not include a person who, at the time the person is
1011 traveling to or from that person's place of employment, transports a passenger to or from the
1012 passenger's place of employment.

1013 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1014 Utah Administrative Rulemaking Act, the commission may make rules defining what
1015 constitutes a person's place of employment.

1016 (25) "Component part" includes:

1017 (a) poultry, dairy, and other livestock feed, and their components;

1018 (b) baling ties and twine used in the baling of hay and straw;

1019 (c) fuel used for providing temperature control of orchards and commercial
1020 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1021 off-highway type farm machinery; and

1022 (d) feed, seeds, and seedlings.

1023 (26) "Computer" means an electronic device that accepts information:

1024 (a) (i) in digital form; or

- 1025 (ii) in a form similar to digital form; and
- 1026 (b) manipulates that information for a result based on a sequence of instructions.
- 1027 (27) "Computer software" means a set of coded instructions designed to cause:
- 1028 (a) a computer to perform a task; or
- 1029 (b) automatic data processing equipment to perform a task.
- 1030 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 1031 of computer software to provide a customer with:
- 1032 (a) future updates or upgrades to computer software;
- 1033 (b) support services with respect to computer software; or
- 1034 (c) a combination of Subsections (28)(a) and (b).
- 1035 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 1036 more participants of an audio conference call or video conference call.
- 1037 (b) "Conference bridging service" may include providing a telephone number as part of
- 1038 the ancillary service described in Subsection (29)(a).
- 1039 (c) "Conference bridging service" does not include a telecommunications service used
- 1040 to reach the ancillary service described in Subsection (29)(a).
- 1041 (30) "Construction materials" means any tangible personal property that will be
- 1042 converted into real property.
- 1043 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 1044 tangible storage media.
- 1045 (32) (a) "Delivery charge" means a charge:
- 1046 (i) by a seller of:
- 1047 (A) tangible personal property;
- 1048 (B) a product transferred electronically; or
- 1049 (C) services; and
- 1050 (ii) for preparation and delivery of the tangible personal property, product transferred
- 1051 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
- 1052 purchaser.
- 1053 (b) "Delivery charge" includes a charge for the following:
- 1054 (i) transportation;
- 1055 (ii) shipping;

- 1056 (iii) postage;
- 1057 (iv) handling;
- 1058 (v) crating; or
- 1059 (vi) packing.
- 1060 (33) "Detailed telecommunications billing service" means an ancillary service of
- 1061 separately stating information pertaining to individual calls on a customer's billing statement.
- 1062 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1063 (a) is intended to supplement the diet;
- 1064 (b) contains one or more of the following dietary ingredients:
- 1065 (i) a vitamin;
- 1066 (ii) a mineral;
- 1067 (iii) an herb or other botanical;
- 1068 (iv) an amino acid;
- 1069 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1070 dietary intake; or
- 1071 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1072 described in Subsections (34)(b)(i) through (v);
- 1073 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1074 (A) tablet form;
- 1075 (B) capsule form;
- 1076 (C) powder form;
- 1077 (D) softgel form;
- 1078 (E) gelcap form; or
- 1079 (F) liquid form; or
- 1080 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 1081 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1082 (A) as conventional food; and
- 1083 (B) for use as a sole item of:
- 1084 (I) a meal; or
- 1085 (II) the diet; and
- 1086 (d) is required to be labeled as a dietary supplement:

- 1087 (i) identifiable by the "Supplemental Facts" box found on the label; and
1088 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1089 (35) (a) "Direct mail" means printed material delivered or distributed by United States
1090 mail or other delivery service:
- 1091 (i) to:
- 1092 (A) a mass audience; or
1093 (B) addressees on a mailing list provided:
- 1094 (I) by a purchaser of the mailing list; or
1095 (II) at the discretion of the purchaser of the mailing list; and
1096 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1097 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1098 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1099 (c) "Direct mail" does not include multiple items of printed material delivered to a
1100 single address.
- 1101 (36) "Directory assistance" means an ancillary service of providing:
- 1102 (a) address information; or
1103 (b) telephone number information.
- 1104 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
1105 or supplies that:
- 1106 (i) cannot withstand repeated use; and
1107 (ii) are purchased by, for, or on behalf of a person other than:
- 1108 (A) a health care facility as defined in Section 26-21-2;
1109 (B) a health care provider as defined in Section 78B-3-403;
1110 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
1111 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 1112 (b) "Disposable home medical equipment or supplies" does not include:
- 1113 (i) a drug;
1114 (ii) durable medical equipment;
1115 (iii) a hearing aid;
1116 (iv) a hearing aid accessory;
1117 (v) mobility enhancing equipment; or

- 1118 (vi) tangible personal property used to correct impaired vision, including:
- 1119 (A) eyeglasses; or
- 1120 (B) contact lenses.
- 1121 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1122 commission may by rule define what constitutes medical equipment or supplies.
- 1123 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1124 compound, substance, or preparation that is:
- 1125 (i) recognized in:
- 1126 (A) the official United States Pharmacopoeia;
- 1127 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1128 (C) the official National Formulary; or
- 1129 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 1130 (ii) intended for use in the:
- 1131 (A) diagnosis of disease;
- 1132 (B) cure of disease;
- 1133 (C) mitigation of disease;
- 1134 (D) treatment of disease; or
- 1135 (E) prevention of disease; or
- 1136 (iii) intended to affect:
- 1137 (A) the structure of the body; or
- 1138 (B) any function of the body.
- 1139 (b) "Drug" does not include:
- 1140 (i) food and food ingredients;
- 1141 (ii) a dietary supplement;
- 1142 (iii) an alcoholic beverage; or
- 1143 (iv) a prosthetic device.
- 1144 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 1145 equipment that:
- 1146 (i) can withstand repeated use;
- 1147 (ii) is primarily and customarily used to serve a medical purpose;
- 1148 (iii) generally is not useful to a person in the absence of illness or injury; and

- 1149 (iv) is not worn in or on the body.
- 1150 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1151 equipment described in Subsection (39)(a).
- 1152 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
1153 mobility enhancing equipment.
- 1154 (40) "Electronic" means:
- 1155 (a) relating to technology; and
- 1156 (b) having:
- 1157 (i) electrical capabilities;
- 1158 (ii) digital capabilities;
- 1159 (iii) magnetic capabilities;
- 1160 (iv) wireless capabilities;
- 1161 (v) optical capabilities;
- 1162 (vi) electromagnetic capabilities; or
- 1163 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1164 (41) "Employee" is as defined in Section 59-10-401.
- 1165 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 1166 (a) rail for the use of public transit; or
- 1167 (b) a separate right-of-way for the use of public transit.
- 1168 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1169 (a) is powered by turbine engines;
- 1170 (b) operates on jet fuel; and
- 1171 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1172 (44) "Fixed wireless service" means a telecommunications service that provides radio
1173 communication between fixed points.
- 1174 (45) (a) "Food and food ingredients" means substances:
- 1175 (i) regardless of whether the substances are in:
- 1176 (A) liquid form;
- 1177 (B) concentrated form;
- 1178 (C) solid form;
- 1179 (D) frozen form;

- 1180 (E) dried form; or
1181 (F) dehydrated form; and
1182 (ii) that are:
1183 (A) sold for:
1184 (I) ingestion by humans; or
1185 (II) chewing by humans; and
1186 (B) consumed for the substance's:
1187 (I) taste; or
1188 (II) nutritional value.
1189 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
1190 (c) "Food and food ingredients" does not include:
1191 (i) an alcoholic beverage;
1192 (ii) tobacco; or
1193 (iii) prepared food.
1194 (46) (a) "Fundraising sales" means sales:
1195 (i) (A) made by a school; or
1196 (B) made by a school student;
1197 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1198 materials, or provide transportation; and
1199 (iii) that are part of an officially sanctioned school activity.
1200 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
1201 means a school activity:
1202 (i) that is conducted in accordance with a formal policy adopted by the school or school
1203 district governing the authorization and supervision of fundraising activities;
1204 (ii) that does not directly or indirectly compensate an individual teacher or other
1205 educational personnel by direct payment, commissions, or payment in kind; and
1206 (iii) the net or gross revenues from which are deposited in a dedicated account
1207 controlled by the school or school district.
1208 (47) "Geothermal energy" means energy contained in heat that continuously flows
1209 outward from the earth that is used as the sole source of energy to produce electricity.
1210 (48) "Governing board of the agreement" means the governing board of the agreement

1211 that is:

1212 (a) authorized to administer the agreement; and

1213 (b) established in accordance with the agreement.

1214 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1215 (i) the executive branch of the state, including all departments, institutions, boards,
1216 divisions, bureaus, offices, commissions, and committees;

1217 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1218 Office of the Court Administrator, and similar administrative units in the judicial branch;

1219 (iii) the legislative branch of the state, including the House of Representatives, the
1220 Senate, the Legislative Printing Office, the Office of Legislative Research and General

1221 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1222 Analyst;

1223 (iv) the National Guard;

1224 (v) an independent entity as defined in Section 63E-1-102; or

1225 (vi) a political subdivision as defined in Section 17B-1-102.

1226 (b) "Governmental entity" does not include the state systems of public and higher
1227 education, including:

1228 (i) a college campus of the Utah College of Applied Technology;

1229 (ii) a school;

1230 (iii) the State Board of Education;

1231 (iv) the State Board of Regents; or

1232 (v) an institution of higher education.

1233 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
1234 electricity.

1235 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
1236 other fuels:

1237 (a) in mining or extraction of minerals;

1238 (b) in agricultural operations to produce an agricultural product up to the time of
1239 harvest or placing the agricultural product into a storage facility, including:

1240 (i) commercial greenhouses;

1241 (ii) irrigation pumps;

- 1242 (iii) farm machinery;
- 1243 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1244 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 1245 (v) other farming activities;
- 1246 (c) in manufacturing tangible personal property at an establishment described in SIC
1247 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1248 Executive Office of the President, Office of Management and Budget;
- 1249 (d) by a scrap recycler if:
- 1250 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1251 one or more of the following items into prepared grades of processed materials for use in new
1252 products:
- 1253 (A) iron;
- 1254 (B) steel;
- 1255 (C) nonferrous metal;
- 1256 (D) paper;
- 1257 (E) glass;
- 1258 (F) plastic;
- 1259 (G) textile; or
- 1260 (H) rubber; and
- 1261 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
1262 nonrecycled materials; or
- 1263 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
1264 cogeneration facility as defined in Section 54-2-1.
- 1265 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
1266 for installing:
- 1267 (i) tangible personal property; or
- 1268 (ii) a product transferred electronically.
- 1269 (b) "Installation charge" does not include a charge for:
- 1270 (i) repairs or renovations of:
- 1271 (A) tangible personal property; or
- 1272 (B) a product transferred electronically; or

- 1273 (ii) attaching tangible personal property or a product transferred electronically:
1274 (A) to other tangible personal property; and
1275 (B) as part of a manufacturing or fabrication process.
- 1276 (53) "Institution of higher education" means an institution of higher education listed in
1277 Section 53B-2-101.
- 1278 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1279 personal property or a product transferred electronically for:
1280 (i) (A) a fixed term; or
1281 (B) an indeterminate term; and
1282 (ii) consideration.
- 1283 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1284 amount of consideration may be increased or decreased by reference to the amount realized
1285 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1286 Code.
- 1287 (c) "Lease" or "rental" does not include:
1288 (i) a transfer of possession or control of property under a security agreement or
1289 deferred payment plan that requires the transfer of title upon completion of the required
1290 payments;
1291 (ii) a transfer of possession or control of property under an agreement that requires the
1292 transfer of title:
1293 (A) upon completion of required payments; and
1294 (B) if the payment of an option price does not exceed the greater of:
1295 (I) \$100; or
1296 (II) 1% of the total required payments; or
1297 (iii) providing tangible personal property along with an operator for a fixed period of
1298 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1299 designed.
- 1300 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
1301 perform as designed if the operator's duties exceed the:
1302 (i) set-up of tangible personal property;
1303 (ii) maintenance of tangible personal property; or

- 1304 (iii) inspection of tangible personal property.
- 1305 (55) "Life science establishment" means an establishment in this state that is classified
1306 under the following NAICS codes of the 2007 North American Industry Classification System
1307 of the federal Executive Office of the President, Office of Management and Budget:
- 1308 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 1309 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1310 Manufacturing; or
- 1311 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 1312 (56) "Life science research and development facility" means a facility owned, leased,
1313 or rented by a life science establishment if research and development is performed in 51% or
1314 more of the total area of the facility.
- 1315 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1316 if the tangible storage media is not physically transferred to the purchaser.
- 1317 (58) "Local taxing jurisdiction" means a:
- 1318 (a) county that is authorized to impose an agreement sales and use tax;
- 1319 (b) city that is authorized to impose an agreement sales and use tax; or
- 1320 (c) town that is authorized to impose an agreement sales and use tax.
- 1321 (59) "Manufactured home" is as defined in Section 15A-1-302.
- 1322 (60) For purposes of Section 59-12-104, "manufacturing facility" means:
- 1323 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
1324 Industrial Classification Manual of the federal Executive Office of the President, Office of
1325 Management and Budget;
- 1326 (b) a scrap recycler if:
- 1327 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1328 one or more of the following items into prepared grades of processed materials for use in new
1329 products:
- 1330 (A) iron;
- 1331 (B) steel;
- 1332 (C) nonferrous metal;
- 1333 (D) paper;
- 1334 (E) glass;

- 1335 (F) plastic;
- 1336 (G) textile; or
- 1337 (H) rubber; and
- 1338 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 1339 nonrecycled materials; or
- 1340 (c) a cogeneration facility as defined in Section 54-2-1.
- 1341 (61) "Member of the immediate family of the producer" means a person who is related
- 1342 to a producer described in Subsection 59-12-104(20)(a) as a:
- 1343 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1344 (i) an adopted child or adopted stepchild; or
- 1345 (ii) a foster child or foster stepchild;
- 1346 (b) grandchild or stepgrandchild;
- 1347 (c) grandparent or stepgrandparent;
- 1348 (d) nephew or stepnephew;
- 1349 (e) niece or stepniece;
- 1350 (f) parent or stepparent;
- 1351 (g) sibling or stepsibling;
- 1352 (h) spouse;
- 1353 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
- 1354 or
- 1355 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 1356 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1357 Administrative Rulemaking Act.
- 1358 (62) "Mobile home" is as defined in Section 15A-1-302.
- 1359 (63) "Mobile telecommunications service" is as defined in the Mobile
- 1360 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1361 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 1362 the technology used, if:
- 1363 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1364 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1365 (iii) the origination point described in Subsection (64)(a)(i) and the termination point

1366 described in Subsection (64)(a)(ii) are not fixed.

1367 (b) "Mobile wireless service" includes a telecommunications service that is provided
1368 by a commercial mobile radio service provider.

1369 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1370 commission may by rule define "commercial mobile radio service provider."

1371 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
1372 means equipment that is:

1373 (i) primarily and customarily used to provide or increase the ability to move from one
1374 place to another;

1375 (ii) appropriate for use in a:

1376 (A) home; or

1377 (B) motor vehicle; and

1378 (iii) not generally used by persons with normal mobility.

1379 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1380 the equipment described in Subsection (65)(a).

1381 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
1382 include:

1383 (i) a motor vehicle;

1384 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1385 vehicle manufacturer;

1386 (iii) durable medical equipment; or

1387 (iv) a prosthetic device.

1388 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
1389 certified service provider as the seller's agent to perform all of the seller's sales and use tax
1390 functions for agreement sales and use taxes other than the seller's obligation under Section
1391 59-12-124 to remit a tax on the seller's own purchases.

1392 (67) "Model 2 seller" means a seller registered under the agreement that:

1393 (a) except as provided in Subsection (67)(b), has selected a certified automated system
1394 to perform the seller's sales tax functions for agreement sales and use taxes; and

1395 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
1396 sales tax:

- 1397 (i) collected by the seller; and
1398 (ii) to the appropriate local taxing jurisdiction.
- 1399 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
1400 the agreement that has:
- 1401 (i) sales in at least five states that are members of the agreement;
1402 (ii) total annual sales revenues of at least \$500,000,000;
1403 (iii) a proprietary system that calculates the amount of tax:
1404 (A) for an agreement sales and use tax; and
1405 (B) due to each local taxing jurisdiction; and
1406 (iv) entered into a performance agreement with the governing board of the agreement.
- 1407 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
1408 sellers using the same proprietary system.
- 1409 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
1410 model 1 seller, model 2 seller, or model 3 seller.
- 1411 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 1412 (71) "Motor vehicle" is as defined in Section 41-1a-102.
- 1413 (72) "Oil sands" means impregnated bituminous sands that:
1414 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1415 other hydrocarbons, or otherwise treated;
1416 (b) yield mixtures of liquid hydrocarbon; and
1417 (c) require further processing other than mechanical blending before becoming finished
1418 petroleum products.
- 1419 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
1420 material that yields petroleum upon heating and distillation.
- 1421 (74) "Optional computer software maintenance contract" means a computer software
1422 maintenance contract that a customer is not obligated to purchase as a condition to the retail
1423 sale of computer software.
- 1424 (75) (a) "Other fuels" means products that burn independently to produce heat or
1425 energy.
- 1426 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1427 personal property.

- 1428 (76) (a) "Paging service" means a telecommunications service that provides
1429 transmission of a coded radio signal for the purpose of activating a specific pager.
- 1430 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
1431 includes a transmission by message or sound.
- 1432 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 1433 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 1434 (79) (a) "Permanently attached to real property" means that for tangible personal
1435 property attached to real property:
- 1436 (i) the attachment of the tangible personal property to the real property:
1437 (A) is essential to the use of the tangible personal property; and
1438 (B) suggests that the tangible personal property will remain attached to the real
1439 property in the same place over the useful life of the tangible personal property; or
1440 (ii) if the tangible personal property is detached from the real property, the detachment
1441 would:
- 1442 (A) cause substantial damage to the tangible personal property; or
1443 (B) require substantial alteration or repair of the real property to which the tangible
1444 personal property is attached.
- 1445 (b) "Permanently attached to real property" includes:
- 1446 (i) the attachment of an accessory to the tangible personal property if the accessory is:
1447 (A) essential to the operation of the tangible personal property; and
1448 (B) attached only to facilitate the operation of the tangible personal property;
1449 (ii) a temporary detachment of tangible personal property from real property for a
1450 repair or renovation if the repair or renovation is performed where the tangible personal
1451 property and real property are located; or
1452 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1453 Subsection (79)(c)(iii) or (iv).
- 1454 (c) "Permanently attached to real property" does not include:
- 1455 (i) the attachment of portable or movable tangible personal property to real property if
1456 that portable or movable tangible personal property is attached to real property only for:
1457 (A) convenience;
1458 (B) stability; or

- 1459 (C) for an obvious temporary purpose;
- 1460 (ii) the detachment of tangible personal property from real property except for the
- 1461 detachment described in Subsection (79)(b)(ii);
- 1462 (iii) an attachment of the following tangible personal property to real property if the
- 1463 attachment to real property is only through a line that supplies water, electricity, gas,
- 1464 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1465 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1466 (A) a computer;
- 1467 (B) a telephone;
- 1468 (C) a television; or
- 1469 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
- 1470 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1471 Administrative Rulemaking Act; or
- 1472 (iv) an item listed in Subsection (117)(c).
- 1473 (80) "Person" includes any individual, firm, partnership, joint venture, association,
- 1474 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 1475 municipality, district, or other local governmental entity of the state, or any group or
- 1476 combination acting as a unit.
- 1477 (81) "Place of primary use":
- 1478 (a) for telecommunications service other than mobile telecommunications service,
- 1479 means the street address representative of where the customer's use of the telecommunications
- 1480 service primarily occurs, which shall be:
- 1481 (i) the residential street address of the customer; or
- 1482 (ii) the primary business street address of the customer; or
- 1483 (b) for mobile telecommunications service, is as defined in the Mobile
- 1484 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1485 (82) (a) "Postpaid calling service" means a telecommunications service a person
- 1486 obtains by making a payment on a call-by-call basis:
- 1487 (i) through the use of a:
- 1488 (A) bank card;
- 1489 (B) credit card;

- 1490 (C) debit card; or
1491 (D) travel card; or
1492 (ii) by a charge made to a telephone number that is not associated with the origination
1493 or termination of the telecommunications service.
- 1494 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1495 service, that would be a prepaid wireless calling service if the service were exclusively a
1496 telecommunications service.
- 1497 (83) "Postproduction" means an activity related to the finishing or duplication of a
1498 medium described in Subsection 59-12-104(54)(a).
- 1499 (84) "Prepaid calling service" means a telecommunications service:
1500 (a) that allows a purchaser access to telecommunications service that is exclusively
1501 telecommunications service;
1502 (b) that:
1503 (i) is paid for in advance; and
1504 (ii) enables the origination of a call using an:
1505 (A) access number; or
1506 (B) authorization code;
1507 (c) that is dialed:
1508 (i) manually; or
1509 (ii) electronically; and
1510 (d) sold in predetermined units or dollars that decline:
1511 (i) by a known amount; and
1512 (ii) with use.
- 1513 (85) "Prepaid wireless calling service" means a telecommunications service:
1514 (a) that provides the right to utilize:
1515 (i) mobile wireless service; and
1516 (ii) other service that is not a telecommunications service, including:
1517 (A) the download of a product transferred electronically;
1518 (B) a content service; or
1519 (C) an ancillary service;
1520 (b) that:

- 1521 (i) is paid for in advance; and
1522 (ii) enables the origination of a call using an:
1523 (A) access number; or
1524 (B) authorization code;
1525 (c) that is dialed:
1526 (i) manually; or
1527 (ii) electronically; and
1528 (d) sold in predetermined units or dollars that decline:
1529 (i) by a known amount; and
1530 (ii) with use.
1531 (86) (a) "Prepared food" means:
1532 (i) food:
1533 (A) sold in a heated state; or
1534 (B) heated by a seller;
1535 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1536 item; or
1537 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
1538 by the seller, including a:
1539 (A) plate;
1540 (B) knife;
1541 (C) fork;
1542 (D) spoon;
1543 (E) glass;
1544 (F) cup;
1545 (G) napkin; or
1546 (H) straw.
1547 (b) "Prepared food" does not include:
1548 (i) food that a seller only:
1549 (A) cuts;
1550 (B) repackages; or
1551 (C) pasteurizes; or

- 1552 (ii) (A) the following:
- 1553 (I) raw egg;
- 1554 (II) raw fish;
- 1555 (III) raw meat;
- 1556 (IV) raw poultry; or
- 1557 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 1558 and
- 1559 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1560 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1561 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 1562 (iii) the following if sold without eating utensils provided by the seller:
- 1563 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1564 classification under the 2002 North American Industry Classification System of the federal
- 1565 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1566 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1567 Manufacturing;
- 1568 (B) food and food ingredients sold in an unheated state:
- 1569 (I) by weight or volume; and
- 1570 (II) as a single item; or
- 1571 (C) a bakery item, including:
- 1572 (I) a bagel;
- 1573 (II) a bar;
- 1574 (III) a biscuit;
- 1575 (IV) bread;
- 1576 (V) a bun;
- 1577 (VI) a cake;
- 1578 (VII) a cookie;
- 1579 (VIII) a croissant;
- 1580 (IX) a danish;
- 1581 (X) a donut;
- 1582 (XI) a muffin;

- 1583 (XII) a pastry;
- 1584 (XIII) a pie;
- 1585 (XIV) a roll;
- 1586 (XV) a tart;
- 1587 (XVI) a torte; or
- 1588 (XVII) a tortilla.
- 1589 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
- 1590 does not include the following used to transport the food:
- 1591 (i) a container; or
- 1592 (ii) packaging.
- 1593 (87) "Prescription" means an order, formula, or recipe that is issued:
- 1594 (a) (i) orally;
- 1595 (ii) in writing;
- 1596 (iii) electronically; or
- 1597 (iv) by any other manner of transmission; and
- 1598 (b) by a licensed practitioner authorized by the laws of a state.
- 1599 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
- 1600 software" means computer software that is not designed and developed:
- 1601 (i) by the author or other creator of the computer software; and
- 1602 (ii) to the specifications of a specific purchaser.
- 1603 (b) "Prewritten computer software" includes:
- 1604 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1605 software is not designed and developed:
- 1606 (A) by the author or other creator of the computer software; and
- 1607 (B) to the specifications of a specific purchaser;
- 1608 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
- 1609 the author or other creator of the computer software to the specifications of a specific purchaser
- 1610 if the computer software is sold to a person other than the purchaser; or
- 1611 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
- 1612 prewritten computer software or a prewritten portion of prewritten computer software:
- 1613 (A) that is modified or enhanced to any degree; and

1614 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
1615 designed and developed to the specifications of a specific purchaser.

1616 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
1617 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for
1618 the modification or enhancement are:

1619 (i) reasonable; and

1620 (ii) separately stated on the invoice or other statement of price provided to the
1621 purchaser.

1622 (89) (a) "Private communication service" means a telecommunications service:

1623 (i) that entitles a customer to exclusive or priority use of one or more communications
1624 channels between or among termination points; and

1625 (ii) regardless of the manner in which the one or more communications channels are
1626 connected.

1627 (b) "Private communications service" includes the following provided in connection
1628 with the use of one or more communications channels:

1629 (i) an extension line;

1630 (ii) a station;

1631 (iii) switching capacity; or

1632 (iv) another associated service that is provided in connection with the use of one or
1633 more communications channels as defined in Section 59-12-215.

1634 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
1635 means a product transferred electronically that would be subject to a tax under this chapter if
1636 that product was transferred in a manner other than electronically.

1637 (b) "Product transferred electronically" does not include:

1638 (i) an ancillary service;

1639 (ii) computer software; or

1640 (iii) a telecommunications service.

1641 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

1642 (i) artificially replace a missing portion of the body;

1643 (ii) prevent or correct a physical deformity or physical malfunction; or

1644 (iii) support a weak or deformed portion of the body.

- 1645 (b) "Prosthetic device" includes:
- 1646 (i) parts used in the repairs or renovation of a prosthetic device;
- 1647 (ii) replacement parts for a prosthetic device;
- 1648 (iii) a dental prosthesis; or
- 1649 (iv) a hearing aid.
- 1650 (c) "Prosthetic device" does not include:
- 1651 (i) corrective eyeglasses; or
- 1652 (ii) contact lenses.
- 1653 (92) (a) "Protective equipment" means an item:
- 1654 (i) for human wear; and
- 1655 (ii) that is:
- 1656 (A) designed as protection:
- 1657 (I) to the wearer against injury or disease; or
- 1658 (II) against damage or injury of other persons or property; and
- 1659 (B) not suitable for general use.
- 1660 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1661 commission shall make rules:
- 1662 (i) listing the items that constitute "protective equipment"; and
- 1663 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1664 under the agreement.
- 1665 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1666 printed matter, other than a photocopy:
- 1667 (i) regardless of:
- 1668 (A) characteristics;
- 1669 (B) copyright;
- 1670 (C) form;
- 1671 (D) format;
- 1672 (E) method of reproduction; or
- 1673 (F) source; and
- 1674 (ii) made available in printed or electronic format.
- 1675 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1676 commission may by rule define the term "photocopy."
1677 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1678 (i) valued in money; and
1679 (ii) for which tangible personal property, a product transferred electronically, or
1680 services are:
1681 (A) sold;
1682 (B) leased; or
1683 (C) rented.
1684 (b) "Purchase price" and "sales price" include:
1685 (i) the seller's cost of the tangible personal property, a product transferred
1686 electronically, or services sold;
1687 (ii) expenses of the seller, including:
1688 (A) the cost of materials used;
1689 (B) a labor cost;
1690 (C) a service cost;
1691 (D) interest;
1692 (E) a loss;
1693 (F) the cost of transportation to the seller; or
1694 (G) a tax imposed on the seller;
1695 (iii) a charge by the seller for any service necessary to complete the sale; or
1696 (iv) consideration a seller receives from a person other than the purchaser if:
1697 (A) (I) the seller actually receives consideration from a person other than the purchaser;
1698 and
1699 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
1700 price reduction or discount on the sale;
1701 (B) the seller has an obligation to pass the price reduction or discount through to the
1702 purchaser;
1703 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1704 the seller at the time of the sale to the purchaser; and
1705 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1706 seller to claim a price reduction or discount; and

1707 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1708 coupon, or other documentation with the understanding that the person other than the seller
1709 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1710 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1711 organization allowed a price reduction or discount, except that a preferred customer card that is
1712 available to any patron of a seller does not constitute membership in a group or organization
1713 allowed a price reduction or discount; or

1714 (III) the price reduction or discount is identified as a third party price reduction or
1715 discount on the:

1716 (Aa) invoice the purchaser receives; or

1717 (Bb) certificate, coupon, or other documentation the purchaser presents.

1718 (c) "Purchase price" and "sales price" do not include:

1719 (i) a discount:

1720 (A) in a form including:

1721 (I) cash;

1722 (II) term; or

1723 (III) coupon;

1724 (B) that is allowed by a seller;

1725 (C) taken by a purchaser on a sale; and

1726 (D) that is not reimbursed by a third party; or

1727 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1728 provided to the purchaser:

1729 (A) the following from credit extended on the sale of tangible personal property or
1730 services:

1731 (I) a carrying charge;

1732 (II) a financing charge; or

1733 (III) an interest charge;

1734 (B) a delivery charge;

1735 (C) an installation charge;

1736 (D) a manufacturer rebate on a motor vehicle; or

1737 (E) a tax or fee legally imposed directly on the consumer.

- 1738 (95) "Purchaser" means a person to whom:
1739 (a) a sale of tangible personal property is made;
1740 (b) a product is transferred electronically; or
1741 (c) a service is furnished.
- 1742 (96) "Regularly rented" means:
1743 (a) rented to a guest for value three or more times during a calendar year; or
1744 (b) advertised or held out to the public as a place that is regularly rented to guests for
1745 value.
- 1746 (97) "Rental" is as defined in Subsection (54).
- 1747 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
1748 personal property" means:
1749 (i) a repair or renovation of tangible personal property that is not permanently attached
1750 to real property; or
1751 (ii) attaching tangible personal property or a product transferred electronically to other
1752 tangible personal property or detaching tangible personal property or a product transferred
1753 electronically from other tangible personal property if:
1754 (A) the other tangible personal property to which the tangible personal property or
1755 product transferred electronically is attached or from which the tangible personal property or
1756 product transferred electronically is detached is not permanently attached to real property; and
1757 (B) the attachment of tangible personal property or a product transferred electronically
1758 to other tangible personal property or detachment of tangible personal property or a product
1759 transferred electronically from other tangible personal property is made in conjunction with a
1760 repair or replacement of tangible personal property or a product transferred electronically.
- 1761 (b) "Repairs or renovations of tangible personal property" does not include:
1762 (i) attaching prewritten computer software to other tangible personal property if the
1763 other tangible personal property to which the prewritten computer software is attached is not
1764 permanently attached to real property; or
1765 (ii) detaching prewritten computer software from other tangible personal property if the
1766 other tangible personal property from which the prewritten computer software is detached is
1767 not permanently attached to real property.
- 1768 (99) "Research and development" means the process of inquiry or experimentation

1769 aimed at the discovery of facts, devices, technologies, or applications and the process of
1770 preparing those devices, technologies, or applications for marketing.

1771 (100) (a) "Residential telecommunications services" means a telecommunications
1772 service or an ancillary service that is provided to an individual for personal use:

1773 (i) at a residential address; or

1774 (ii) at an institution, including a nursing home or a school, if the telecommunications
1775 service or ancillary service is provided to and paid for by the individual residing at the
1776 institution rather than the institution.

1777 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

1778 (i) apartment; or

1779 (ii) other individual dwelling unit.

1780 (101) "Residential use" means the use in or around a home, apartment building,
1781 sleeping quarters, and similar facilities or accommodations.

1782 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1783 than:

1784 (a) resale;

1785 (b) sublease; or

1786 (c) subrent.

1787 (103) (a) "Retailer" means any person engaged in a regularly organized business in
1788 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1789 who is selling to the user or consumer and not for resale.

1790 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1791 engaged in the business of selling to users or consumers within the state.

1792 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1793 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1794 Subsection 59-12-103(1), for consideration.

1795 (b) "Sale" includes:

1796 (i) installment and credit sales;

1797 (ii) any closed transaction constituting a sale;

1798 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1799 chapter;

1800 (iv) any transaction if the possession of property is transferred but the seller retains the
1801 title as security for the payment of the price; and

1802 (v) any transaction under which right to possession, operation, or use of any article of
1803 tangible personal property is granted under a lease or contract and the transfer of possession
1804 would be taxable if an outright sale were made.

1805 (105) "Sale at retail" is as defined in Subsection (102).

1806 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
1807 personal property or a product transferred electronically that is subject to a tax under this
1808 chapter is transferred:

1809 (a) by a purchaser-lessee;

1810 (b) to a lessor;

1811 (c) for consideration; and

1812 (d) if:

1813 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1814 of the tangible personal property or product transferred electronically;

1815 (ii) the sale of the tangible personal property or product transferred electronically to the
1816 lessor is intended as a form of financing:

1817 (A) for the tangible personal property or product transferred electronically; and

1818 (B) to the purchaser-lessee; and

1819 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1820 is required to:

1821 (A) capitalize the tangible personal property or product transferred electronically for
1822 financial reporting purposes; and

1823 (B) account for the lease payments as payments made under a financing arrangement.

1824 (107) "Sales price" is as defined in Subsection (94).

1825 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1826 amounts charged by a school:

1827 (i) sales that are directly related to the school's educational functions or activities
1828 including:

1829 (A) the sale of:

1830 (I) textbooks;

- 1831 (II) textbook fees;
- 1832 (III) laboratory fees;
- 1833 (IV) laboratory supplies; or
- 1834 (V) safety equipment;
- 1835 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1836 that:
- 1837 (I) a student is specifically required to wear as a condition of participation in a
- 1838 school-related event or school-related activity; and
- 1839 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1840 place of ordinary clothing;
- 1841 (C) sales of the following if the net or gross revenues generated by the sales are
- 1842 deposited into a school district fund or school fund dedicated to school meals:
- 1843 (I) food and food ingredients; or
- 1844 (II) prepared food; or
- 1845 (D) transportation charges for official school activities; or
- 1846 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1847 event or school-related activity.
- 1848 (b) "Sales relating to schools" does not include:
- 1849 (i) bookstore sales of items that are not educational materials or supplies;
- 1850 (ii) except as provided in Subsection (108)(a)(i)(B):
- 1851 (A) clothing;
- 1852 (B) clothing accessories or equipment;
- 1853 (C) protective equipment; or
- 1854 (D) sports or recreational equipment; or
- 1855 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1856 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1857 (A) other than a:
- 1858 (I) school;
- 1859 (II) nonprofit organization authorized by a school board or a governing body of a
- 1860 private school to organize and direct a competitive secondary school activity; or
- 1861 (III) nonprofit association authorized by a school board or a governing body of a

- 1862 private school to organize and direct a competitive secondary school activity; and
- 1863 (B) that is required to collect sales and use taxes under this chapter.
- 1864 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1865 commission may make rules defining the term "passed through."
- 1866 (109) For purposes of this section and Section 59-12-104, "school":
- 1867 (a) means:
- 1868 (i) an elementary school or a secondary school that:
- 1869 (A) is a:
- 1870 (I) public school; or
- 1871 (II) private school; and
- 1872 (B) provides instruction for one or more grades kindergarten through 12; or
- 1873 (ii) a public school district; and
- 1874 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1875 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 1876 (a) tangible personal property;
- 1877 (b) a product transferred electronically; or
- 1878 (c) a service.
- 1879 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1880 means tangible personal property or a product transferred electronically if the tangible personal
- 1881 property or product transferred electronically is:
- 1882 (i) used primarily in the process of:
- 1883 (A) (I) manufacturing a semiconductor;
- 1884 (II) fabricating a semiconductor; or
- 1885 (III) research or development of a:
- 1886 (Aa) semiconductor; or
- 1887 (Bb) semiconductor manufacturing process; or
- 1888 (B) maintaining an environment suitable for a semiconductor; or
- 1889 (ii) consumed primarily in the process of:
- 1890 (A) (I) manufacturing a semiconductor;
- 1891 (II) fabricating a semiconductor; or
- 1892 (III) research or development of a:

- 1893 (Aa) semiconductor; or
- 1894 (Bb) semiconductor manufacturing process; or
- 1895 (B) maintaining an environment suitable for a semiconductor.
- 1896 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1897 includes:
- 1898 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1899 transferred electronically described in Subsection (111)(a); or
- 1900 (ii) a chemical, catalyst, or other material used to:
- 1901 (A) produce or induce in a semiconductor a:
- 1902 (I) chemical change; or
- 1903 (II) physical change;
- 1904 (B) remove impurities from a semiconductor; or
- 1905 (C) improve the marketable condition of a semiconductor.
- 1906 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 1907 services to the aged as defined in Section 62A-3-101.
- 1908 (113) "Simplified electronic return" means the electronic return:
- 1909 (a) described in Section 318(C) of the agreement; and
- 1910 (b) approved by the governing board of the agreement.
- 1911 (114) "Solar energy" means the sun used as the sole source of energy for producing
- 1912 electricity.
- 1913 (115) (a) "Sports or recreational equipment" means an item:
- 1914 (i) designed for human use; and
- 1915 (ii) that is:
- 1916 (A) worn in conjunction with:
- 1917 (I) an athletic activity; or
- 1918 (II) a recreational activity; and
- 1919 (B) not suitable for general use.
- 1920 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1921 commission shall make rules:
- 1922 (i) listing the items that constitute "sports or recreational equipment"; and
- 1923 (ii) that are consistent with the list of items that constitute "sports or recreational

- 1924 equipment" under the agreement.
- 1925 (116) "State" means the state of Utah, its departments, and agencies.
- 1926 (117) "Storage" means any keeping or retention of tangible personal property or any
1927 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1928 sale in the regular course of business.
- 1929 (118) (a) Except as provided in Subsection (118)(d) or (e), "tangible personal property"
1930 means personal property that:
- 1931 (i) may be:
- 1932 (A) seen;
- 1933 (B) weighed;
- 1934 (C) measured;
- 1935 (D) felt; or
- 1936 (E) touched; or
- 1937 (ii) is in any manner perceptible to the senses.
- 1938 (b) "Tangible personal property" includes:
- 1939 (i) electricity;
- 1940 (ii) water;
- 1941 (iii) gas;
- 1942 (iv) steam; or
- 1943 (v) prewritten computer software, regardless of the manner in which the prewritten
1944 computer software is transferred.
- 1945 (c) "Tangible personal property" includes the following regardless of whether the item
1946 is attached to real property:
- 1947 (i) a dishwasher;
- 1948 (ii) a dryer;
- 1949 (iii) a freezer;
- 1950 (iv) a microwave;
- 1951 (v) a refrigerator;
- 1952 (vi) a stove;
- 1953 (vii) a washer; or
- 1954 (viii) an item similar to Subsections (118)(c)(i) through (vii) as determined by the

1955 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1956 Rulemaking Act.

1957 (d) "Tangible personal property" does not include a product that is transferred
1958 electronically.

1959 (e) "Tangible personal property" does not include the following if attached to real
1960 property, regardless of whether the attachment to real property is only through a line that
1961 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1962 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1963 Rulemaking Act:

1964 (i) a hot water heater;

1965 (ii) a water filtration system; or

1966 (iii) a water softener system.

1967 (119) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1968 software" means an item listed in Subsection (119)(b) if that item is purchased or leased
1969 primarily to enable or facilitate one or more of the following to function:

1970 (i) telecommunications switching or routing equipment, machinery, or software; or

1971 (ii) telecommunications transmission equipment, machinery, or software.

1972 (b) The following apply to Subsection (119)(a):

1973 (i) a pole;

1974 (ii) software;

1975 (iii) a supplementary power supply;

1976 (iv) temperature or environmental equipment or machinery;

1977 (v) test equipment;

1978 (vi) a tower; or

1979 (vii) equipment, machinery, or software that functions similarly to an item listed in
1980 Subsections (119)(b)(i) through (vi) as determined by the commission by rule made in
1981 accordance with Subsection (119)(c).

1982 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1983 commission may by rule define what constitutes equipment, machinery, or software that
1984 functions similarly to an item listed in Subsections (119)(b)(i) through (vi).

1985 (120) "Telecommunications equipment, machinery, or software required for 911

1986 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1987 Sec. 20.18.

1988 (121) "Telecommunications maintenance or repair equipment, machinery, or software"
1989 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1990 one or more of the following, regardless of whether the equipment, machinery, or software is
1991 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1992 following:

1993 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1994 (b) telecommunications switching or routing equipment, machinery, or software; or

1995 (c) telecommunications transmission equipment, machinery, or software.

1996 (122) (a) "Telecommunications service" means the electronic conveyance, routing, or
1997 transmission of audio, data, video, voice, or any other information or signal to a point, or
1998 among or between points.

1999 (b) "Telecommunications service" includes:

2000 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2001 processing application is used to act:

2002 (A) on the code, form, or protocol of the content;

2003 (B) for the purpose of electronic conveyance, routing, or transmission; and

2004 (C) regardless of whether the service:

2005 (I) is referred to as voice over Internet protocol service; or

2006 (II) is classified by the Federal Communications Commission as enhanced or value
2007 added;

2008 (ii) an 800 service;

2009 (iii) a 900 service;

2010 (iv) a fixed wireless service;

2011 (v) a mobile wireless service;

2012 (vi) a postpaid calling service;

2013 (vii) a prepaid calling service;

2014 (viii) a prepaid wireless calling service; or

2015 (ix) a private communications service.

2016 (c) "Telecommunications service" does not include:

- 2017 (i) advertising, including directory advertising;
- 2018 (ii) an ancillary service;
- 2019 (iii) a billing and collection service provided to a third party;
- 2020 (iv) a data processing and information service if:
- 2021 (A) the data processing and information service allows data to be:
- 2022 (I) (Aa) acquired;
- 2023 (Bb) generated;
- 2024 (Cc) processed;
- 2025 (Dd) retrieved; or
- 2026 (Ee) stored; and
- 2027 (II) delivered by an electronic transmission to a purchaser; and
- 2028 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2029 or information;
- 2030 (v) installation or maintenance of the following on a customer's premises:
- 2031 (A) equipment; or
- 2032 (B) wiring;
- 2033 (vi) Internet access service;
- 2034 (vii) a paging service;
- 2035 (viii) a product transferred electronically, including:
- 2036 (A) music;
- 2037 (B) reading material;
- 2038 (C) a ring tone;
- 2039 (D) software; or
- 2040 (E) video;
- 2041 (ix) a radio and television audio and video programming service:
- 2042 (A) regardless of the medium; and
- 2043 (B) including:
- 2044 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2045 programming service by a programming service provider;
- 2046 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2047 (III) audio and video programming services delivered by a commercial mobile radio

2048 service provider as defined in 47 C.F.R. Sec. 20.3;

2049 (x) a value-added nonvoice data service; or

2050 (xi) tangible personal property.

2051 (123) (a) "Telecommunications service provider" means a person that:

2052 (i) owns, controls, operates, or manages a telecommunications service; and

2053 (ii) engages in an activity described in Subsection (123)(a)(i) for the shared use with or

2054 resale to any person of the telecommunications service.

2055 (b) A person described in Subsection (123)(a) is a telecommunications service provider

2056 whether or not the Public Service Commission of Utah regulates:

2057 (i) that person; or

2058 (ii) the telecommunications service that the person owns, controls, operates, or

2059 manages.

2060 (124) (a) "Telecommunications switching or routing equipment, machinery, or

2061 software" means an item listed in Subsection (124)(b) if that item is purchased or leased

2062 primarily for switching or routing:

2063 (i) an ancillary service;

2064 (ii) data communications;

2065 (iii) voice communications; or

2066 (iv) telecommunications service.

2067 (b) The following apply to Subsection (124)(a):

2068 (i) a bridge;

2069 (ii) a computer;

2070 (iii) a cross connect;

2071 (iv) a modem;

2072 (v) a multiplexer;

2073 (vi) plug in circuitry;

2074 (vii) a router;

2075 (viii) software;

2076 (ix) a switch; or

2077 (x) equipment, machinery, or software that functions similarly to an item listed in

2078 Subsections (124)(b)(i) through (ix) as determined by the commission by rule made in

2079 accordance with Subsection (124)(c).

2080 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2081 commission may by rule define what constitutes equipment, machinery, or software that
2082 functions similarly to an item listed in Subsections (124)(b)(i) through (ix).

2083 (125) (a) "Telecommunications transmission equipment, machinery, or software"
2084 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily for
2085 sending, receiving, or transporting:

- 2086 (i) an ancillary service;
- 2087 (ii) data communications;
- 2088 (iii) voice communications; or
- 2089 (iv) telecommunications service.

2090 (b) The following apply to Subsection (125)(a):

- 2091 (i) an amplifier;
- 2092 (ii) a cable;
- 2093 (iii) a closure;
- 2094 (iv) a conduit;
- 2095 (v) a controller;
- 2096 (vi) a duplexer;
- 2097 (vii) a filter;
- 2098 (viii) an input device;
- 2099 (ix) an input/output device;
- 2100 (x) an insulator;
- 2101 (xi) microwave machinery or equipment;
- 2102 (xii) an oscillator;
- 2103 (xiii) an output device;
- 2104 (xiv) a pedestal;
- 2105 (xv) a power converter;
- 2106 (xvi) a power supply;
- 2107 (xvii) a radio channel;
- 2108 (xviii) a radio receiver;
- 2109 (xix) a radio transmitter;

2110 (xx) a repeater;
2111 (xxi) software;
2112 (xxii) a terminal;
2113 (xxiii) a timing unit;
2114 (xxiv) a transformer;
2115 (xxv) a wire; or
2116 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2117 Subsections (125)(b)(i) through (xxv) as determined by the commission by rule made in
2118 accordance with Subsection (125)(c).

2119 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2120 commission may by rule define what constitutes equipment, machinery, or software that
2121 functions similarly to an item listed in Subsections (125)(b)(i) through (xxv).

2122 (126) (a) "Textbook for a higher education course" means a textbook or other printed
2123 material that is required for a course:

2124 (i) offered by an institution of higher education; and

2125 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2126 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2127 (127) "Tobacco" means:

2128 (a) a cigarette;

2129 (b) a cigar;

2130 (c) chewing tobacco;

2131 (d) pipe tobacco; or

2132 (e) any other item that contains tobacco.

2133 (128) "Unassisted amusement device" means an amusement device, skill device, or
2134 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2135 the amusement device, skill device, or ride device.

2136 (129) (a) "Use" means the exercise of any right or power over tangible personal
2137 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2138 incident to the ownership or the leasing of that tangible personal property, product transferred
2139 electronically, or service.

2140 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal

2141 property, a product transferred electronically, or a service in the regular course of business and
2142 held for resale.

2143 (130) "Value-added nonvoice data service" means a service:

2144 (a) that otherwise meets the definition of a telecommunications service except that a
2145 computer processing application is used to act primarily for a purpose other than conveyance,
2146 routing, or transmission; and

2147 (b) with respect to which a computer processing application is used to act on data or
2148 information:

2149 (i) code;

2150 (ii) content;

2151 (iii) form; or

2152 (iv) protocol.

2153 (131) (a) Subject to Subsection (131)(b), "vehicle" means the following that are
2154 required to be titled, registered, or titled and registered:

2155 (i) an aircraft as defined in Section 72-10-102;

2156 (ii) a vehicle as defined in Section 41-1a-102;

2157 (iii) an off-highway vehicle as defined in Section 41-22-2; or

2158 (iv) a vessel as defined in Section 41-1a-102.

2159 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2160 (i) a vehicle described in Subsection (131)(a); or

2161 (ii) (A) a locomotive;

2162 (B) a freight car;

2163 (C) railroad work equipment; or

2164 (D) other railroad rolling stock.

2165 (132) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2166 exchanging a vehicle as defined in Subsection (131).

2167 (133) (a) "Vertical service" means an ancillary service that:

2168 (i) is offered in connection with one or more telecommunications services; and

2169 (ii) offers an advanced calling feature that allows a customer to:

2170 (A) identify a caller; and

2171 (B) manage multiple calls and call connections.

2172 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2173 conference bridging service.

2174 (134) (a) "Voice mail service" means an ancillary service that enables a customer to
2175 receive, send, or store a recorded message.

2176 (b) "Voice mail service" does not include a vertical service that a customer is required
2177 to have in order to utilize a voice mail service.

2178 (135) (a) Except as provided in Subsection (135)(b), "waste energy facility" means a
2179 facility that generates electricity:

2180 (i) using as the primary source of energy waste materials that would be placed in a
2181 landfill or refuse pit if it were not used to generate electricity, including:

2182 (A) tires;

2183 (B) waste coal;

2184 (C) oil shale; or

2185 (D) municipal solid waste; and

2186 (ii) in amounts greater than actually required for the operation of the facility.

2187 (b) "Waste energy facility" does not include a facility that incinerates:

2188 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2189 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2190 (136) "Watercraft" means a vessel as defined in Section 73-18-2.

2191 (137) "Wind energy" means wind used as the sole source of energy to produce
2192 electricity.

2193 (138) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2194 location by the United States Postal Service.

2195 Section 10. Section **59-12-102 (Effective 07/01/14)** is amended to read:

2196 **59-12-102 (Effective 07/01/14). Definitions.**

2197 As used in this chapter:

2198 (1) "800 service" means a telecommunications service that:

2199 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2200 (b) is typically marketed:

2201 (i) under the name 800 toll-free calling;

2202 (ii) under the name 855 toll-free calling;

- 2203 (iii) under the name 866 toll-free calling;
- 2204 (iv) under the name 877 toll-free calling;
- 2205 (v) under the name 888 toll-free calling; or
- 2206 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 2207 Federal Communications Commission.
- 2208 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2209 (i) a subscriber purchases;
- 2210 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2211 the subscriber's:
- 2212 (A) prerecorded announcement; or
- 2213 (B) live service; and
- 2214 (iii) is typically marketed:
- 2215 (A) under the name 900 service; or
- 2216 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2217 Communications Commission.
- 2218 (b) "900 service" does not include a charge for:
- 2219 (i) a collection service a seller of a telecommunications service provides to a
- 2220 subscriber; or
- 2221 (ii) the following a subscriber sells to the subscriber's customer:
- 2222 (A) a product; or
- 2223 (B) a service.
- 2224 (3) (a) "Admission or user fees" includes season passes.
- 2225 (b) "Admission or user fees" does not include annual membership dues to private
- 2226 organizations.
- 2227 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2228 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2229 Agreement after November 12, 2002.
- 2230 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 2231 (a) listed under Subsection (6); and
- 2232 (b) that are imposed within a local taxing jurisdiction.
- 2233 (6) "Agreement sales and use tax" means a tax imposed under:

- 2234 (a) Subsection 59-12-103(2)(a)(i)(A);
- 2235 (b) Subsection 59-12-103(2)(b)(i);
- 2236 [~~(c)~~] Subsection 59-12-103(2)(~~(c)~~)(i);]
- 2237 [~~(d)~~] Subsection 59-12-103(2)(~~(d)~~)(i)(A)(~~(I)~~);]
- 2238 [~~(e)~~] (c) Section 59-12-204;
- 2239 [~~(f)~~] (d) Section 59-12-401;
- 2240 [~~(g)~~] (e) Section 59-12-402;
- 2241 [~~(h)~~] (f) Section 59-12-703;
- 2242 [~~(i)~~] (g) Section 59-12-802;
- 2243 [~~(j)~~] (h) Section 59-12-804;
- 2244 [~~(k)~~] (i) Section 59-12-1102;
- 2245 [~~(l)~~] (j) Section 59-12-1302;
- 2246 [~~(m)~~] (k) Section 59-12-1402;
- 2247 [~~(n)~~] (l) Section 59-12-1802;
- 2248 [~~(o)~~] (m) Section 59-12-2003;
- 2249 [~~(p)~~] (n) Section 59-12-2103;
- 2250 [~~(q)~~] (o) Section 59-12-2213;
- 2251 [~~(r)~~] (p) Section 59-12-2214;
- 2252 [~~(s)~~] (q) Section 59-12-2215;
- 2253 [~~(t)~~] (r) Section 59-12-2216;
- 2254 [~~(u)~~] (s) Section 59-12-2217; or
- 2255 [~~(v)~~] (t) Section 59-12-2218.
- 2256 (7) "Aircraft" is as defined in Section 72-10-102.
- 2257 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2258 (a) except for:
- 2259 (i) an airline as defined in Section 59-2-102; or
- 2260 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2261 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2262 state, of an airline; and
- 2263 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2264 whether the business entity performs the following in this state:

- 2265 (i) check, diagnose, overhaul, and repair:
- 2266 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2267 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2268 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2269 engine;
- 2270 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2271 aircraft:
- 2272 (A) an inspection;
- 2273 (B) a repair, including a structural repair or modification;
- 2274 (C) changing landing gear; and
- 2275 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2276 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2277 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2278 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2279 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2280 authority that certifies the fixed wing turbine powered aircraft.
- 2281 (9) "Alcoholic beverage" means a beverage that:
- 2282 (a) is suitable for human consumption; and
- 2283 (b) contains .5% or more alcohol by volume.
- 2284 (10) "Alternative energy" means:
- 2285 (a) biomass energy;
- 2286 (b) geothermal energy;
- 2287 (c) hydroelectric energy;
- 2288 (d) solar energy;
- 2289 (e) wind energy; or
- 2290 (f) energy that is derived from:
- 2291 (i) coal-to-liquids;
- 2292 (ii) nuclear fuel;
- 2293 (iii) oil-impregnated diatomaceous earth;
- 2294 (iv) oil sands;
- 2295 (v) oil shale; or

- 2296 (vi) petroleum coke.
- 2297 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
2298 facility" means a facility that:
- 2299 (i) uses alternative energy to produce electricity; and
2300 (ii) has a production capacity of 2 megawatts or greater.
- 2301 (b) A facility is an alternative energy electricity production facility regardless of
2302 whether the facility is:
- 2303 (i) connected to an electric grid; or
2304 (ii) located on the premises of an electricity consumer.
- 2305 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
2306 provision of telecommunications service.
- 2307 (b) "Ancillary service" includes:
- 2308 (i) a conference bridging service;
2309 (ii) a detailed communications billing service;
2310 (iii) directory assistance;
2311 (iv) a vertical service; or
2312 (v) a voice mail service.
- 2313 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 2314 (14) "Assisted amusement device" means an amusement device, skill device, or ride
2315 device that is started and stopped by an individual:
- 2316 (a) who is not the purchaser or renter of the right to use or operate the amusement
2317 device, skill device, or ride device; and
- 2318 (b) at the direction of the seller of the right to use the amusement device, skill device,
2319 or ride device.
- 2320 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
2321 washing of tangible personal property if the cleaning or washing labor is primarily performed
2322 by an individual:
- 2323 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2324 property; and
- 2325 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2326 property.

- 2327 (16) "Authorized carrier" means:
- 2328 (a) in the case of vehicles operated over public highways, the holder of credentials
- 2329 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 2330 Plan and the International Fuel Tax Agreement;
- 2331 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 2332 certificate or air carrier's operating certificate; or
- 2333 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 2334 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 2335 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
- 2336 following that is used as the primary source of energy to produce fuel or electricity:
- 2337 (i) material from a plant or tree; or
- 2338 (ii) other organic matter that is available on a renewable basis, including:
- 2339 (A) slash and brush from forests and woodlands;
- 2340 (B) animal waste;
- 2341 (C) methane produced:
- 2342 (I) at landfills; or
- 2343 (II) as a byproduct of the treatment of wastewater residuals;
- 2344 (D) aquatic plants; and
- 2345 (E) agricultural products.
- 2346 (b) "Biomass energy" does not include:
- 2347 (i) black liquor;
- 2348 (ii) treated woods; or
- 2349 (iii) biomass from municipal solid waste other than methane produced:
- 2350 (A) at landfills; or
- 2351 (B) as a byproduct of the treatment of wastewater residuals.
- 2352 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2353 property, products, or services if the tangible personal property, products, or services are:
- 2354 (i) distinct and identifiable; and
- 2355 (ii) sold for one nonitemized price.
- 2356 (b) "Bundled transaction" does not include:
- 2357 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

2358 the basis of the selection by the purchaser of the items of tangible personal property included in
2359 the transaction;

2360 (ii) the sale of real property;

2361 (iii) the sale of services to real property;

2362 (iv) the retail sale of tangible personal property and a service if:

2363 (A) the tangible personal property:

2364 (I) is essential to the use of the service; and

2365 (II) is provided exclusively in connection with the service; and

2366 (B) the service is the true object of the transaction;

2367 (v) the retail sale of two services if:

2368 (A) one service is provided that is essential to the use or receipt of a second service;

2369 (B) the first service is provided exclusively in connection with the second service; and

2370 (C) the second service is the true object of the transaction;

2371 (vi) a transaction that includes tangible personal property or a product subject to
2372 taxation under this chapter and tangible personal property or a product that is not subject to
2373 taxation under this chapter if the:

2374 (A) seller's purchase price of the tangible personal property or product subject to
2375 taxation under this chapter is de minimis; or

2376 (B) seller's sales price of the tangible personal property or product subject to taxation
2377 under this chapter is de minimis; and

2378 (vii) the retail sale of tangible personal property that is not subject to taxation under
2379 this chapter and tangible personal property that is subject to taxation under this chapter if:

2380 (A) that retail sale includes:

2381 (I) food and food ingredients;

2382 (II) a drug;

2383 (III) durable medical equipment;

2384 (IV) mobility enhancing equipment;

2385 (V) an over-the-counter drug;

2386 (VI) a prosthetic device; or

2387 (VII) a medical supply; and

2388 (B) subject to Subsection (18)(f):

2389 (I) the seller's purchase price of the tangible personal property subject to taxation under
2390 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2391 (II) the seller's sales price of the tangible personal property subject to taxation under
2392 this chapter is 50% or less of the seller's total sales price of that retail sale.

2393 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
2394 service that is distinct and identifiable does not include:

2395 (A) packaging that:

2396 (I) accompanies the sale of the tangible personal property, product, or service; and

2397 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2398 service;

2399 (B) tangible personal property, a product, or a service provided free of charge with the
2400 purchase of another item of tangible personal property, a product, or a service; or

2401 (C) an item of tangible personal property, a product, or a service included in the
2402 definition of "purchase price."

2403 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
2404 product, or a service is provided free of charge with the purchase of another item of tangible
2405 personal property, a product, or a service if the sales price of the purchased item of tangible
2406 personal property, product, or service does not vary depending on the inclusion of the tangible
2407 personal property, product, or service provided free of charge.

2408 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
2409 does not include a price that is separately identified by tangible personal property, product, or
2410 service on the following, regardless of whether the following is in paper format or electronic
2411 format:

2412 (A) a binding sales document; or

2413 (B) another supporting sales-related document that is available to a purchaser.

2414 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
2415 supporting sales-related document that is available to a purchaser includes:

2416 (A) a bill of sale;

2417 (B) a contract;

2418 (C) an invoice;

2419 (D) a lease agreement;

- 2420 (E) a periodic notice of rates and services;
- 2421 (F) a price list;
- 2422 (G) a rate card;
- 2423 (H) a receipt; or
- 2424 (I) a service agreement.
- 2425 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 2426 property or a product subject to taxation under this chapter is de minimis if:
- 2427 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 2428 less of the seller's total purchase price of the bundled transaction; or
- 2429 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 2430 the seller's total sales price of the bundled transaction.
- 2431 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 2432 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 2433 purchase price or sales price of the tangible personal property or product subject to taxation
- 2434 under this chapter is de minimis; and
- 2435 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 2436 to determine if the purchase price or sales price of the tangible personal property or product
- 2437 subject to taxation under this chapter is de minimis.
- 2438 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 2439 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 2440 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 2441 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 2442 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
- 2443 price of that retail sale.
- 2444 (19) "Certified automated system" means software certified by the governing board of
- 2445 the agreement that:
- 2446 (a) calculates the agreement sales and use tax imposed within a local taxing
- 2447 jurisdiction:
- 2448 (i) on a transaction; and
- 2449 (ii) in the states that are members of the agreement;
- 2450 (b) determines the amount of agreement sales and use tax to remit to a state that is a

2451 member of the agreement; and

2452 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

2453 (20) "Certified service provider" means an agent certified:

2454 (a) by the governing board of the agreement; and

2455 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
2456 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
2457 own purchases.

2458 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
2459 suitable for general use.

2460 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2461 commission shall make rules:

2462 (i) listing the items that constitute "clothing"; and

2463 (ii) that are consistent with the list of items that constitute "clothing" under the
2464 agreement.

2465 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2466 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2467 fuels that does not constitute industrial use under Subsection (51) or residential use under
2468 Subsection (101).

2469 (24) (a) "Common carrier" means a person engaged in or transacting the business of
2470 transporting passengers, freight, merchandise, or other property for hire within this state.

2471 (b) (i) "Common carrier" does not include a person who, at the time the person is
2472 traveling to or from that person's place of employment, transports a passenger to or from the
2473 passenger's place of employment.

2474 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
2475 Utah Administrative Rulemaking Act, the commission may make rules defining what
2476 constitutes a person's place of employment.

2477 (25) "Component part" includes:

2478 (a) poultry, dairy, and other livestock feed, and their components;

2479 (b) baling ties and twine used in the baling of hay and straw;

2480 (c) fuel used for providing temperature control of orchards and commercial

2481 greenhouses doing a majority of their business in wholesale sales, and for providing power for

- 2482 off-highway type farm machinery; and
- 2483 (d) feed, seeds, and seedlings.
- 2484 (26) "Computer" means an electronic device that accepts information:
- 2485 (a) (i) in digital form; or
- 2486 (ii) in a form similar to digital form; and
- 2487 (b) manipulates that information for a result based on a sequence of instructions.
- 2488 (27) "Computer software" means a set of coded instructions designed to cause:
- 2489 (a) a computer to perform a task; or
- 2490 (b) automatic data processing equipment to perform a task.
- 2491 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 2492 of computer software to provide a customer with:
- 2493 (a) future updates or upgrades to computer software;
- 2494 (b) support services with respect to computer software; or
- 2495 (c) a combination of Subsections (28)(a) and (b).
- 2496 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 2497 more participants of an audio conference call or video conference call.
- 2498 (b) "Conference bridging service" may include providing a telephone number as part of
- 2499 the ancillary service described in Subsection (29)(a).
- 2500 (c) "Conference bridging service" does not include a telecommunications service used
- 2501 to reach the ancillary service described in Subsection (29)(a).
- 2502 (30) "Construction materials" means any tangible personal property that will be
- 2503 converted into real property.
- 2504 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 2505 tangible storage media.
- 2506 (32) (a) "Delivery charge" means a charge:
- 2507 (i) by a seller of:
- 2508 (A) tangible personal property;
- 2509 (B) a product transferred electronically; or
- 2510 (C) services; and
- 2511 (ii) for preparation and delivery of the tangible personal property, product transferred
- 2512 electronically, or services described in Subsection (32)(a)(i) to a location designated by the

- 2513 purchaser.
- 2514 (b) "Delivery charge" includes a charge for the following:
- 2515 (i) transportation;
- 2516 (ii) shipping;
- 2517 (iii) postage;
- 2518 (iv) handling;
- 2519 (v) crating; or
- 2520 (vi) packing.
- 2521 (33) "Detailed telecommunications billing service" means an ancillary service of
- 2522 separately stating information pertaining to individual calls on a customer's billing statement.
- 2523 (34) "Dietary supplement" means a product, other than tobacco, that:
- 2524 (a) is intended to supplement the diet;
- 2525 (b) contains one or more of the following dietary ingredients:
- 2526 (i) a vitamin;
- 2527 (ii) a mineral;
- 2528 (iii) an herb or other botanical;
- 2529 (iv) an amino acid;
- 2530 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2531 dietary intake; or
- 2532 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2533 described in Subsections (34)(b)(i) through (v);
- 2534 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 2535 (A) tablet form;
- 2536 (B) capsule form;
- 2537 (C) powder form;
- 2538 (D) softgel form;
- 2539 (E) gelcap form; or
- 2540 (F) liquid form; or
- 2541 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 2542 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 2543 (A) as conventional food; and

- 2544 (B) for use as a sole item of:
- 2545 (I) a meal; or
- 2546 (II) the diet; and
- 2547 (d) is required to be labeled as a dietary supplement:
- 2548 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2549 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2550 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 2551 mail or other delivery service:
- 2552 (i) to:
- 2553 (A) a mass audience; or
- 2554 (B) addressees on a mailing list provided:
- 2555 (I) by a purchaser of the mailing list; or
- 2556 (II) at the discretion of the purchaser of the mailing list; and
- 2557 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2558 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2559 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2560 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2561 single address.
- 2562 (36) "Directory assistance" means an ancillary service of providing:
- 2563 (a) address information; or
- 2564 (b) telephone number information.
- 2565 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2566 or supplies that:
- 2567 (i) cannot withstand repeated use; and
- 2568 (ii) are purchased by, for, or on behalf of a person other than:
- 2569 (A) a health care facility as defined in Section 26-21-2;
- 2570 (B) a health care provider as defined in Section 78B-3-403;
- 2571 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 2572 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 2573 (b) "Disposable home medical equipment or supplies" does not include:
- 2574 (i) a drug;

- 2575 (ii) durable medical equipment;
- 2576 (iii) a hearing aid;
- 2577 (iv) a hearing aid accessory;
- 2578 (v) mobility enhancing equipment; or
- 2579 (vi) tangible personal property used to correct impaired vision, including:
- 2580 (A) eyeglasses; or
- 2581 (B) contact lenses.
- 2582 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2583 commission may by rule define what constitutes medical equipment or supplies.
- 2584 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2585 compound, substance, or preparation that is:
- 2586 (i) recognized in:
- 2587 (A) the official United States Pharmacopoeia;
- 2588 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2589 (C) the official National Formulary; or
- 2590 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 2591 (ii) intended for use in the:
- 2592 (A) diagnosis of disease;
- 2593 (B) cure of disease;
- 2594 (C) mitigation of disease;
- 2595 (D) treatment of disease; or
- 2596 (E) prevention of disease; or
- 2597 (iii) intended to affect:
- 2598 (A) the structure of the body; or
- 2599 (B) any function of the body.
- 2600 (b) "Drug" does not include:
- 2601 (i) food and food ingredients;
- 2602 (ii) a dietary supplement;
- 2603 (iii) an alcoholic beverage; or
- 2604 (iv) a prosthetic device.
- 2605 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means

- 2606 equipment that:
- 2607 (i) can withstand repeated use;
- 2608 (ii) is primarily and customarily used to serve a medical purpose;
- 2609 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2610 (iv) is not worn in or on the body.
- 2611 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2612 equipment described in Subsection (39)(a).
- 2613 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 2614 mobility enhancing equipment.
- 2615 (40) "Electronic" means:
- 2616 (a) relating to technology; and
- 2617 (b) having:
- 2618 (i) electrical capabilities;
- 2619 (ii) digital capabilities;
- 2620 (iii) magnetic capabilities;
- 2621 (iv) wireless capabilities;
- 2622 (v) optical capabilities;
- 2623 (vi) electromagnetic capabilities; or
- 2624 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 2625 (41) "Employee" is as defined in Section 59-10-401.
- 2626 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 2627 (a) rail for the use of public transit; or
- 2628 (b) a separate right-of-way for the use of public transit.
- 2629 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2630 (a) is powered by turbine engines;
- 2631 (b) operates on jet fuel; and
- 2632 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2633 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 2634 communication between fixed points.
- 2635 (45) (a) "Food and food ingredients" means substances:
- 2636 (i) regardless of whether the substances are in:

- 2637 (A) liquid form;
- 2638 (B) concentrated form;
- 2639 (C) solid form;
- 2640 (D) frozen form;
- 2641 (E) dried form; or
- 2642 (F) dehydrated form; and
- 2643 (ii) that are:
- 2644 (A) sold for:
- 2645 (I) ingestion by humans; or
- 2646 (II) chewing by humans; and
- 2647 (B) consumed for the substance's:
- 2648 (I) taste; or
- 2649 (II) nutritional value.
- 2650 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 2651 (c) "Food and food ingredients" does not include:
- 2652 (i) an alcoholic beverage;
- 2653 (ii) tobacco; or
- 2654 (iii) prepared food.
- 2655 (46) (a) "Fundraising sales" means sales:
- 2656 (i) (A) made by a school; or
- 2657 (B) made by a school student;
- 2658 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2659 materials, or provide transportation; and
- 2660 (iii) that are part of an officially sanctioned school activity.
- 2661 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 2662 means a school activity:
- 2663 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2664 district governing the authorization and supervision of fundraising activities;
- 2665 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2666 educational personnel by direct payment, commissions, or payment in kind; and
- 2667 (iii) the net or gross revenues from which are deposited in a dedicated account

2668 controlled by the school or school district.

2669 (47) "Geothermal energy" means energy contained in heat that continuously flows
2670 outward from the earth that is used as the sole source of energy to produce electricity.

2671 (48) "Governing board of the agreement" means the governing board of the agreement
2672 that is:

2673 (a) authorized to administer the agreement; and

2674 (b) established in accordance with the agreement.

2675 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2676 (i) the executive branch of the state, including all departments, institutions, boards,
2677 divisions, bureaus, offices, commissions, and committees;

2678 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2679 Office of the Court Administrator, and similar administrative units in the judicial branch;

2680 (iii) the legislative branch of the state, including the House of Representatives, the
2681 Senate, the Legislative Printing Office, the Office of Legislative Research and General

2682 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2683 Analyst;

2684 (iv) the National Guard;

2685 (v) an independent entity as defined in Section 63E-1-102; or

2686 (vi) a political subdivision as defined in Section 17B-1-102.

2687 (b) "Governmental entity" does not include the state systems of public and higher
2688 education, including:

2689 (i) a college campus of the Utah College of Applied Technology;

2690 (ii) a school;

2691 (iii) the State Board of Education;

2692 (iv) the State Board of Regents; or

2693 (v) an institution of higher education.

2694 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
2695 electricity.

2696 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2697 other fuels:

2698 (a) in mining or extraction of minerals;

- 2699 (b) in agricultural operations to produce an agricultural product up to the time of
2700 harvest or placing the agricultural product into a storage facility, including:
- 2701 (i) commercial greenhouses;
 - 2702 (ii) irrigation pumps;
 - 2703 (iii) farm machinery;
 - 2704 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
2705 registered under Title 41, Chapter 1a, Part 2, Registration; and
 - 2706 (v) other farming activities;
- 2707 (c) in manufacturing tangible personal property at an establishment described in SIC
2708 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
2709 Executive Office of the President, Office of Management and Budget;
- 2710 (d) by a scrap recycler if:
- 2711 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2712 one or more of the following items into prepared grades of processed materials for use in new
2713 products:
- 2714 (A) iron;
 - 2715 (B) steel;
 - 2716 (C) nonferrous metal;
 - 2717 (D) paper;
 - 2718 (E) glass;
 - 2719 (F) plastic;
 - 2720 (G) textile; or
 - 2721 (H) rubber; and
- 2722 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
2723 nonrecycled materials; or
- 2724 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
2725 cogeneration facility as defined in Section 54-2-1.
- 2726 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
2727 for installing:
- 2728 (i) tangible personal property; or
 - 2729 (ii) a product transferred electronically.

- 2730 (b) "Installation charge" does not include a charge for:
- 2731 (i) repairs or renovations of:
- 2732 (A) tangible personal property; or
- 2733 (B) a product transferred electronically; or
- 2734 (ii) attaching tangible personal property or a product transferred electronically:
- 2735 (A) to other tangible personal property; and
- 2736 (B) as part of a manufacturing or fabrication process.
- 2737 (53) "Institution of higher education" means an institution of higher education listed in
- 2738 Section 53B-2-101.
- 2739 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2740 personal property or a product transferred electronically for:
- 2741 (i) (A) a fixed term; or
- 2742 (B) an indeterminate term; and
- 2743 (ii) consideration.
- 2744 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2745 amount of consideration may be increased or decreased by reference to the amount realized
- 2746 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2747 Code.
- 2748 (c) "Lease" or "rental" does not include:
- 2749 (i) a transfer of possession or control of property under a security agreement or
- 2750 deferred payment plan that requires the transfer of title upon completion of the required
- 2751 payments;
- 2752 (ii) a transfer of possession or control of property under an agreement that requires the
- 2753 transfer of title:
- 2754 (A) upon completion of required payments; and
- 2755 (B) if the payment of an option price does not exceed the greater of:
- 2756 (I) \$100; or
- 2757 (II) 1% of the total required payments; or
- 2758 (iii) providing tangible personal property along with an operator for a fixed period of
- 2759 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 2760 designed.

2761 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
2762 perform as designed if the operator's duties exceed the:

- 2763 (i) set-up of tangible personal property;
- 2764 (ii) maintenance of tangible personal property; or
- 2765 (iii) inspection of tangible personal property.

2766 (55) "Life science establishment" means an establishment in this state that is classified
2767 under the following NAICS codes of the 2007 North American Industry Classification System
2768 of the federal Executive Office of the President, Office of Management and Budget:

- 2769 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 2770 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2771 Manufacturing; or
- 2772 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2773 (56) "Life science research and development facility" means a facility owned, leased,
2774 or rented by a life science establishment if research and development is performed in 51% or
2775 more of the total area of the facility.

2776 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2777 if the tangible storage media is not physically transferred to the purchaser.

2778 (58) "Local taxing jurisdiction" means a:

- 2779 (a) county that is authorized to impose an agreement sales and use tax;
- 2780 (b) city that is authorized to impose an agreement sales and use tax; or
- 2781 (c) town that is authorized to impose an agreement sales and use tax.

2782 (59) "Manufactured home" is as defined in Section 15A-1-302.

2783 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

2784 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2785 Industrial Classification Manual of the federal Executive Office of the President, Office of
2786 Management and Budget;

2787 (b) a scrap recycler if:

2788 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2789 one or more of the following items into prepared grades of processed materials for use in new
2790 products:

2791 (A) iron;

- 2792 (B) steel;
- 2793 (C) nonferrous metal;
- 2794 (D) paper;
- 2795 (E) glass;
- 2796 (F) plastic;
- 2797 (G) textile; or
- 2798 (H) rubber; and
- 2799 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 2800 nonrecycled materials; or
- 2801 (c) a cogeneration facility as defined in Section 54-2-1.
- 2802 (61) "Member of the immediate family of the producer" means a person who is related
- 2803 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2804 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2805 (i) an adopted child or adopted stepchild; or
- 2806 (ii) a foster child or foster stepchild;
- 2807 (b) grandchild or stepgrandchild;
- 2808 (c) grandparent or stepgrandparent;
- 2809 (d) nephew or stepnephew;
- 2810 (e) niece or stepniece;
- 2811 (f) parent or stepparent;
- 2812 (g) sibling or stepsibling;
- 2813 (h) spouse;
- 2814 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
- 2815 or
- 2816 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 2817 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2818 Administrative Rulemaking Act.
- 2819 (62) "Mobile home" is as defined in Section 15A-1-302.
- 2820 (63) "Mobile telecommunications service" is as defined in the Mobile
- 2821 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2822 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of

2823 the technology used, if:

2824 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2825 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2826 (iii) the origination point described in Subsection (64)(a)(i) and the termination point

2827 described in Subsection (64)(a)(ii) are not fixed.

2828 (b) "Mobile wireless service" includes a telecommunications service that is provided

2829 by a commercial mobile radio service provider.

2830 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2831 commission may by rule define "commercial mobile radio service provider."

2832 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"

2833 means equipment that is:

2834 (i) primarily and customarily used to provide or increase the ability to move from one

2835 place to another;

2836 (ii) appropriate for use in a:

2837 (A) home; or

2838 (B) motor vehicle; and

2839 (iii) not generally used by persons with normal mobility.

2840 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

2841 the equipment described in Subsection (65)(a).

2842 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not

2843 include:

2844 (i) a motor vehicle;

2845 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

2846 vehicle manufacturer;

2847 (iii) durable medical equipment; or

2848 (iv) a prosthetic device.

2849 (66) "Model 1 seller" means a seller registered under the agreement that has selected a

2850 certified service provider as the seller's agent to perform all of the seller's sales and use tax

2851 functions for agreement sales and use taxes other than the seller's obligation under Section

2852 59-12-124 to remit a tax on the seller's own purchases.

2853 (67) "Model 2 seller" means a seller registered under the agreement that:

2854 (a) except as provided in Subsection (67)(b), has selected a certified automated system
2855 to perform the seller's sales tax functions for agreement sales and use taxes; and

2856 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
2857 sales tax:

2858 (i) collected by the seller; and

2859 (ii) to the appropriate local taxing jurisdiction.

2860 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
2861 the agreement that has:

2862 (i) sales in at least five states that are members of the agreement;

2863 (ii) total annual sales revenues of at least \$500,000,000;

2864 (iii) a proprietary system that calculates the amount of tax:

2865 (A) for an agreement sales and use tax; and

2866 (B) due to each local taxing jurisdiction; and

2867 (iv) entered into a performance agreement with the governing board of the agreement.

2868 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
2869 sellers using the same proprietary system.

2870 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
2871 model 1 seller, model 2 seller, or model 3 seller.

2872 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

2873 (71) "Motor vehicle" is as defined in Section 41-1a-102.

2874 (72) "Oil sands" means impregnated bituminous sands that:

2875 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2876 other hydrocarbons, or otherwise treated;

2877 (b) yield mixtures of liquid hydrocarbon; and

2878 (c) require further processing other than mechanical blending before becoming finished
2879 petroleum products.

2880 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2881 material that yields petroleum upon heating and distillation.

2882 (74) "Optional computer software maintenance contract" means a computer software
2883 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2884 sale of computer software.

2885 (75) (a) "Other fuels" means products that burn independently to produce heat or
2886 energy.

2887 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2888 personal property.

2889 (76) (a) "Paging service" means a telecommunications service that provides
2890 transmission of a coded radio signal for the purpose of activating a specific pager.

2891 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
2892 includes a transmission by message or sound.

2893 (77) "Pawnbroker" is as defined in Section 13-32a-102.

2894 (78) "Pawn transaction" is as defined in Section 13-32a-102.

2895 (79) (a) "Permanently attached to real property" means that for tangible personal
2896 property attached to real property:

2897 (i) the attachment of the tangible personal property to the real property:

2898 (A) is essential to the use of the tangible personal property; and

2899 (B) suggests that the tangible personal property will remain attached to the real
2900 property in the same place over the useful life of the tangible personal property; or

2901 (ii) if the tangible personal property is detached from the real property, the detachment
2902 would:

2903 (A) cause substantial damage to the tangible personal property; or

2904 (B) require substantial alteration or repair of the real property to which the tangible
2905 personal property is attached.

2906 (b) "Permanently attached to real property" includes:

2907 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2908 (A) essential to the operation of the tangible personal property; and

2909 (B) attached only to facilitate the operation of the tangible personal property;

2910 (ii) a temporary detachment of tangible personal property from real property for a
2911 repair or renovation if the repair or renovation is performed where the tangible personal
2912 property and real property are located; or

2913 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2914 Subsection (79)(c)(iii) or (iv).

2915 (c) "Permanently attached to real property" does not include:

2916 (i) the attachment of portable or movable tangible personal property to real property if
2917 that portable or movable tangible personal property is attached to real property only for:

2918 (A) convenience;

2919 (B) stability; or

2920 (C) for an obvious temporary purpose;

2921 (ii) the detachment of tangible personal property from real property except for the
2922 detachment described in Subsection (79)(b)(ii);

2923 (iii) an attachment of the following tangible personal property to real property if the
2924 attachment to real property is only through a line that supplies water, electricity, gas,
2925 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2926 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2927 (A) a computer;

2928 (B) a telephone;

2929 (C) a television; or

2930 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
2931 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2932 Administrative Rulemaking Act; or

2933 (iv) an item listed in Subsection (117)(c).

2934 (80) "Person" includes any individual, firm, partnership, joint venture, association,
2935 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2936 municipality, district, or other local governmental entity of the state, or any group or
2937 combination acting as a unit.

2938 (81) "Place of primary use":

2939 (a) for telecommunications service other than mobile telecommunications service,
2940 means the street address representative of where the customer's use of the telecommunications
2941 service primarily occurs, which shall be:

2942 (i) the residential street address of the customer; or

2943 (ii) the primary business street address of the customer; or

2944 (b) for mobile telecommunications service, is as defined in the Mobile
2945 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2946 (82) (a) "Postpaid calling service" means a telecommunications service a person

- 2947 obtains by making a payment on a call-by-call basis:
- 2948 (i) through the use of a:
- 2949 (A) bank card;
- 2950 (B) credit card;
- 2951 (C) debit card; or
- 2952 (D) travel card; or
- 2953 (ii) by a charge made to a telephone number that is not associated with the origination
- 2954 or termination of the telecommunications service.
- 2955 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 2956 service, that would be a prepaid wireless calling service if the service were exclusively a
- 2957 telecommunications service.
- 2958 (83) "Postproduction" means an activity related to the finishing or duplication of a
- 2959 medium described in Subsection 59-12-104(54)(a).
- 2960 (84) "Prepaid calling service" means a telecommunications service:
- 2961 (a) that allows a purchaser access to telecommunications service that is exclusively
- 2962 telecommunications service;
- 2963 (b) that:
- 2964 (i) is paid for in advance; and
- 2965 (ii) enables the origination of a call using an:
- 2966 (A) access number; or
- 2967 (B) authorization code;
- 2968 (c) that is dialed:
- 2969 (i) manually; or
- 2970 (ii) electronically; and
- 2971 (d) sold in predetermined units or dollars that decline:
- 2972 (i) by a known amount; and
- 2973 (ii) with use.
- 2974 (85) "Prepaid wireless calling service" means a telecommunications service:
- 2975 (a) that provides the right to utilize:
- 2976 (i) mobile wireless service; and
- 2977 (ii) other service that is not a telecommunications service, including:

- 2978 (A) the download of a product transferred electronically;
2979 (B) a content service; or
2980 (C) an ancillary service;
2981 (b) that:
2982 (i) is paid for in advance; and
2983 (ii) enables the origination of a call using an:
2984 (A) access number; or
2985 (B) authorization code;
2986 (c) that is dialed:
2987 (i) manually; or
2988 (ii) electronically; and
2989 (d) sold in predetermined units or dollars that decline:
2990 (i) by a known amount; and
2991 (ii) with use.
2992 (86) (a) "Prepared food" means:
2993 (i) food:
2994 (A) sold in a heated state; or
2995 (B) heated by a seller;
2996 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
2997 item; or
2998 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
2999 by the seller, including a:
3000 (A) plate;
3001 (B) knife;
3002 (C) fork;
3003 (D) spoon;
3004 (E) glass;
3005 (F) cup;
3006 (G) napkin; or
3007 (H) straw.
3008 (b) "Prepared food" does not include:

- 3009 (i) food that a seller only:
- 3010 (A) cuts;
- 3011 (B) repackages; or
- 3012 (C) pasteurizes; or
- 3013 (ii) (A) the following:
- 3014 (I) raw egg;
- 3015 (II) raw fish;
- 3016 (III) raw meat;
- 3017 (IV) raw poultry; or
- 3018 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 3019 and
- 3020 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3021 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3022 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 3023 (iii) the following if sold without eating utensils provided by the seller:
- 3024 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3025 classification under the 2002 North American Industry Classification System of the federal
- 3026 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3027 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3028 Manufacturing;
- 3029 (B) food and food ingredients sold in an unheated state:
- 3030 (I) by weight or volume; and
- 3031 (II) as a single item; or
- 3032 (C) a bakery item, including:
- 3033 (I) a bagel;
- 3034 (II) a bar;
- 3035 (III) a biscuit;
- 3036 (IV) bread;
- 3037 (V) a bun;
- 3038 (VI) a cake;
- 3039 (VII) a cookie;

- 3040 (VIII) a croissant;
- 3041 (IX) a danish;
- 3042 (X) a donut;
- 3043 (XI) a muffin;
- 3044 (XII) a pastry;
- 3045 (XIII) a pie;
- 3046 (XIV) a roll;
- 3047 (XV) a tart;
- 3048 (XVI) a torte; or
- 3049 (XVII) a tortilla.
- 3050 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
- 3051 does not include the following used to transport the food:
- 3052 (i) a container; or
- 3053 (ii) packaging.
- 3054 (87) "Prescription" means an order, formula, or recipe that is issued:
- 3055 (a) (i) orally;
- 3056 (ii) in writing;
- 3057 (iii) electronically; or
- 3058 (iv) by any other manner of transmission; and
- 3059 (b) by a licensed practitioner authorized by the laws of a state.
- 3060 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
- 3061 software" means computer software that is not designed and developed:
- 3062 (i) by the author or other creator of the computer software; and
- 3063 (ii) to the specifications of a specific purchaser.
- 3064 (b) "Prewritten computer software" includes:
- 3065 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 3066 software is not designed and developed:
- 3067 (A) by the author or other creator of the computer software; and
- 3068 (B) to the specifications of a specific purchaser;
- 3069 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
- 3070 the author or other creator of the computer software to the specifications of a specific purchaser

3071 if the computer software is sold to a person other than the purchaser; or
3072 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
3073 prewritten computer software or a prewritten portion of prewritten computer software:
3074 (A) that is modified or enhanced to any degree; and
3075 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
3076 designed and developed to the specifications of a specific purchaser.
3077 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
3078 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for
3079 the modification or enhancement are:
3080 (i) reasonable; and
3081 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
3082 invoice or other statement of price provided to the purchaser at the time of sale or later, as
3083 demonstrated by:
3084 (A) the books and records the seller keeps at the time of the transaction in the regular
3085 course of business, including books and records the seller keeps at the time of the transaction in
3086 the regular course of business for nontax purposes;
3087 (B) a preponderance of the facts and circumstances at the time of the transaction; and
3088 (C) the understanding of all of the parties to the transaction.
3089 (89) (a) "Private communication service" means a telecommunications service:
3090 (i) that entitles a customer to exclusive or priority use of one or more communications
3091 channels between or among termination points; and
3092 (ii) regardless of the manner in which the one or more communications channels are
3093 connected.
3094 (b) "Private communications service" includes the following provided in connection
3095 with the use of one or more communications channels:
3096 (i) an extension line;
3097 (ii) a station;
3098 (iii) switching capacity; or
3099 (iv) another associated service that is provided in connection with the use of one or
3100 more communications channels as defined in Section 59-12-215.
3101 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"

3102 means a product transferred electronically that would be subject to a tax under this chapter if
3103 that product was transferred in a manner other than electronically.

3104 (b) "Product transferred electronically" does not include:

3105 (i) an ancillary service;

3106 (ii) computer software; or

3107 (iii) a telecommunications service.

3108 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

3109 (i) artificially replace a missing portion of the body;

3110 (ii) prevent or correct a physical deformity or physical malfunction; or

3111 (iii) support a weak or deformed portion of the body.

3112 (b) "Prosthetic device" includes:

3113 (i) parts used in the repairs or renovation of a prosthetic device;

3114 (ii) replacement parts for a prosthetic device;

3115 (iii) a dental prosthesis; or

3116 (iv) a hearing aid.

3117 (c) "Prosthetic device" does not include:

3118 (i) corrective eyeglasses; or

3119 (ii) contact lenses.

3120 (92) (a) "Protective equipment" means an item:

3121 (i) for human wear; and

3122 (ii) that is:

3123 (A) designed as protection:

3124 (I) to the wearer against injury or disease; or

3125 (II) against damage or injury of other persons or property; and

3126 (B) not suitable for general use.

3127 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3128 commission shall make rules:

3129 (i) listing the items that constitute "protective equipment"; and

3130 (ii) that are consistent with the list of items that constitute "protective equipment"

3131 under the agreement.

3132 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or

- 3133 printed matter, other than a photocopy:
- 3134 (i) regardless of:
- 3135 (A) characteristics;
- 3136 (B) copyright;
- 3137 (C) form;
- 3138 (D) format;
- 3139 (E) method of reproduction; or
- 3140 (F) source; and
- 3141 (ii) made available in printed or electronic format.
- 3142 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3143 commission may by rule define the term "photocopy."
- 3144 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 3145 (i) valued in money; and
- 3146 (ii) for which tangible personal property, a product transferred electronically, or
- 3147 services are:
- 3148 (A) sold;
- 3149 (B) leased; or
- 3150 (C) rented.
- 3151 (b) "Purchase price" and "sales price" include:
- 3152 (i) the seller's cost of the tangible personal property, a product transferred
- 3153 electronically, or services sold;
- 3154 (ii) expenses of the seller, including:
- 3155 (A) the cost of materials used;
- 3156 (B) a labor cost;
- 3157 (C) a service cost;
- 3158 (D) interest;
- 3159 (E) a loss;
- 3160 (F) the cost of transportation to the seller; or
- 3161 (G) a tax imposed on the seller;
- 3162 (iii) a charge by the seller for any service necessary to complete the sale; or
- 3163 (iv) consideration a seller receives from a person other than the purchaser if:

- 3164 (A) (I) the seller actually receives consideration from a person other than the purchaser;
3165 and
- 3166 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
3167 price reduction or discount on the sale;
- 3168 (B) the seller has an obligation to pass the price reduction or discount through to the
3169 purchaser;
- 3170 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3171 the seller at the time of the sale to the purchaser; and
- 3172 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3173 seller to claim a price reduction or discount; and
- 3174 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
3175 coupon, or other documentation with the understanding that the person other than the seller
3176 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 3177 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3178 organization allowed a price reduction or discount, except that a preferred customer card that is
3179 available to any patron of a seller does not constitute membership in a group or organization
3180 allowed a price reduction or discount; or
- 3181 (III) the price reduction or discount is identified as a third party price reduction or
3182 discount on the:
- 3183 (Aa) invoice the purchaser receives; or
- 3184 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 3185 (c) "Purchase price" and "sales price" do not include:
- 3186 (i) a discount:
- 3187 (A) in a form including:
- 3188 (I) cash;
- 3189 (II) term; or
- 3190 (III) coupon;
- 3191 (B) that is allowed by a seller;
- 3192 (C) taken by a purchaser on a sale; and
- 3193 (D) that is not reimbursed by a third party; or
- 3194 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

3195 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3196 sale or later, as demonstrated by the books and records the seller keeps at the time of the
3197 transaction in the regular course of business, including books and records the seller keeps at the
3198 time of the transaction in the regular course of business for nontax purposes, by a
3199 preponderance of the facts and circumstances at the time of the transaction, and by the
3200 understanding of all of the parties to the transaction:

3201 (A) the following from credit extended on the sale of tangible personal property or
3202 services:

3203 (I) a carrying charge;

3204 (II) a financing charge; or

3205 (III) an interest charge;

3206 (B) a delivery charge;

3207 (C) an installation charge;

3208 (D) a manufacturer rebate on a motor vehicle; or

3209 (E) a tax or fee legally imposed directly on the consumer.

3210 (95) "Purchaser" means a person to whom:

3211 (a) a sale of tangible personal property is made;

3212 (b) a product is transferred electronically; or

3213 (c) a service is furnished.

3214 (96) "Regularly rented" means:

3215 (a) rented to a guest for value three or more times during a calendar year; or

3216 (b) advertised or held out to the public as a place that is regularly rented to guests for
3217 value.

3218 (97) "Rental" is as defined in Subsection (54).

3219 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
3220 personal property" means:

3221 (i) a repair or renovation of tangible personal property that is not permanently attached
3222 to real property; or

3223 (ii) attaching tangible personal property or a product transferred electronically to other
3224 tangible personal property or detaching tangible personal property or a product transferred
3225 electronically from other tangible personal property if:

3226 (A) the other tangible personal property to which the tangible personal property or
3227 product transferred electronically is attached or from which the tangible personal property or
3228 product transferred electronically is detached is not permanently attached to real property; and

3229 (B) the attachment of tangible personal property or a product transferred electronically
3230 to other tangible personal property or detachment of tangible personal property or a product
3231 transferred electronically from other tangible personal property is made in conjunction with a
3232 repair or replacement of tangible personal property or a product transferred electronically.

3233 (b) "Repairs or renovations of tangible personal property" does not include:

3234 (i) attaching prewritten computer software to other tangible personal property if the
3235 other tangible personal property to which the prewritten computer software is attached is not
3236 permanently attached to real property; or

3237 (ii) detaching prewritten computer software from other tangible personal property if the
3238 other tangible personal property from which the prewritten computer software is detached is
3239 not permanently attached to real property.

3240 (99) "Research and development" means the process of inquiry or experimentation
3241 aimed at the discovery of facts, devices, technologies, or applications and the process of
3242 preparing those devices, technologies, or applications for marketing.

3243 (100) (a) "Residential telecommunications services" means a telecommunications
3244 service or an ancillary service that is provided to an individual for personal use:

3245 (i) at a residential address; or

3246 (ii) at an institution, including a nursing home or a school, if the telecommunications
3247 service or ancillary service is provided to and paid for by the individual residing at the
3248 institution rather than the institution.

3249 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

3250 (i) apartment; or

3251 (ii) other individual dwelling unit.

3252 (101) "Residential use" means the use in or around a home, apartment building,
3253 sleeping quarters, and similar facilities or accommodations.

3254 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
3255 than:

3256 (a) resale;

3257 (b) sublease; or

3258 (c) subrent.

3259 (103) (a) "Retailer" means any person engaged in a regularly organized business in
3260 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
3261 who is selling to the user or consumer and not for resale.

3262 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3263 engaged in the business of selling to users or consumers within the state.

3264 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3265 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3266 Subsection 59-12-103(1), for consideration.

3267 (b) "Sale" includes:

3268 (i) installment and credit sales;

3269 (ii) any closed transaction constituting a sale;

3270 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3271 chapter;

3272 (iv) any transaction if the possession of property is transferred but the seller retains the
3273 title as security for the payment of the price; and

3274 (v) any transaction under which right to possession, operation, or use of any article of
3275 tangible personal property is granted under a lease or contract and the transfer of possession
3276 would be taxable if an outright sale were made.

3277 (105) "Sale at retail" is as defined in Subsection (102).

3278 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
3279 personal property or a product transferred electronically that is subject to a tax under this
3280 chapter is transferred:

3281 (a) by a purchaser-lessee;

3282 (b) to a lessor;

3283 (c) for consideration; and

3284 (d) if:

3285 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3286 of the tangible personal property or product transferred electronically;

3287 (ii) the sale of the tangible personal property or product transferred electronically to the

3288 lessor is intended as a form of financing:

3289 (A) for the tangible personal property or product transferred electronically; and

3290 (B) to the purchaser-lessee; and

3291 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

3292 is required to:

3293 (A) capitalize the tangible personal property or product transferred electronically for
3294 financial reporting purposes; and

3295 (B) account for the lease payments as payments made under a financing arrangement.

3296 (107) "Sales price" is as defined in Subsection (94).

3297 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
3298 amounts charged by a school:

3299 (i) sales that are directly related to the school's educational functions or activities

3300 including:

3301 (A) the sale of:

3302 (I) textbooks;

3303 (II) textbook fees;

3304 (III) laboratory fees;

3305 (IV) laboratory supplies; or

3306 (V) safety equipment;

3307 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3308 that:

3309 (I) a student is specifically required to wear as a condition of participation in a

3310 school-related event or school-related activity; and

3311 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3312 place of ordinary clothing;

3313 (C) sales of the following if the net or gross revenues generated by the sales are

3314 deposited into a school district fund or school fund dedicated to school meals:

3315 (I) food and food ingredients; or

3316 (II) prepared food; or

3317 (D) transportation charges for official school activities; or

3318 (ii) amounts paid to or amounts charged by a school for admission to a school-related

- 3319 event or school-related activity.
- 3320 (b) "Sales relating to schools" does not include:
- 3321 (i) bookstore sales of items that are not educational materials or supplies;
- 3322 (ii) except as provided in Subsection (108)(a)(i)(B):
- 3323 (A) clothing;
- 3324 (B) clothing accessories or equipment;
- 3325 (C) protective equipment; or
- 3326 (D) sports or recreational equipment; or
- 3327 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3328 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3329 (A) other than a:
- 3330 (I) school;
- 3331 (II) nonprofit organization authorized by a school board or a governing body of a
- 3332 private school to organize and direct a competitive secondary school activity; or
- 3333 (III) nonprofit association authorized by a school board or a governing body of a
- 3334 private school to organize and direct a competitive secondary school activity; and
- 3335 (B) that is required to collect sales and use taxes under this chapter.
- 3336 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3337 commission may make rules defining the term "passed through."
- 3338 (109) For purposes of this section and Section 59-12-104, "school":
- 3339 (a) means:
- 3340 (i) an elementary school or a secondary school that:
- 3341 (A) is a:
- 3342 (I) public school; or
- 3343 (II) private school; and
- 3344 (B) provides instruction for one or more grades kindergarten through 12; or
- 3345 (ii) a public school district; and
- 3346 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 3347 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 3348 (a) tangible personal property;
- 3349 (b) a product transferred electronically; or

- 3350 (c) a service.
- 3351 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3352 means tangible personal property or a product transferred electronically if the tangible personal
- 3353 property or product transferred electronically is:
- 3354 (i) used primarily in the process of:
- 3355 (A) (I) manufacturing a semiconductor;
- 3356 (II) fabricating a semiconductor; or
- 3357 (III) research or development of a:
- 3358 (Aa) semiconductor; or
- 3359 (Bb) semiconductor manufacturing process; or
- 3360 (B) maintaining an environment suitable for a semiconductor; or
- 3361 (ii) consumed primarily in the process of:
- 3362 (A) (I) manufacturing a semiconductor;
- 3363 (II) fabricating a semiconductor; or
- 3364 (III) research or development of a:
- 3365 (Aa) semiconductor; or
- 3366 (Bb) semiconductor manufacturing process; or
- 3367 (B) maintaining an environment suitable for a semiconductor.
- 3368 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3369 includes:
- 3370 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3371 transferred electronically described in Subsection (111)(a); or
- 3372 (ii) a chemical, catalyst, or other material used to:
- 3373 (A) produce or induce in a semiconductor a:
- 3374 (I) chemical change; or
- 3375 (II) physical change;
- 3376 (B) remove impurities from a semiconductor; or
- 3377 (C) improve the marketable condition of a semiconductor.
- 3378 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 3379 services to the aged as defined in Section 62A-3-101.
- 3380 (113) "Simplified electronic return" means the electronic return:

- 3381 (a) described in Section 318(C) of the agreement; and
3382 (b) approved by the governing board of the agreement.
- 3383 (114) "Solar energy" means the sun used as the sole source of energy for producing
3384 electricity.
- 3385 (115) (a) "Sports or recreational equipment" means an item:
3386 (i) designed for human use; and
3387 (ii) that is:
3388 (A) worn in conjunction with:
3389 (I) an athletic activity; or
3390 (II) a recreational activity; and
3391 (B) not suitable for general use.
- 3392 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3393 commission shall make rules:
3394 (i) listing the items that constitute "sports or recreational equipment"; and
3395 (ii) that are consistent with the list of items that constitute "sports or recreational
3396 equipment" under the agreement.
- 3397 (116) "State" means the state of Utah, its departments, and agencies.
- 3398 (117) "Storage" means any keeping or retention of tangible personal property or any
3399 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
3400 sale in the regular course of business.
- 3401 (118) (a) Except as provided in Subsection (118)(d) or (e), "tangible personal property"
3402 means personal property that:
3403 (i) may be:
3404 (A) seen;
3405 (B) weighed;
3406 (C) measured;
3407 (D) felt; or
3408 (E) touched; or
3409 (ii) is in any manner perceptible to the senses.
- 3410 (b) "Tangible personal property" includes:
3411 (i) electricity;

3412 (ii) water;
3413 (iii) gas;
3414 (iv) steam; or
3415 (v) prewritten computer software, regardless of the manner in which the prewritten
3416 computer software is transferred.

3417 (c) "Tangible personal property" includes the following regardless of whether the item
3418 is attached to real property:

3419 (i) a dishwasher;
3420 (ii) a dryer;
3421 (iii) a freezer;
3422 (iv) a microwave;
3423 (v) a refrigerator;
3424 (vi) a stove;
3425 (vii) a washer; or
3426 (viii) an item similar to Subsections (118)(c)(i) through (vii) as determined by the
3427 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3428 Rulemaking Act.

3429 (d) "Tangible personal property" does not include a product that is transferred
3430 electronically.

3431 (e) "Tangible personal property" does not include the following if attached to real
3432 property, regardless of whether the attachment to real property is only through a line that
3433 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3434 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3435 Rulemaking Act:

3436 (i) a hot water heater;
3437 (ii) a water filtration system; or
3438 (iii) a water softener system.

3439 (119) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3440 software" means an item listed in Subsection (119)(b) if that item is purchased or leased
3441 primarily to enable or facilitate one or more of the following to function:

3442 (i) telecommunications switching or routing equipment, machinery, or software; or

3443 (ii) telecommunications transmission equipment, machinery, or software.

3444 (b) The following apply to Subsection (119)(a):

3445 (i) a pole;

3446 (ii) software;

3447 (iii) a supplementary power supply;

3448 (iv) temperature or environmental equipment or machinery;

3449 (v) test equipment;

3450 (vi) a tower; or

3451 (vii) equipment, machinery, or software that functions similarly to an item listed in

3452 Subsections (119)(b)(i) through (vi) as determined by the commission by rule made in

3453 accordance with Subsection (119)(c).

3454 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3455 commission may by rule define what constitutes equipment, machinery, or software that

3456 functions similarly to an item listed in Subsections (119)(b)(i) through (vi).

3457 (120) "Telecommunications equipment, machinery, or software required for 911

3458 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

3459 Sec. 20.18.

3460 (121) "Telecommunications maintenance or repair equipment, machinery, or software"

3461 means equipment, machinery, or software purchased or leased primarily to maintain or repair

3462 one or more of the following, regardless of whether the equipment, machinery, or software is

3463 purchased or leased as a spare part or as an upgrade or modification to one or more of the

3464 following:

3465 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3466 (b) telecommunications switching or routing equipment, machinery, or software; or

3467 (c) telecommunications transmission equipment, machinery, or software.

3468 (122) (a) "Telecommunications service" means the electronic conveyance, routing, or

3469 transmission of audio, data, video, voice, or any other information or signal to a point, or

3470 among or between points.

3471 (b) "Telecommunications service" includes:

3472 (i) an electronic conveyance, routing, or transmission with respect to which a computer

3473 processing application is used to act:

- 3474 (A) on the code, form, or protocol of the content;
- 3475 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3476 (C) regardless of whether the service:
- 3477 (I) is referred to as voice over Internet protocol service; or
- 3478 (II) is classified by the Federal Communications Commission as enhanced or value
- 3479 added;
- 3480 (ii) an 800 service;
- 3481 (iii) a 900 service;
- 3482 (iv) a fixed wireless service;
- 3483 (v) a mobile wireless service;
- 3484 (vi) a postpaid calling service;
- 3485 (vii) a prepaid calling service;
- 3486 (viii) a prepaid wireless calling service; or
- 3487 (ix) a private communications service.
- 3488 (c) "Telecommunications service" does not include:
- 3489 (i) advertising, including directory advertising;
- 3490 (ii) an ancillary service;
- 3491 (iii) a billing and collection service provided to a third party;
- 3492 (iv) a data processing and information service if:
- 3493 (A) the data processing and information service allows data to be:
- 3494 (I) (Aa) acquired;
- 3495 (Bb) generated;
- 3496 (Cc) processed;
- 3497 (Dd) retrieved; or
- 3498 (Ee) stored; and
- 3499 (II) delivered by an electronic transmission to a purchaser; and
- 3500 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3501 or information;
- 3502 (v) installation or maintenance of the following on a customer's premises:
- 3503 (A) equipment; or
- 3504 (B) wiring;

- 3505 (vi) Internet access service;
- 3506 (vii) a paging service;
- 3507 (viii) a product transferred electronically, including:
- 3508 (A) music;
- 3509 (B) reading material;
- 3510 (C) a ring tone;
- 3511 (D) software; or
- 3512 (E) video;
- 3513 (ix) a radio and television audio and video programming service:
- 3514 (A) regardless of the medium; and
- 3515 (B) including:
- 3516 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 3517 programming service by a programming service provider;
- 3518 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 3519 (III) audio and video programming services delivered by a commercial mobile radio
- 3520 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3521 (x) a value-added nonvoice data service; or
- 3522 (xi) tangible personal property.
- 3523 (123) (a) "Telecommunications service provider" means a person that:
- 3524 (i) owns, controls, operates, or manages a telecommunications service; and
- 3525 (ii) engages in an activity described in Subsection (123)(a)(i) for the shared use with or
- 3526 resale to any person of the telecommunications service.
- 3527 (b) A person described in Subsection (123)(a) is a telecommunications service provider
- 3528 whether or not the Public Service Commission of Utah regulates:
- 3529 (i) that person; or
- 3530 (ii) the telecommunications service that the person owns, controls, operates, or
- 3531 manages.
- 3532 (124) (a) "Telecommunications switching or routing equipment, machinery, or
- 3533 software" means an item listed in Subsection (124)(b) if that item is purchased or leased
- 3534 primarily for switching or routing:
- 3535 (i) an ancillary service;

- 3536 (ii) data communications;
3537 (iii) voice communications; or
3538 (iv) telecommunications service.
- 3539 (b) The following apply to Subsection (124)(a):
- 3540 (i) a bridge;
3541 (ii) a computer;
3542 (iii) a cross connect;
3543 (iv) a modem;
3544 (v) a multiplexer;
3545 (vi) plug in circuitry;
3546 (vii) a router;
3547 (viii) software;
3548 (ix) a switch; or
3549 (x) equipment, machinery, or software that functions similarly to an item listed in
3550 Subsections (124)(b)(i) through (ix) as determined by the commission by rule made in
3551 accordance with Subsection (124)(c).
- 3552 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3553 commission may by rule define what constitutes equipment, machinery, or software that
3554 functions similarly to an item listed in Subsections (124)(b)(i) through (ix).
- 3555 (125) (a) "Telecommunications transmission equipment, machinery, or software"
3556 means an item listed in Subsection (125)(b) if that item is purchased or leased primarily for
3557 sending, receiving, or transporting:
- 3558 (i) an ancillary service;
3559 (ii) data communications;
3560 (iii) voice communications; or
3561 (iv) telecommunications service.
- 3562 (b) The following apply to Subsection (125)(a):
- 3563 (i) an amplifier;
3564 (ii) a cable;
3565 (iii) a closure;
3566 (iv) a conduit;

- 3567 (v) a controller;
- 3568 (vi) a duplexer;
- 3569 (vii) a filter;
- 3570 (viii) an input device;
- 3571 (ix) an input/output device;
- 3572 (x) an insulator;
- 3573 (xi) microwave machinery or equipment;
- 3574 (xii) an oscillator;
- 3575 (xiii) an output device;
- 3576 (xiv) a pedestal;
- 3577 (xv) a power converter;
- 3578 (xvi) a power supply;
- 3579 (xvii) a radio channel;
- 3580 (xviii) a radio receiver;
- 3581 (xix) a radio transmitter;
- 3582 (xx) a repeater;
- 3583 (xxi) software;
- 3584 (xxii) a terminal;
- 3585 (xxiii) a timing unit;
- 3586 (xxiv) a transformer;
- 3587 (xxv) a wire; or
- 3588 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

3589 Subsections (125)(b)(i) through (xxv) as determined by the commission by rule made in
3590 accordance with Subsection (125)(c).

3591 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3592 commission may by rule define what constitutes equipment, machinery, or software that
3593 functions similarly to an item listed in Subsections (125)(b)(i) through (xxv).

3594 (126) (a) "Textbook for a higher education course" means a textbook or other printed
3595 material that is required for a course:

- 3596 (i) offered by an institution of higher education; and
- 3597 (ii) that the purchaser of the textbook or other printed material attends or will attend.

3598 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3599 (127) "Tobacco" means:

3600 (a) a cigarette;

3601 (b) a cigar;

3602 (c) chewing tobacco;

3603 (d) pipe tobacco; or

3604 (e) any other item that contains tobacco.

3605 (128) "Unassisted amusement device" means an amusement device, skill device, or
3606 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3607 the amusement device, skill device, or ride device.

3608 (129) (a) "Use" means the exercise of any right or power over tangible personal
3609 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3610 incident to the ownership or the leasing of that tangible personal property, product transferred
3611 electronically, or service.

3612 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3613 property, a product transferred electronically, or a service in the regular course of business and
3614 held for resale.

3615 (130) "Value-added nonvoice data service" means a service:

3616 (a) that otherwise meets the definition of a telecommunications service except that a
3617 computer processing application is used to act primarily for a purpose other than conveyance,
3618 routing, or transmission; and

3619 (b) with respect to which a computer processing application is used to act on data or
3620 information:

3621 (i) code;

3622 (ii) content;

3623 (iii) form; or

3624 (iv) protocol.

3625 (131) (a) Subject to Subsection (131)(b), "vehicle" means the following that are
3626 required to be titled, registered, or titled and registered:

3627 (i) an aircraft as defined in Section 72-10-102;

3628 (ii) a vehicle as defined in Section 41-1a-102;

- 3629 (iii) an off-highway vehicle as defined in Section 41-22-2; or
3630 (iv) a vessel as defined in Section 41-1a-102.
- 3631 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
3632 (i) a vehicle described in Subsection (131)(a); or
3633 (ii) (A) a locomotive;
3634 (B) a freight car;
3635 (C) railroad work equipment; or
3636 (D) other railroad rolling stock.
- 3637 (132) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3638 exchanging a vehicle as defined in Subsection (131).
- 3639 (133) (a) "Vertical service" means an ancillary service that:
3640 (i) is offered in connection with one or more telecommunications services; and
3641 (ii) offers an advanced calling feature that allows a customer to:
3642 (A) identify a caller; and
3643 (B) manage multiple calls and call connections.
- 3644 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3645 conference bridging service.
- 3646 (134) (a) "Voice mail service" means an ancillary service that enables a customer to
3647 receive, send, or store a recorded message.
- 3648 (b) "Voice mail service" does not include a vertical service that a customer is required
3649 to have in order to utilize a voice mail service.
- 3650 (135) (a) Except as provided in Subsection (135)(b), "waste energy facility" means a
3651 facility that generates electricity:
3652 (i) using as the primary source of energy waste materials that would be placed in a
3653 landfill or refuse pit if it were not used to generate electricity, including:
3654 (A) tires;
3655 (B) waste coal;
3656 (C) oil shale; or
3657 (D) municipal solid waste; and
3658 (ii) in amounts greater than actually required for the operation of the facility.
- 3659 (b) "Waste energy facility" does not include a facility that incinerates:

- 3660 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
3661 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
3662 (136) "Watercraft" means a vessel as defined in Section 73-18-2.
3663 (137) "Wind energy" means wind used as the sole source of energy to produce
3664 electricity.
3665 (138) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3666 location by the United States Postal Service.
- 3667 Section 11. Section **59-12-103 (Superseded 07/01/14)** is amended to read:
3668 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**
3669 **-- Use of sales and use tax revenues.**
- 3670 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
3671 charged for the following transactions:
- 3672 (a) retail sales of tangible personal property made within the state;
3673 (b) amounts paid for:
- 3674 (i) telecommunications service, other than mobile telecommunications service, that
3675 originates and terminates within the boundaries of this state;
3676 (ii) mobile telecommunications service that originates and terminates within the
3677 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3678 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 3679 (iii) an ancillary service associated with a:
- 3680 (A) telecommunications service described in Subsection (1)(b)(i); or
3681 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3682 (c) sales of the following for commercial use:
- 3683 (i) gas;
3684 (ii) electricity;
3685 (iii) heat;
3686 (iv) coal;
3687 (v) fuel oil; or
3688 (vi) other fuels;
3689 (d) sales of the following for residential use:
3690 (i) gas;

- 3691 (ii) electricity;
- 3692 (iii) heat;
- 3693 (iv) coal;
- 3694 (v) fuel oil; or
- 3695 (vi) other fuels;
- 3696 (e) sales of prepared food;
- 3697 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3698 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3699 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3700 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3701 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3702 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3703 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3704 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3705 exhibition, cultural, or athletic activity;
- 3706 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3707 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3708 (i) the tangible personal property; and
- 3709 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3710 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 3711 of that tangible personal property;
- 3712 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3713 assisted cleaning or washing of tangible personal property;
- 3714 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3715 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3716 (j) amounts paid or charged for laundry or dry cleaning services;
- 3717 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3718 this state the tangible personal property is:
- 3719 (i) stored;
- 3720 (ii) used; or
- 3721 (iii) otherwise consumed;

- 3722 (l) amounts paid or charged for tangible personal property if within this state the
3723 tangible personal property is:
- 3724 (i) stored;
- 3725 (ii) used; or
- 3726 (iii) consumed; and
- 3727 (m) amounts paid or charged for a sale:
- 3728 (i) (A) of a product transferred electronically; or
- 3729 (B) of a repair or renovation of a product transferred electronically; and
- 3730 (ii) regardless of whether the sale provides:
- 3731 (A) a right of permanent use of the product; or
- 3732 (B) a right to use the product that is less than a permanent use, including a right:
- 3733 (I) for a definite or specified length of time; and
- 3734 (II) that terminates upon the occurrence of a condition.
- 3735 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
3736 is imposed on a transaction described in Subsection (1) equal to the sum of:
- 3737 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 3738 (A) 4.70%; and
- 3739 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3740 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3741 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3742 State Sales and Use Tax Act; and
- 3743 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3744 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3745 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3746 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 3747 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3748 transaction under this chapter other than this part.
- 3749 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c), a state tax and a local tax is
3750 imposed on a transaction described in Subsection (1)(d) equal to the sum of:
- 3751 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 3752 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3753 transaction under this chapter other than this part.

3754 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is~~
 3755 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

3756 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~
 3757 ~~a tax rate of 1.75%; and]~~

3758 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~
 3759 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

3760 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and~~
 3761 ~~tangible personal property other than food and food ingredients, a state tax and a local tax is~~
 3762 ~~imposed on the entire bundled transaction equal to the sum of:]~~

3763 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

3764 ~~[(I) the tax rate described in Subsection (2)(a)(i)(A); and]~~

3765 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State~~
 3766 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~
 3767 ~~59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,~~
 3768 ~~Additional State Sales and Use Tax Act; and]~~

3769 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State~~
 3770 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~
 3771 ~~59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which~~
 3772 ~~the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

3773 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates~~
 3774 ~~described in Subsection (2)(a)(ii).]~~

3775 ~~[(iii) (c) (i) If an optional computer software maintenance contract is a bundled~~
 3776 ~~transaction that consists of taxable and nontaxable products that are not separately itemized on~~
 3777 ~~an invoice or similar billing document, the purchase of the optional computer software~~
 3778 ~~maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.~~

3779 ~~[(iii) (ii) Subject to Subsection (2)[(d)(iv)](c)(iii), for a bundled transaction other than~~
 3780 ~~a bundled transaction described in Subsection (2)[(d)](c)(i) [or (ii)]:~~

3781 (A) if the sales price of the bundled transaction is attributable to tangible personal
 3782 property, a product, or a service that is subject to taxation under this chapter and tangible
 3783 personal property, a product, or service that is not subject to taxation under this chapter, the

3784 entire bundled transaction is subject to taxation under this chapter unless:

3785 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3786 personal property, product, or service that is not subject to taxation under this chapter from the
3787 books and records the seller keeps in the seller's regular course of business; or

3788 (II) state or federal law provides otherwise; or

3789 (B) if the sales price of a bundled transaction is attributable to two or more items of
3790 tangible personal property, products, or services that are subject to taxation under this chapter
3791 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3792 higher tax rate unless:

3793 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3794 personal property, product, or service that is subject to taxation under this chapter at the lower
3795 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3796 (II) state or federal law provides otherwise.

3797 ~~[(iv)]~~ (iii) For purposes of Subsection (2)~~[(d)(iii)]~~(c)(ii), books and records that a seller
3798 keeps in the seller's regular course of business includes books and records the seller keeps in
3799 the regular course of business for nontax purposes.

3800 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f) and (g)]~~(e) and (f), a tax rate repeal or tax rate
3801 change for a tax rate imposed under the following shall take effect on the first day of a calendar
3802 quarter:

3803 (i) Subsection (2)(a)(i)(A); or

3804 (ii) Subsection (2)(b)(i)~~;~~.

3805 ~~[(iii) Subsection (2)(c)(i); or]~~

3806 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

3807 ~~[(f)]~~ (e) (i) A tax rate increase takes effect on the first day of the first billing period that
3808 begins on or after the effective date of the tax rate increase if the billing period for the
3809 transaction begins before the effective date of a tax rate increase imposed under:

3810 (A) Subsection (2)(a)(i)(A); or

3811 (B) Subsection (2)(b)(i)~~;~~.

3812 ~~[(C) Subsection (2)(c)(i); or]~~

3813 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3814 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing

3815 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3816 or the tax rate decrease imposed under:

3817 (A) Subsection (2)(a)(i)(A); or

3818 (B) Subsection (2)(b)(i)[~~;~~].

3819 [~~(C) Subsection (2)(c)(i); or~~]

3820 [~~(D) Subsection (2)(d)(i)(A)(I).~~]

3821 [~~(g)~~] (f) (i) For a tax rate described in Subsection (2)[~~(g)~~](f)(ii), if a tax due on a
3822 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
3823 tax rate repeal or change in a tax rate takes effect:

3824 (A) on the first day of a calendar quarter; and

3825 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3826 (ii) Subsection (2)[~~(g)~~](f)(i) applies to the tax rates described in the following:

3827 (A) Subsection (2)(a)(i)(A); or

3828 (B) Subsection (2)(b)(i)[~~;~~].

3829 [~~(C) Subsection (2)(c)(i); or~~]

3830 [~~(D) Subsection (2)(d)(i)(A)(I).~~]

3831 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3832 the commission may by rule define the term "catalogue sale."

3833 (3) (a) The following state taxes shall be deposited into the General Fund:

3834 (i) the tax imposed by Subsection (2)(a)(i)(A); or

3835 (ii) the tax imposed by Subsection (2)(b)(i)[~~;~~].

3836 [~~(iii) the tax imposed by Subsection (2)(c)(i); or~~]

3837 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).~~]

3838 (b) The following local taxes shall be distributed to a county, city, or town as provided
3839 in this chapter:

3840 (i) the tax imposed by Subsection (2)(a)(ii); or

3841 (ii) the tax imposed by Subsection (2)(b)(ii)[~~;~~].

3842 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]

3843 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B).~~]

3844 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3845 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

3846 through (g):

3847 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3848 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3849 (B) for the fiscal year; or

3850 (ii) \$17,500,000.

3851 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

3852 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

3853 Department of Natural Resources to:

3854 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3855 protect sensitive plant and animal species; or

3856 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3857 act, to political subdivisions of the state to implement the measures described in Subsections
3858 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3859 (ii) Money transferred to the Department of Natural Resources under Subsection
3860 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3861 person to list or attempt to have listed a species as threatened or endangered under the
3862 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3863 (iii) At the end of each fiscal year:

3864 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3865 Conservation and Development Fund created in Section 73-10-24;

3866 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3867 Program Subaccount created in Section 73-10c-5; and

3868 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3869 Program Subaccount created in Section 73-10c-5.

3870 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3871 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3872 created in Section 4-18-6.

3873 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3874 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3875 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3876 water rights.

- 3877 (ii) At the end of each fiscal year:
- 3878 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3879 Conservation and Development Fund created in Section 73-10-24;
- 3880 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3881 Program Subaccount created in Section 73-10c-5; and
- 3882 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3883 Program Subaccount created in Section 73-10c-5.
- 3884 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3885 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3886 Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 3887 (ii) In addition to the uses allowed of the Water Resources Conservation and
3888 Development Fund under Section 73-10-24, the Water Resources Conservation and
3889 Development Fund may also be used to:
- 3890 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3891 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3892 quantifying surface and ground water resources and describing the hydrologic systems of an
3893 area in sufficient detail so as to enable local and state resource managers to plan for and
3894 accommodate growth in water use without jeopardizing the resource;
- 3895 (B) fund state required dam safety improvements; and
- 3896 (C) protect the state's interest in interstate water compact allocations, including the
3897 hiring of technical and legal staff.
- 3898 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3899 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3900 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 3901 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3902 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3903 created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 3904 (i) provide for the installation and repair of collection, treatment, storage, and
3905 distribution facilities for any public water system, as defined in Section 19-4-102;
- 3906 (ii) develop underground sources of water, including springs and wells; and
- 3907 (iii) develop surface water sources.

3908 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3909 2006, the difference between the following amounts shall be expended as provided in this
3910 Subsection (5), if that difference is greater than \$1:

3911 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3912 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3913 (ii) \$17,500,000.

3914 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3915 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3916 credits; and

3917 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3918 restoration.

3919 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3920 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3921 created in Section 73-10-24.

3922 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3923 remaining difference described in Subsection (5)(a) shall be:

3924 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3925 credits; and

3926 (B) expended by the Division of Water Resources for cloud-seeding projects
3927 authorized by Title 73, Chapter 15, Modification of Weather.

3928 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3929 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3930 created in Section 73-10-24.

3931 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3932 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3933 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3934 Division of Water Resources for:

3935 (i) preconstruction costs:

3936 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3937 26, Bear River Development Act; and

3938 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

3939 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3940 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3941 Chapter 26, Bear River Development Act;

3942 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3943 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3944 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3945 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3946 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3947 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3948 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3949 incurred for employing additional technical staff for the administration of water rights.

3950 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3951 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3952 Fund created in Section 73-10-24.

3953 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3954 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3955 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3956 the Transportation Fund created by Section 72-2-102.

3957 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3958 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3959 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3960 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3961 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3962 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3963 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3964 created by Section 72-2-124:

3965 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to [~~8.3%~~
3966 7.73%] of the revenues collected from the following taxes, which represents a portion of the
3967 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3968 on vehicles and vehicle-related products:

3969 (A) the tax imposed by Subsection (2)(a)(i)(A); and

3970 (B) the tax imposed by Subsection (2)(b)(i); and
3971 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]
3972 [~~(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus~~]
3973 (ii) an amount equal to [~~30%~~] 18.28% of the growth in the amount of revenues
3974 collected in the current fiscal year from the sales and use taxes described in Subsections
3975 (8)(a)(i)(A) [~~through (D)~~] and (B) that exceeds the amount collected from the sales and use
3976 taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) in the 2010-11 fiscal year.
3977 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
3978 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
3979 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~]
3980 and (B) generated in the current fiscal year than the total percentage of sales and use taxes
3981 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under
3982 Subsection (8)(a) equal to the product of:
3983 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
3984 previous fiscal year; and
3985 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3986 (8)(a)(i)(A) [~~through (D)~~] and (B) in the current fiscal year.
3987 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3988 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
3989 described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) in the current fiscal year, the
3990 Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes
3991 described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) for the current fiscal year under
3992 Subsection (8)(a).
3993 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3994 from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) was
3995 deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the
3996 revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through~~
3997 ~~(D)~~] and (B) in the current fiscal year under Subsection (8)(a).
3998 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3999 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
4000 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under

4001 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
4002 72-2-124.

4003 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4004 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4005 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4006 (11) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection~~
4007 ~~(11)(b),]~~ and in addition to any amounts deposited under Subsections (7), (8), and (9),
4008 beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation
4009 Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by
4010 a ~~[-0.25%]~~ .022% tax rate on the transactions described in Subsection (1).

4011 ~~[(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into~~
4012 ~~the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~
4013 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~
4014 ~~transaction attributable to food and food ingredients and tangible personal property other than~~
4015 ~~food and food ingredients described in Subsection (2)(d).]~~

4016 (12) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~
4017 ~~(12)(b),]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the
4018 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
4019 ~~[-0.25%]~~ .022% tax rate on the transactions described in Subsection (1) to be expended to
4020 address chokepoints in construction management.

4021 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~
4022 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~
4023 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~
4024 ~~and food ingredients and tangible personal property other than food and food ingredients~~
4025 ~~described in Subsection (2)(d).]~~

4026 Section 12. Section **59-12-103 (Effective 07/01/14)** is amended to read:

4027 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
4028 **Use of sales and use tax revenues.**

4029 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
4030 charged for the following transactions:

4031 (a) retail sales of tangible personal property made within the state;

- 4032 (b) amounts paid for:
- 4033 (i) telecommunications service, other than mobile telecommunications service, that
4034 originates and terminates within the boundaries of this state;
- 4035 (ii) mobile telecommunications service that originates and terminates within the
4036 boundaries of one state only to the extent permitted by the Mobile Telecommunications
4037 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 4038 (iii) an ancillary service associated with a:
- 4039 (A) telecommunications service described in Subsection (1)(b)(i); or
- 4040 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 4041 (c) sales of the following for commercial use:
- 4042 (i) gas;
- 4043 (ii) electricity;
- 4044 (iii) heat;
- 4045 (iv) coal;
- 4046 (v) fuel oil; or
- 4047 (vi) other fuels;
- 4048 (d) sales of the following for residential use:
- 4049 (i) gas;
- 4050 (ii) electricity;
- 4051 (iii) heat;
- 4052 (iv) coal;
- 4053 (v) fuel oil; or
- 4054 (vi) other fuels;
- 4055 (e) sales of prepared food;
- 4056 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
4057 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
4058 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
4059 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
4060 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
4061 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
4062 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

4063 horseback rides, sports activities, or any other amusement, entertainment, recreation,
4064 exhibition, cultural, or athletic activity;

4065 (g) amounts paid or charged for services for repairs or renovations of tangible personal
4066 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

4067 (i) the tangible personal property; and
4068 (ii) parts used in the repairs or renovations of the tangible personal property described
4069 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
4070 of that tangible personal property;

4071 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
4072 assisted cleaning or washing of tangible personal property;

4073 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
4074 accommodations and services that are regularly rented for less than 30 consecutive days;

4075 (j) amounts paid or charged for laundry or dry cleaning services;

4076 (k) amounts paid or charged for leases or rentals of tangible personal property if within
4077 this state the tangible personal property is:

4078 (i) stored;
4079 (ii) used; or
4080 (iii) otherwise consumed;

4081 (l) amounts paid or charged for tangible personal property if within this state the
4082 tangible personal property is:

4083 (i) stored;
4084 (ii) used; or
4085 (iii) consumed; and

4086 (m) amounts paid or charged for a sale:

4087 (i) (A) of a product transferred electronically; or
4088 (B) of a repair or renovation of a product transferred electronically; and
4089 (ii) regardless of whether the sale provides:

4090 (A) a right of permanent use of the product; or
4091 (B) a right to use the product that is less than a permanent use, including a right:
4092 (I) for a definite or specified length of time; and
4093 (II) that terminates upon the occurrence of a condition.

4094 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
4095 is imposed on a transaction described in Subsection (1) equal to the sum of:

4096 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

4097 (A) 4.70%; and

4098 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
4099 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4100 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
4101 State Sales and Use Tax Act; and

4102 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
4103 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4104 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
4105 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4106 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4107 transaction under this chapter other than this part.

4108 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c), a state tax and a local tax is
4109 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

4110 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4111 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4112 transaction under this chapter other than this part.

4113 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
4114 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

4115 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4116 a tax rate of 1.75%; and]~~

4117 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4118 amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

4119 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and
4120 tangible personal property other than food and food ingredients, a state tax and a local tax is
4121 imposed on the entire bundled transaction equal to the sum of:]~~

4122 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

4123 ~~[(I) the tax rate described in Subsection (2)(a)(i)(A); and]~~

4124 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State~~

4125 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~
 4126 ~~59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,~~
 4127 ~~Additional State Sales and Use Tax Act; and]~~

4128 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State~~
 4129 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~
 4130 ~~59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which~~
 4131 ~~the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

4132 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates~~
 4133 ~~described in Subsection (2)(a)(ii).]~~

4134 ~~[(iii)]~~ (c)(i) If an optional computer software maintenance contract is a bundled
 4135 transaction that consists of taxable and nontaxable products that are not separately itemized on
 4136 an invoice or similar billing document, the purchase of the optional computer software
 4137 maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

4138 ~~[(iii)]~~ (ii) Subject to Subsection (2)~~[(d)(iv)]~~(c)(iii), for a bundled transaction other than
 4139 a bundled transaction described in Subsection (2)~~[(d)]~~(c)(i) ~~[or (ii)]~~:

4140 (A) if the sales price of the bundled transaction is attributable to tangible personal
 4141 property, a product, or a service that is subject to taxation under this chapter and tangible
 4142 personal property, a product, or service that is not subject to taxation under this chapter, the
 4143 entire bundled transaction is subject to taxation under this chapter unless:

4144 (I) the seller is able to identify by reasonable and verifiable standards the tangible
 4145 personal property, product, or service that is not subject to taxation under this chapter from the
 4146 books and records the seller keeps in the seller's regular course of business; or

4147 (II) state or federal law provides otherwise; or

4148 (B) if the sales price of a bundled transaction is attributable to two or more items of
 4149 tangible personal property, products, or services that are subject to taxation under this chapter
 4150 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
 4151 higher tax rate unless:

4152 (I) the seller is able to identify by reasonable and verifiable standards the tangible
 4153 personal property, product, or service that is subject to taxation under this chapter at the lower
 4154 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4155 (II) state or federal law provides otherwise.

4156 ~~(iv)~~ (iii) For purposes of Subsection (2)~~(d)(iii)~~ (c)(ii), books and records that a seller
4157 keeps in the seller's regular course of business includes books and records the seller keeps in
4158 the regular course of business for nontax purposes.

4159 ~~(e)~~ (d) (i) Except as otherwise provided in this chapter and subject to Subsections
4160 (2)~~(e)~~(d)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
4161 property, a product, or a service that is subject to taxation under this chapter, and the sale,
4162 lease, or rental of tangible personal property, other property, a product, or a service that is not
4163 subject to taxation under this chapter, the entire transaction is subject to taxation under this
4164 chapter unless the seller, at the time of the transaction:

4165 (A) separately states the portion of the transaction that is not subject to taxation under
4166 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4167 (B) is able to identify by reasonable and verifiable standards, from the books and
4168 records the seller keeps in the seller's regular course of business, the portion of the transaction
4169 that is not subject to taxation under this chapter.

4170 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4171 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4172 the transaction that is not subject to taxation under this chapter was not separately stated on an
4173 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4174 ignorance of the law; and

4175 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4176 and records the seller keeps in the seller's regular course of business, the portion of the
4177 transaction that is not subject to taxation under this chapter.

4178 (iii) For purposes of Subsections (2)~~(e)~~(d)(i) and (ii), books and records that a seller
4179 keeps in the seller's regular course of business includes books and records the seller keeps in
4180 the regular course of business for nontax purposes.

4181 ~~(f)~~ (e) (i) If the sales price of a transaction is attributable to two or more items of
4182 tangible personal property, products, or services that are subject to taxation under this chapter
4183 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
4184 rate unless the seller, at the time of the transaction:

4185 (A) separately states the items subject to taxation under this chapter at each of the
4186 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4187 (B) is able to identify by reasonable and verifiable standards the tangible personal
 4188 property, product, or service that is subject to taxation under this chapter at the lower tax rate
 4189 from the books and records the seller keeps in the seller's regular course of business.

4190 (ii) For purposes of Subsection (2)~~[(f)]~~(e)(i), books and records that a seller keeps in
 4191 the seller's regular course of business includes books and records the seller keeps in the regular
 4192 course of business for nontax purposes.

4193 ~~[(g)]~~ (f) Subject to Subsections (2)~~[(h) and (i)]~~(g) and (h), a tax rate repeal or tax rate
 4194 change for a tax rate imposed under the following shall take effect on the first day of a calendar
 4195 quarter:

4196 (i) Subsection (2)(a)(i)(A); or

4197 (ii) Subsection (2)(b)(i)~~;~~;

4198 ~~[(iii) Subsection (2)(c)(i); or]~~

4199 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

4200 ~~[(h)]~~ (g) (i) A tax rate increase takes effect on the first day of the first billing period
 4201 that begins on or after the effective date of the tax rate increase if the billing period for the
 4202 transaction begins before the effective date of a tax rate increase imposed under:

4203 (A) Subsection (2)(a)(i)(A); or

4204 (B) Subsection (2)(b)(i)~~;~~;

4205 ~~[(C) Subsection (2)(c)(i); or]~~

4206 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

4207 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 4208 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 4209 or the tax rate decrease imposed under:

4210 (A) Subsection (2)(a)(i)(A); or

4211 (B) Subsection (2)(b)(i)~~;~~;

4212 ~~[(C) Subsection (2)(c)(i); or]~~

4213 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

4214 ~~[(f)]~~ (h) (i) For a tax rate described in Subsection (2)~~[(f)]~~(h)(ii), if a tax due on a
 4215 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 4216 tax rate repeal or change in a tax rate takes effect:

4217 (A) on the first day of a calendar quarter; and

- 4218 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4219 (ii) Subsection (2)[(†)](h)(i) applies to the tax rates described in the following:
- 4220 (A) Subsection (2)(a)(i)(A); or
- 4221 (B) Subsection (2)(b)(i)[;].
- 4222 [~~(C) Subsection (2)(c)(i); or~~]
- 4223 [~~(D) Subsection (2)(d)(i)(A)(I).~~]
- 4224 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4225 the commission may by rule define the term "catalogue sale."
- 4226 (3) (a) The following state taxes shall be deposited into the General Fund:
- 4227 (i) the tax imposed by Subsection (2)(a)(i)(A); or
- 4228 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 4229 [~~(iii) the tax imposed by Subsection (2)(c)(i); or~~]
- 4230 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).~~]
- 4231 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4232 in this chapter:
- 4233 (i) the tax imposed by Subsection (2)(a)(ii); or
- 4234 (ii) the tax imposed by Subsection (2)(b)(ii)[;].
- 4235 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]
- 4236 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B).~~]
- 4237 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 4238 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 4239 through (g):
- 4240 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 4241 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 4242 (B) for the fiscal year; or
- 4243 (ii) \$17,500,000.
- 4244 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 4245 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 4246 Department of Natural Resources to:
- 4247 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 4248 protect sensitive plant and animal species; or

4249 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4250 act, to political subdivisions of the state to implement the measures described in Subsections
4251 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4252 (ii) Money transferred to the Department of Natural Resources under Subsection
4253 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4254 person to list or attempt to have listed a species as threatened or endangered under the
4255 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4256 (iii) At the end of each fiscal year:

4257 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4258 Conservation and Development Fund created in Section 73-10-24;

4259 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4260 Program Subaccount created in Section 73-10c-5; and

4261 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4262 Program Subaccount created in Section 73-10c-5.

4263 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4264 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4265 created in Section 4-18-6.

4266 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4267 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4268 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4269 water rights.

4270 (ii) At the end of each fiscal year:

4271 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4272 Conservation and Development Fund created in Section 73-10-24;

4273 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4274 Program Subaccount created in Section 73-10c-5; and

4275 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4276 Program Subaccount created in Section 73-10c-5.

4277 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4278 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
4279 Fund created in Section 73-10-24 for use by the Division of Water Resources.

4280 (ii) In addition to the uses allowed of the Water Resources Conservation and
4281 Development Fund under Section 73-10-24, the Water Resources Conservation and
4282 Development Fund may also be used to:

4283 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4284 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4285 quantifying surface and ground water resources and describing the hydrologic systems of an
4286 area in sufficient detail so as to enable local and state resource managers to plan for and
4287 accommodate growth in water use without jeopardizing the resource;

4288 (B) fund state required dam safety improvements; and

4289 (C) protect the state's interest in interstate water compact allocations, including the
4290 hiring of technical and legal staff.

4291 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4292 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
4293 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4294 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4295 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
4296 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4297 (i) provide for the installation and repair of collection, treatment, storage, and
4298 distribution facilities for any public water system, as defined in Section 19-4-102;

4299 (ii) develop underground sources of water, including springs and wells; and

4300 (iii) develop surface water sources.

4301 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4302 2006, the difference between the following amounts shall be expended as provided in this
4303 Subsection (5), if that difference is greater than \$1:

4304 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4305 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4306 (ii) \$17,500,000.

4307 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4308 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4309 credits; and

4310 (B) expended by the Department of Natural Resources for watershed rehabilitation or

4311 restoration.

4312 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4313 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4314 created in Section 73-10-24.

4315 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4316 remaining difference described in Subsection (5)(a) shall be:

4317 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4318 credits; and

4319 (B) expended by the Division of Water Resources for cloud-seeding projects
4320 authorized by Title 73, Chapter 15, Modification of Weather.

4321 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4322 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4323 created in Section 73-10-24.

4324 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
4325 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4326 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4327 Division of Water Resources for:

4328 (i) preconstruction costs:

4329 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4330 26, Bear River Development Act; and

4331 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4332 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4333 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4334 Chapter 26, Bear River Development Act;

4335 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4336 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4337 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
4338 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4339 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4340 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
4341 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

4342 incurred for employing additional technical staff for the administration of water rights.

4343 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4344 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4345 Fund created in Section 73-10-24.

4346 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4347 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
4348 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
4349 the Transportation Fund created by Section 72-2-102.

4350 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
4351 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
4352 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
4353 by a 1/64% tax rate on the taxable transactions under Subsection (1).

4354 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4355 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
4356 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
4357 created by Section 72-2-124:

4358 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to [~~8.3%~~]
4359 7.73% of the revenues collected from the following taxes, which represents a portion of the
4360 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
4361 on vehicles and vehicle-related products:

4362 (A) the tax imposed by Subsection (2)(a)(i)(A); and

4363 (B) the tax imposed by Subsection (2)(b)(i); and

4364 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

4365 [~~(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus~~]

4366 (ii) an amount equal to [~~30%~~] 18.28% of the growth in the amount of revenues
4367 collected in the current fiscal year from the sales and use taxes described in Subsections
4368 (8)(a)(i)(A) [~~through (D)~~] and (B) that exceeds the amount collected from the sales and use
4369 taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) in the 2010-11 fiscal year.

4370 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
4371 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
4372 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~]

4373 and (B) generated in the current fiscal year than the total percentage of sales and use taxes
4374 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under
4375 Subsection (8)(a) equal to the product of:

4376 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
4377 previous fiscal year; and

4378 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4379 (8)(a)(i)(A) [~~through (D)~~] and (B) in the current fiscal year.

4380 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4381 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
4382 described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) in the current fiscal year, the
4383 Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes
4384 described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) for the current fiscal year under
4385 Subsection (8)(a).

4386 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
4387 from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through (D)~~] and (B) was
4388 deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the
4389 revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) [~~through~~
4390 ~~(D)~~] and (B) in the current fiscal year under Subsection (8)(a).

4391 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
4392 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
4393 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
4394 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
4395 72-2-124.

4396 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4397 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4398 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4399 (11) [~~(a)~~] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~
4400 ~~(11)(b),~~] and in addition to any amounts deposited under Subsections (7), (8), and (9),
4401 beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation
4402 Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by
4403 a [~~0.25%~~] .022% tax rate on the transactions described in Subsection (1).

4404 ~~[(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into~~
 4405 ~~the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~
 4406 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~
 4407 ~~transaction attributable to food and food ingredients and tangible personal property other than~~
 4408 ~~food and food ingredients described in Subsection (2)(d).]~~

4409 (12) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~
 4410 ~~(12)(b),]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the
 4411 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
 4412 ~~[-025%]~~ .022% tax rate on the transactions described in Subsection (1) to be expended to
 4413 address chokepoints in construction management.

4414 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~
 4415 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~
 4416 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~
 4417 ~~and food ingredients and tangible personal property other than food and food ingredients~~
 4418 ~~described in Subsection (2)(d).]~~

4419 Section 13. Section **59-12-104.2** is amended to read:

4420 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
 4421 **Nation.**

4422 (1) As used in this section "tribal taxing area" means the geographical area that:

4423 (a) is subject to the taxing authority of the Navajo Nation; and

4424 (b) consists of:

4425 (i) notwithstanding the issuance of a patent, all land:

4426 (A) within the limits of an Indian reservation under the jurisdiction of the federal
 4427 government; and

4428 (B) including any rights-of-way running through the reservation; and

4429 (ii) all Indian allotments the Indian titles to which have not been extinguished,
 4430 including any rights-of-way running through an Indian allotment.

4431 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
 4432 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
 4433 imposed by Subsection 59-12-103(2)(a)(i)(A) ~~[or (2)(d)(i)(A)(F)]~~ to the extent permitted under
 4434 Subsection (2)(b) if:

4435 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
4436 provided within:

4437 (A) the state; and

4438 (B) a tribal taxing area;

4439 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
4440 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

4441 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
4442 regard to whether or not the purchaser that pays or is charged for the accommodations and
4443 services is an enrolled member of the Navajo Nation; and

4444 (iv) the requirements of Subsection (4) are met.

4445 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
4446 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
4447 Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~]:

4448 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
4449 if that difference is greater than \$0; and

4450 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
4451 if the difference described in Subsection (3) is equal to or less than \$0.

4452 (3) The difference described in Subsection (2)(b) is equal to the difference between:

4453 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~]
4454 on the amounts paid by or charged to a purchaser for accommodations and services described
4455 in Subsection 59-12-103(1)(i); less

4456 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
4457 charged to a purchaser for the accommodations and services described in Subsection
4458 59-12-103(1)(i).

4459 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
4460 imposed on amounts paid by or charged to a purchaser for accommodations and services
4461 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
4462 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
4463 calendar quarter after a 90-day period beginning on the date the commission receives notice
4464 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

4465 (b) The notice described in Subsection (4)(a) shall state:

4466 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
4467 amounts paid by or charged to a purchaser for accommodations and services described in
4468 Subsection 59-12-103(1)(i);

4469 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
4470 and

4471 (iii) the new rate of the tax described in Subsection (4)(b)(i).

4472 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

4473 (a) shall review the exemption provided for in this section one or more times every five
4474 years;

4475 (b) shall determine on or before the November interim meeting of the year in which the
4476 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
4477 whether the exemption should be:

4478 (i) continued;

4479 (ii) modified; or

4480 (iii) repealed; and

4481 (c) may review any other issue related to the exemption provided for in this section as
4482 determined by the Revenue and Taxation Interim Committee.

4483 Section 14. Section **59-12-108** is amended to read:

4484 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
4485 **Certain amounts allocated to local taxing jurisdictions.**

4486 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
4487 chapter of \$50,000 or more for the previous calendar year shall:

4488 (i) file a return with the commission:

4489 (A) monthly on or before the last day of the month immediately following the month
4490 for which the seller collects a tax under this chapter; and

4491 (B) for the month for which the seller collects a tax under this chapter; and

4492 (ii) except as provided in Subsection (1)(b), remit with the return required by

4493 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
4494 fee, or charge described in Subsection (1)(c):

4495 (A) if that seller's tax liability under this chapter for the previous calendar year is less
4496 than \$96,000, by any method permitted by the commission; or

4497 (B) if that seller's tax liability under this chapter for the previous calendar year is
4498 \$96,000 or more, by electronic funds transfer.

4499 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
4500 the amount the seller is required to remit to the commission for each tax, fee, or charge
4501 described in Subsection (1)(c) if that seller:

4502 (i) is required by Section 59-12-107 to file the return electronically; or

4503 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

4504 (B) files a simplified electronic return.

4505 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

4506 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4507 (ii) a fee under Section 19-6-714;

4508 (iii) a fee under Section 19-6-805;

4509 (iv) a charge under Section 69-2-5;

4510 (v) a charge under Section 69-2-5.5;

4511 (vi) a charge under Section 69-2-5.6; or

4512 (vii) a tax under this chapter.

4513 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
4514 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
4515 for making same-day payments other than by electronic funds transfer if making payments by
4516 electronic funds transfer fails.

4517 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4518 commission shall establish by rule procedures and requirements for determining the amount a
4519 seller is required to remit to the commission under this Subsection (1).

4520 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
4521 seller described in Subsection (4) may retain each month the amount allowed by this
4522 Subsection (2).

4523 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
4524 each month 1.31% of any amounts the seller is required to remit to the commission:

4525 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
4526 and a local tax imposed in accordance with the following, for the month for which the seller is
4527 filing a return in accordance with Subsection (1):

4528 (A) Subsection 59-12-103(2)(a); and
4529 (B) Subsection 59-12-103(2)(b); and
4530 [~~(C) Subsection 59-12-103(2)(d); and~~]
4531 (ii) for an agreement sales and use tax.
4532 [~~(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may~~
4533 ~~retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described~~
4534 ~~in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in~~
4535 ~~accordance with Subsection 59-12-103(2)(c).]~~
4536 [~~(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount~~
4537 ~~equal to the sum of:~~]
4538 [~~(A) 1.31% of any amounts the seller is required to remit to the commission for:~~
4539 [~~(f) the state tax and the local tax imposed in accordance with Subsection~~
4540 ~~59-12-103(2)(c);]~~
4541 [~~(H) the month for which the seller is filing a return in accordance with Subsection (1);~~
4542 ~~and]~~
4543 [~~(HH) an agreement sales and use tax; and]~~
4544 [~~(B) 1.31% of the difference between:~~]
4545 [~~(f) the amounts the seller would have been required to remit to the commission:~~
4546 [~~(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been~~
4547 ~~subject to the state tax and the local tax imposed in accordance with Subsection~~
4548 ~~59-12-103(2)(a);]~~
4549 [~~(Bb) for the month for which the seller is filing a return in accordance with Subsection~~
4550 ~~(1); and]~~
4551 [~~(Cc) for an agreement sales and use tax; and]~~
4552 [~~(H) the amounts the seller is required to remit to the commission for:]~~
4553 [~~(Aa) the state tax and the local tax imposed in accordance with Subsection~~
4554 ~~59-12-103(2)(c);]~~
4555 [~~(Bb) the month for which the seller is filing a return in accordance with Subsection~~
4556 ~~(1); and]~~
4557 [~~(Cc) an agreement sales and use tax.]~~
4558 [~~(d)~~] (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may

4559 retain each month 1% of any amounts the seller is required to remit to the commission:

4560 (i) for the month for which the seller is filing a return in accordance with Subsection

4561 (1); and

4562 (ii) under:

4563 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4564 (B) Subsection 59-12-603(1)(a)(i)(A); or

4565 (C) Subsection 59-12-603(1)(a)(i)(B).

4566 (3) A state government entity that is required to remit taxes monthly in accordance

4567 with Subsection (1) may not retain any amount under Subsection (2).

4568 (4) A seller that has a tax liability under this chapter for the previous calendar year of

4569 less than \$50,000 may:

4570 (a) voluntarily meet the requirements of Subsection (1); and

4571 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the

4572 amounts allowed by Subsection (2).

4573 (5) Penalties for late payment shall be as provided in Section 59-1-401.

4574 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted

4575 to the commission under this part, the commission shall each month calculate an amount equal

4576 to the difference between:

4577 (i) the total amount retained for that month by all sellers had the [percentages]

4578 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~] been 1.5%; and

4579 (ii) the total amount retained for that month by all sellers at the [percentages]

4580 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~].

4581 (b) The commission shall each month allocate the amount calculated under Subsection

4582 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use

4583 tax that the commission distributes to each county, city, and town for that month compared to

4584 the total agreement sales and use tax that the commission distributes for that month to all

4585 counties, cities, and towns.

4586 (c) The amount the commission calculates under Subsection (6)(a) may not include an

4587 amount collected from a tax that:

4588 (i) the state imposes within a county, city, or town, including the unincorporated area

4589 of a county; and

4590 (ii) is not imposed within the entire state.

4591 Section 15. Section **59-12-401** is amended to read:

4592 **59-12-401. Resort communities tax authority for cities, towns, and military**
4593 **installation development authority -- Base -- Rate -- Collection fees.**

4594 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
4595 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
4596 municipality's permanent census population may impose a sales and use tax at a tax rate of up
4597 to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or
4598 town.

4599 (b) (i) Beginning on July 1, 2013, the tax rate percentage described in Subsection (1)(a)
4600 is a tax rate of up to .97%.

4601 (ii) Notwithstanding the notice requirements of Section 59-12-403, a city or town is not
4602 required to provide notice to the commission of a tax rate decrease made in accordance with
4603 Subsection (1)(b)(i).

4604 ~~(b)~~ (c) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under
4605 this section on:

4606 (i) the sale of:

4607 (A) a motor vehicle;

4608 (B) an aircraft;

4609 (C) a watercraft;

4610 (D) a modular home;

4611 (E) a manufactured home; or

4612 (F) a mobile home; or

4613 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4614 are exempt from taxation under Section 59-12-104~~[- and]~~.

4615 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
4616 ~~food ingredients.]~~

4617 ~~(c)~~ (d) For purposes of this Subsection (1), the location of a transaction shall be
4618 determined in accordance with Sections 59-12-211 through 59-12-215.

4619 ~~[(d) A city or town imposing a tax under this section shall impose the tax on amounts~~
4620 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~

4621 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
 4622 ~~property other than food and food ingredients.]~~

4623 (2) (a) An amount equal to the total of any costs incurred by the state in connection
 4624 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
 4625 the state from its collection fees received in connection with the implementation of Subsection
 4626 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
 4627 provided for in Subsection (1).

4628 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
 4629 those cities and towns according to the amount of revenue the respective cities and towns
 4630 generate in that year through imposition of that tax.

4631 (3) (a) Subject to 63H-1-203, the military installation development authority created in
 4632 Section 63H-1-201 may impose a tax under this section on the transactions described in
 4633 Subsection 59-12-103(1) located within a project area described in a project area plan adopted
 4634 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,
 4635 as though the authority were a city or a town.

4636 (b) For purposes of calculating the permanent census population within a project area,
 4637 the board as defined in Section 63H-1-102 shall:

4638 (i) count the population;

4639 (ii) adopt a resolution verifying the population number; and

4640 (iii) provide the commission any information required in Section 59-12-405.

4641 Section 16. Section **59-12-402** is amended to read:

4642 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
 4643 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
 4644 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**
 4645 **development authority.**

4646 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
 4647 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
 4648 66% of the municipality's permanent census population may, in addition to the sales tax
 4649 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
 4650 amount that is less than or equal to .5% on the transactions described in Subsection
 4651 59-12-103(1) located within the municipality.

4652 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
4653 impose a tax under this section on:

4654 (i) the sale of:

4655 (A) a motor vehicle;

4656 (B) an aircraft;

4657 (C) a watercraft;

4658 (D) a modular home;

4659 (E) a manufactured home; or

4660 (F) a mobile home; or

4661 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4662 are exempt from taxation under Section 59-12-104[~~;~~and].

4663 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
4664 ~~food ingredients.]~~

4665 (c) For purposes of this Subsection (1), the location of a transaction shall be
4666 determined in accordance with Sections 59-12-211 through 59-12-215.

4667 [~~(d) A municipality imposing a tax under this section shall impose the tax on amounts~~
4668 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
4669 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
4670 ~~property other than food and food ingredients.]~~

4671 (2) (a) An amount equal to the total of any costs incurred by the state in connection
4672 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
4673 the state from its collection fees received in connection with the implementation of Subsection
4674 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
4675 provided for in Subsection (1).

4676 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
4677 those cities and towns according to the amount of revenue the respective cities and towns
4678 generate in that year through imposition of that tax.

4679 (3) To impose an additional resort communities sales tax under this section, the
4680 governing body of the municipality shall:

4681 (a) pass a resolution approving the tax; and

4682 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided

4683 in Subsection (4).

4684 (4) To obtain voter approval for an additional resort communities sales tax under
4685 Subsection (3)(b), a municipality shall:

4686 (a) hold the additional resort communities sales tax election during:

4687 (i) a regular general election; or

4688 (ii) a municipal general election; and

4689 (b) publish notice of the election:

4690 (i) 15 days or more before the day on which the election is held; and

4691 (ii) (A) in a newspaper of general circulation in the municipality; and

4692 (B) as required in Section 45-1-101.

4693 (5) An ordinance approving an additional resort communities sales tax under this
4694 section shall provide an effective date for the tax as provided in Section 59-12-403.

4695 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
4696 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
4697 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
4698 Section 10-1-203.

4699 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
4700 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
4701 one class of businesses based on gross receipts pursuant to Section 10-1-203.

4702 (7) A military installation development authority authorized to impose a resort
4703 communities tax under Section 59-12-401 may not impose an additional resort communities
4704 sales tax under this section.

4705 Section 17. Section **59-12-703** is amended to read:

4706 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**

4707 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**
4708 **-- Notice requirements.**

4709 (1) (a) Subject to the other provisions of this section, a county legislative body may
4710 submit an opinion question to the residents of that county, by majority vote of all members of
4711 the legislative body, so that each resident of the county, except residents in municipalities that
4712 have already imposed a sales and use tax under Part 14, City or Town Option Funding For
4713 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an

4714 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
4715 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

4716 (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical
4717 organizations, cultural organizations, and zoological organizations, and rural radio stations, in
4718 that county; or

4719 (ii) provide funding for a botanical organization, cultural organization, or zoological
4720 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
4721 furtherance of the botanical organization's, cultural organization's, or zoological organization's
4722 primary purpose.

4723 (b) The opinion question required by this section shall state:

4724 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
4725 use tax for (list the purposes for which the revenues collected from the sales and use tax shall
4726 be expended)?"

4727 (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
4728 under this section on:

4729 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4730 are exempt from taxation under Section 59-12-104; or

4731 (ii) sales and uses within municipalities that have already imposed a sales and use tax
4732 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
4733 Zoological Organizations or Facilities[~~; and~~].

4734 [~~(iii) except as provided in Subsection (1)(c), amounts paid or charged for food and
4735 food ingredients.~~]

4736 (d) For purposes of this Subsection (1), the location of a transaction shall be
4737 determined in accordance with Sections 59-12-211 through 59-12-215.

4738 [~~(e) A county legislative body imposing a tax under this section shall impose the tax on
4739 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
4740 as part of a bundled transaction attributable to food and food ingredients and tangible personal
4741 property other than food and food ingredients.~~]

4742 [(f)] (e) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
4743 Government Bonding Act.

4744 (2) (a) If the county legislative body determines that a majority of the county's

4745 registered voters voting on the imposition of the tax have voted in favor of the imposition of
4746 the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a
4747 majority vote of all members of the legislative body on the transactions:

4748 (i) described in Subsection (1); and

4749 (ii) within the county, including the cities and towns located in the county, except those
4750 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
4751 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
4752 Facilities.

4753 (b) A county legislative body may revise county ordinances to reflect statutory changes
4754 to the distribution formula or eligible recipients of revenues generated from a tax imposed
4755 under Subsection (2)(a):

4756 (i) after the county legislative body submits an opinion question to residents of the
4757 county in accordance with Subsection (1) giving them the opportunity to express their opinion
4758 on the proposed revisions to county ordinances; and

4759 (ii) if the county legislative body determines that a majority of those voting on the
4760 opinion question have voted in favor of the revisions.

4761 (3) Subject to Section 59-12-704, revenues collected from a tax imposed under
4762 Subsection (2) shall be expended:

4763 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
4764 within the county or a city or town located in the county, except a city or town that has already
4765 imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical,
4766 Cultural, Recreational, and Zoological Organizations or Facilities;

4767 (b) to fund ongoing operating expenses of:

4768 (i) recreational facilities described in Subsection (3)(a);

4769 (ii) botanical organizations, cultural organizations, and zoological organizations within
4770 the county; and

4771 (iii) rural radio stations within the county; and

4772 (c) as stated in the opinion question described in Subsection (1).

4773 (4) (a) A tax authorized under this part shall be:

4774 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
4775 accordance with:

- 4776 (A) the same procedures used to administer, collect, and enforce the tax under:
4777 (I) Part 1, Tax Collection; or
4778 (II) Part 2, Local Sales and Use Tax Act; and
4779 (B) Chapter 1, General Taxation Policies; and
4780 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
4781 period in accordance with this section.
- 4782 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
- 4783 (5) (a) For purposes of this Subsection (5):
- 4784 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
4785 County Annexation.
- 4786 (ii) "Annexing area" means an area that is annexed into a county.
- 4787 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4788 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 4789 (A) on the first day of a calendar quarter; and
4790 (B) after a 90-day period beginning on the date the commission receives notice meeting
4791 the requirements of Subsection (5)(b)(ii) from the county.
- 4792 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 4793 (A) that the county will enact or repeal a tax under this part;
4794 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
4795 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
4796 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
4797 tax.
- 4798 (c) (i) The enactment of a tax takes effect on the first day of the first billing period:
4799 (A) that begins on or after the effective date of the enactment of the tax; and
4800 (B) if the billing period for the transaction begins before the effective date of the
4801 enactment of the tax under this section.
- 4802 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
4803 period is rendered on or after the effective date of the repeal of the tax imposed under this
4804 section.
- 4805 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4806 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

4807 Subsection (5)(b)(i) takes effect:

4808 (A) on the first day of a calendar quarter; and

4809 (B) beginning 60 days after the effective date of the enactment or repeal under

4810 Subsection (5)(b)(i).

4811 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4812 commission may by rule define the term "catalogue sale."

4813 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4814 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4815 part for an annexing area, the enactment or repeal shall take effect:

4816 (A) on the first day of a calendar quarter; and

4817 (B) after a 90-day period beginning on the date the commission receives notice meeting
4818 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

4819 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4820 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4821 repeal of a tax under this part for the annexing area;

4822 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4823 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4824 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4825 (f) (i) The enactment of a tax takes effect on the first day of the first billing period:

4826 (A) that begins on or after the effective date of the enactment of the tax; and

4827 (B) if the billing period for the transaction begins before the effective date of the
4828 enactment of the tax under this section.

4829 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
4830 period is rendered on or after the effective date of the repeal of the tax imposed under this
4831 section.

4832 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4833 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4834 Subsection (5)(e)(i) takes effect:

4835 (A) on the first day of a calendar quarter; and

4836 (B) beginning 60 days after the effective date of the enactment or repeal under

4837 Subsection (5)(e)(i).

4838 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4839 commission may by rule define the term "catalogue sale."

4840 Section 18. Section **59-12-802** is amended to read:

4841 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
4842 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax --**
4843 **Administrative charge.**

4844 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
4845 may impose a sales and use tax of up to 1%:

4846 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
4847 and

4848 (ii) subject to Subsection (3), to fund:

4849 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
4850 that county; or

4851 (B) for a county of the sixth class:

4852 (I) emergency medical services in that county;

4853 (II) federally qualified health centers in that county;

4854 (III) freestanding urgent care centers in that county;

4855 (IV) rural county health care facilities in that county;

4856 (V) rural health clinics in that county; or

4857 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

4858 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4859 tax under this section on:

4860 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4861 are exempt from taxation under Section 59-12-104; or

4862 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
4863 a city that imposes a tax under Section 59-12-804[; ~~and~~],

4864 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
4865 ~~food ingredients.~~]

4866 (c) For purposes of this Subsection (1), the location of a transaction shall be
4867 determined in accordance with Sections 59-12-211 through 59-12-215.

4868 [~~(d) A county legislative body imposing a tax under this section shall impose the tax on~~

4869 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
4870 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
4871 ~~property other than food and food ingredients.]~~

4872 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
4873 obtain approval to impose the tax from a majority of the:

4874 (i) members of the county's legislative body; and

4875 (ii) county's registered voters voting on the imposition of the tax.

4876 (b) The county legislative body shall conduct the election according to the procedures
4877 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

4878 (3) (a) The money generated by a tax imposed under Subsection (1) by a county
4879 legislative body of a county of the third, fourth, or fifth class may only be used for the
4880 financing of:

4881 (i) ongoing operating expenses of a rural county health care facility within that county;

4882 (ii) the acquisition of land for a rural county health care facility within that county; or

4883 (iii) the design, construction, equipping, or furnishing of a rural county health care
4884 facility within that county.

4885 (b) The money generated by a tax imposed under Subsection (1) by a county of the
4886 sixth class may only be used for the financing of:

4887 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
4888 (1)(a)(ii)(B) within that county;

4889 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
4890 (1)(a)(ii)(B) within that county;

4891 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
4892 described in Subsection (1)(a)(ii)(B) within that county; or

4893 (iv) the provision of rural emergency medical services within that county.

4894 (4) (a) A tax under this section shall be:

4895 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
4896 accordance with:

4897 (A) the same procedures used to administer, collect, and enforce the tax under:

4898 (I) Part 1, Tax Collection; or

4899 (II) Part 2, Local Sales and Use Tax Act; and

4900 (B) Chapter 1, General Taxation Policies; and

4901 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
4902 period by the county legislative body as provided in Subsection (1).

4903 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4904 Subsections 59-12-205(2) through (6).

4905 (5) The commission shall retain and deposit an administrative charge in accordance
4906 with Section 59-1-306 from the revenues the commission collects from a tax under this section.

4907 Section 19. Section **59-12-804** is amended to read:

4908 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
4909 **collection, and enforcement of tax -- Administrative charge.**

4910 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

4911 (i) on the transactions described in Subsection 59-12-103(1) located within the city;
4912 and

4913 (ii) to fund rural city hospitals in that city.

4914 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
4915 under this section on~~[-(i)]~~ the sales and uses described in Section 59-12-104 to the extent the
4916 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

4917 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and
4918 food ingredients.]~~

4919 (c) For purposes of this Subsection (1), the location of a transaction shall be
4920 determined in accordance with Sections 59-12-211 through 59-12-215.

4921 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on
4922 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
4923 as part of a bundled transaction attributable to food and food ingredients and tangible personal
4924 property other than food and food ingredients.]~~

4925 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
4926 obtain approval to impose the tax from a majority of the:

4927 (i) members of the city legislative body; and

4928 (ii) city's registered voters voting on the imposition of the tax.

4929 (b) The city legislative body shall conduct the election according to the procedures and
4930 requirements of Title 11, Chapter 14, Local Government Bonding Act.

4931 (3) The money generated by a tax imposed under Subsection (1) may only be used for
4932 the financing of:

4933 (a) ongoing operating expenses of a rural city hospital;

4934 (b) the acquisition of land for a rural city hospital; or

4935 (c) the design, construction, equipping, or furnishing of a rural city hospital.

4936 (4) (a) A tax under this section shall be:

4937 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
4938 accordance with:

4939 (A) the same procedures used to administer, collect, and enforce the tax under:

4940 (I) Part 1, Tax Collection; or

4941 (II) Part 2, Local Sales and Use Tax Act; and

4942 (B) Chapter 1, General Taxation Policies; and

4943 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
4944 period by the city legislative body as provided in Subsection (1).

4945 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4946 Subsections 59-12-205(2) through (6).

4947 (5) The commission shall retain and deposit an administrative charge in accordance
4948 with Section 59-1-306 from the revenues the commission collects from a tax under this section.

4949 Section 20. Section **59-12-1302** is amended to read:

4950 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
4951 **rate change -- Effective date -- Notice requirements -- Administration, collection, and**
4952 **enforcement of tax -- Administrative charge.**

4953 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
4954 tax as provided in this part in an amount that does not exceed 1%.

4955 (2) A town may impose a tax as provided in this part if the town imposed a license fee
4956 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
4957 1996.

4958 (3) A town imposing a tax under this section shall:

4959 (a) except as provided in Subsection (4), impose the tax on the transactions described
4960 in Subsection 59-12-103(1) located within the town; and

4961 (b) provide an effective date for the tax as provided in Subsection (5).

4962 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
4963 section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
4964 uses are exempt from taxation under Section 59-12-104~~[, and]~~.

4965 ~~[(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and~~
4966 ~~food ingredients.]~~

4967 (b) For purposes of this Subsection (4), the location of a transaction shall be
4968 determined in accordance with Sections 59-12-211 through 59-12-215.

4969 ~~[(c) A town imposing a tax under this section shall impose the tax on amounts paid or~~
4970 ~~charged for food and food ingredients if the food and food ingredients are sold as part of a~~
4971 ~~bundled transaction attributable to food and food ingredients and tangible personal property~~
4972 ~~other than food and food ingredients.]~~

4973 (5) (a) For purposes of this Subsection (5):

4974 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
4975 Annexation.

4976 (ii) "Annexing area" means an area that is annexed into a town.

4977 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4978 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4979 or change shall take effect:

4980 (A) on the first day of a calendar quarter; and

4981 (B) after a 90-day period beginning on the date the commission receives notice meeting
4982 the requirements of Subsection (5)(b)(ii) from the town.

4983 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4984 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

4985 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4986 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4987 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
4988 (5)(b)(ii)(A), the rate of the tax.

4989 (c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the
4990 first billing period:

4991 (A) that begins on or after the effective date of the enactment of the tax or the tax rate
4992 increase; and

4993 (B) if the billing period for the transaction begins before the effective date of the
4994 enactment of the tax or the tax rate increase imposed under Subsection (1).

4995 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4996 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4997 or the tax rate decrease imposed under Subsection (1).

4998 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4999 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
5000 a tax described in Subsection (5)(b)(i) takes effect:

5001 (A) on the first day of a calendar quarter; and

5002 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5003 rate of the tax under Subsection (5)(b)(i).

5004 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5005 commission may by rule define the term "catalogue sale."

5006 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
5007 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
5008 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
5009 effect:

5010 (A) on the first day of a calendar quarter; and

5011 (B) after a 90-day period beginning on the date the commission receives notice meeting
5012 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

5013 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

5014 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
5015 repeal, or change in the rate of a tax under this part for the annexing area;

5016 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

5017 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

5018 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
5019 (5)(e)(ii)(A), the rate of the tax.

5020 (f) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the
5021 first billing period:

5022 (A) that begins on or after the effective date of the enactment of the tax or the tax rate
5023 increase; and

5024 (B) if the billing period for the transaction begins before the effective date of the
5025 enactment of the tax or the tax rate increase imposed under Subsection (1).

5026 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
5027 statement for the billing period is rendered on or after the effective date of the repeal of the tax
5028 or the tax rate decrease imposed under Subsection (1).

5029 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
5030 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
5031 a tax described in Subsection (5)(e)(i) takes effect:

5032 (A) on the first day of a calendar quarter; and

5033 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5034 rate of the tax under Subsection (5)(e)(i).

5035 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5036 commission may by rule define the term "catalogue sale."

5037 (6) The commission shall:

5038 (a) distribute the revenues generated by the tax under this section to the town imposing
5039 the tax; and

5040 (b) except as provided in Subsection (8), administer, collect, and enforce the tax
5041 authorized under this section in accordance with:

5042 (i) the same procedures used to administer, collect, and enforce the tax under:

5043 (A) Part 1, Tax Collection; or

5044 (B) Part 2, Local Sales and Use Tax Act; and

5045 (ii) Chapter 1, General Taxation Policies.

5046 (7) The commission shall retain and deposit an administrative charge in accordance
5047 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

5048 (8) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
5049 Subsections 59-12-205(2) through (6).

5050 Section 21. Section **59-12-1402** is amended to read:

5051 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**
5052 **Expenditure of revenues -- Enactment or repeal of tax -- Effective date -- Notice**
5053 **requirements.**

5054 (1) (a) Subject to the other provisions of this section, a city or town legislative body

5055 subject to this part may submit an opinion question to the residents of that city or town, by
5056 majority vote of all members of the legislative body, so that each resident of the city or town
5057 has an opportunity to express the resident's opinion on the imposition of a local sales and use
5058 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or
5059 town, to:

5060 (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical
5061 organizations, cultural organizations, and zoological organizations in that city or town; or

5062 (ii) provide funding for a botanical organization, cultural organization, or zoological
5063 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
5064 furtherance of the botanical organization's, cultural organization's, or zoological organization's
5065 primary purpose.

5066 (b) The opinion question required by this section shall state:

5067 "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales
5068 and use tax for (list the purposes for which the revenues collected from the sales and use tax
5069 shall be expended)?"

5070 (c) Notwithstanding Subsection (1)(a), a city or town legislative body may not impose
5071 a tax under this section:

5072 (i) if the county in which the city or town is located imposes a tax under Part 7, County
5073 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
5074 Facilities; or

5075 (ii) on the sales and uses described in Section 59-12-104 to the extent the sales and
5076 uses are exempt from taxation under Section 59-12-104[; ~~and~~].

5077 [~~(iii) except as provided in Subsection (1)(c), on amounts paid or charged for food and
5078 food ingredients.~~]

5079 (d) For purposes of this Subsection (1), the location of a transaction shall be
5080 determined in accordance with Sections 59-12-211 through 59-12-215.

5081 [~~(e) A city or town legislative body imposing a tax under this section shall impose the
5082 tax on amounts paid or charged for food and food ingredients if the food and food ingredients
5083 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
5084 personal property other than food and food ingredients.~~]

5085 [~~(f)~~] (e) Except as provided in Subsection (6), the election shall be held at a regular

5086 general election or a municipal general election, as those terms are defined in Section
5087 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local
5088 Government Bonding Act.

5089 (2) If the city or town legislative body determines that a majority of the city's or town's
5090 registered voters voting on the imposition of the tax have voted in favor of the imposition of
5091 the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by
5092 a majority vote of all members of the legislative body.

5093 (3) Subject to Section 59-12-1403, revenues collected from a tax imposed under
5094 Subsection (2) shall be expended:

5095 (a) to finance cultural facilities, recreational facilities, and zoological facilities within
5096 the city or town or within the geographic area of entities that are parties to an interlocal
5097 agreement, to which the city or town is a party, providing for cultural facilities, recreational
5098 facilities, or zoological facilities;

5099 (b) to finance ongoing operating expenses of:

5100 (i) recreational facilities described in Subsection (3)(a) within the city or town or
5101 within the geographic area of entities that are parties to an interlocal agreement, to which the
5102 city or town is a party, providing for recreational facilities; or

5103 (ii) botanical organizations, cultural organizations, and zoological organizations within
5104 the city or town or within the geographic area of entities that are parties to an interlocal
5105 agreement, to which the city or town is a party, providing for the support of botanical
5106 organizations, cultural organizations, or zoological organizations; and

5107 (c) as stated in the opinion question described in Subsection (1).

5108 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall
5109 be:

5110 (i) administered, collected, and enforced in accordance with:

5111 (A) the same procedures used to administer, collect, and enforce the tax under:

5112 (I) Part 1, Tax Collection; or

5113 (II) Part 2, Local Sales and Use Tax Act; and

5114 (B) Chapter 1, General Taxation Policies; and

5115 (ii) (A) levied for a period of eight years; and

5116 (B) may be reauthorized at the end of the eight-year period in accordance with this

5117 section.

5118 (b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the
5119 tax shall be levied for a period of 10 years.

5120 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or
5121 after July 1, 2011, the tax shall be reauthorized for a ten-year period.

5122 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (6).

5123 (5) (a) For purposes of this Subsection (5):

5124 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
5125 4, Annexation.

5126 (ii) "Annexing area" means an area that is annexed into a city or town.

5127 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
5128 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

5129 (A) on the first day of a calendar quarter; and

5130 (B) after a 90-day period beginning on the date the commission receives notice meeting
5131 the requirements of Subsection (5)(b)(ii) from the city or town.

5132 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

5133 (A) that the city or town will enact or repeal a tax under this part;

5134 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

5135 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

5136 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
5137 the tax.

5138 (c) (i) The enactment of a tax takes effect on the first day of the first billing period:

5139 (A) that begins on or after the effective date of the enactment of the tax; and

5140 (B) if the billing period for the transaction begins before the effective date of the
5141 enactment of the tax under this section.

5142 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
5143 period is rendered on or after the effective date of the repeal of the tax imposed under this
5144 section.

5145 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
5146 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
5147 Subsection (5)(b)(i) takes effect:

- 5148 (A) on the first day of a calendar quarter; and
- 5149 (B) beginning 60 days after the effective date of the enactment or repeal under
- 5150 Subsection (5)(b)(i).
- 5151 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5152 commission may by rule define the term "catalogue sale."
- 5153 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
- 5154 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 5155 part for an annexing area, the enactment or repeal shall take effect:
- 5156 (A) on the first day of a calendar quarter; and
- 5157 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 5158 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
- 5159 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 5160 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
- 5161 repeal a tax under this part for the annexing area;
- 5162 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 5163 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 5164 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 5165 (f) (i) The enactment of a tax takes effect on the first day of the first billing period:
- 5166 (A) that begins on or after the effective date of the enactment of the tax; and
- 5167 (B) if the billing period for the transaction begins before the effective date of the
- 5168 enactment of the tax under this section.
- 5169 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
- 5170 period is rendered on or after the effective date of the repeal of the tax imposed under this
- 5171 section.
- 5172 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 5173 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 5174 Subsection (5)(e)(i) takes effect:
- 5175 (A) on the first day of a calendar quarter; and
- 5176 (B) beginning 60 days after the effective date of the enactment or repeal under
- 5177 Subsection (5)(e)(i).
- 5178 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5179 commission may by rule define the term "catalogue sale."

5180 (6) (a) Before a city or town legislative body submits an opinion question to the
5181 residents of the city or town under Subsection (1), the city or town legislative body shall:

5182 (i) submit to the county legislative body in which the city or town is located a written
5183 notice of the intent to submit the opinion question to the residents of the city or town; and

5184 (ii) receive from the county legislative body:

5185 (A) a written resolution passed by the county legislative body stating that the county
5186 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
5187 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

5188 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
5189 opinion question submitted to the residents of the county under Part 7, County Option Funding
5190 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
5191 or town legislative body to submit the opinion question to the residents of the city or town in
5192 accordance with this part.

5193 (b) (i) Within 60 days after the day the county legislative body receives from a city or
5194 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
5195 opinion question to the residents of the city or town, the county legislative body shall provide
5196 the city or town legislative body:

5197 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

5198 (B) written notice that the county legislative body will submit an opinion question to
5199 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
5200 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
5201 that part.

5202 (ii) If the county legislative body provides the city or town legislative body the written
5203 notice that the county legislative body will submit an opinion question as provided in
5204 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
5205 later than, from the date the county legislative body sends the written notice, the later of:

5206 (A) a 12-month period;

5207 (B) the next regular primary election; or

5208 (C) the next regular general election.

5209 (iii) Within 30 days of the date of the canvass of the election at which the opinion

5210 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
5211 city or town legislative body described in Subsection (6)(a) written results of the opinion
5212 question submitted by the county legislative body under Part 7, County Option Funding for
5213 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

5214 (A) (I) the city or town legislative body may not impose a tax under this part because a
5215 majority of the county's registered voters voted in favor of the county imposing the tax and the
5216 county legislative body by a majority vote approved the imposition of the tax; or

5217 (II) for at least 12 months from the date the written results are submitted to the city or
5218 town legislative body, the city or town legislative body may not submit to the county legislative
5219 body a written notice of the intent to submit an opinion question under this part because a
5220 majority of the county's registered voters voted against the county imposing the tax and the
5221 majority of the registered voters who are residents of the city or town described in Subsection
5222 (6)(a) voted against the imposition of the county tax; or

5223 (B) the city or town legislative body may submit the opinion question to the residents
5224 of the city or town in accordance with this part because although a majority of the county's
5225 registered voters voted against the county imposing the tax, the majority of the registered voters
5226 who are residents of the city or town voted for the imposition of the county tax.

5227 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
5228 provide a city or town legislative body described in Subsection (6)(a) a written resolution
5229 passed by the county legislative body stating that the county legislative body is not seeking to
5230 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
5231 Zoological Organizations or Facilities, which permits the city or town legislative body to
5232 submit under Subsection (1) an opinion question to the city's or town's residents.

5233 Section 22. Section **59-12-2003** is amended to read:

5234 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
5235 **transit districts.**

5236 (1) Subject to the other provisions of this section and except as provided in Subsection
5237 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
5238 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
5239 area of a county of the first or second class if, on January 1, 2008, there is a public transit
5240 district within any portion of that county of the first or second class.

5241 (2) The state may not impose a tax under this part within a county of the first or second
 5242 class if within all of the cities, towns, and the unincorporated area of the county of the first or
 5243 second class there is imposed a sales and use tax of:

5244 (a) [~~.30%~~] .27% under Section 59-12-2213;

5245 (b) [~~.30%~~] .27% under Section 59-12-2215; or

5246 (c) [~~.30%~~] .27% under Section 59-12-2216.

5247 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
 5248 rate imposed within a city, town, or the unincorporated area of a county of the first or second
 5249 class is a percentage equal to the difference between:

5250 (i) [~~.30%~~] .27%; and

5251 (ii) (A) for a city within the county of the first or second class, the highest tax rate
 5252 imposed within that city under:

5253 (I) Section 59-12-2213;

5254 (II) Section 59-12-2215; or

5255 (III) Section 59-12-2216;

5256 (B) for a town within the county of the first or second class, the highest tax rate
 5257 imposed within that town under:

5258 (I) Section 59-12-2213;

5259 (II) Section 59-12-2215; or

5260 (III) Section 59-12-2216; or

5261 (C) for the unincorporated area of the county of the first or second class, the highest tax
 5262 rate imposed within that unincorporated area under:

5263 (I) Section 59-12-2213;

5264 (II) Section 59-12-2215; or

5265 (III) Section 59-12-2216.

5266 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
 5267 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,
 5268 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the
 5269 first or second class is [~~.30%~~] .27%, the state may not impose a tax under this part within that
 5270 city, town, or unincorporated area.

5271 (4) [~~(a)~~] The state may not impose a tax under this part on[~~(i)~~] the sales and uses

5272 described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under
5273 Section 59-12-104~~[, or]~~.

5274 ~~[(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and~~
5275 ~~food ingredients.]~~

5276 ~~[(b) The state shall impose a tax under this part on amounts paid or charged for food~~
5277 ~~and food ingredients if the food and food ingredients are sold as part of a bundled transaction~~
5278 ~~attributable to food and ingredients and tangible personal property other than food and food~~
5279 ~~ingredients.]~~

5280 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
5281 accordance with Sections 59-12-211 through 59-12-215.

5282 (6) The commission shall distribute the revenues the state collects from the sales and
5283 use tax under this part, after subtracting amounts a seller retains in accordance with Section
5284 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

5285 (a) within which the state imposes a tax under this part; and

5286 (b) in proportion to the revenues collected from the sales and use tax under this part
5287 within each city, town, and unincorporated area within which the state imposes a tax under this
5288 part.

5289 Section 23. Section **59-12-2103** is amended to read:

5290 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
5291 **from the tax -- Administration, collection, and enforcement of tax by commission --**
5292 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

5293 (1) (a) Subject to the other provisions of this section and except as provided in
5294 Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or
5295 town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the
5296 city or town would have received a tax revenue distribution of less than .75% of the taxable
5297 sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or
5298 town legislative body may impose a sales and use tax of up to .20% on the transactions:

5299 (i) described in Subsection 59-12-103(1); and

5300 (ii) within the city or town.

5301 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
5302 expend the revenues collected from the tax for the same purposes for which the city or town

5303 may expend the city's or town's general fund revenues.

5304 (c) For purposes of this Subsection (1), the location of a transaction shall be
5305 determined in accordance with Sections 59-12-211 through 59-12-215.

5306 (2) ~~[(a)]~~ A city or town legislative body may not impose a tax under this section on[
5307 ~~(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are
5308 exempt from taxation under Section 59-12-104~~[-and].~~

5309 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and
5310 food ingredients.]~~

5311 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the
5312 tax on amounts paid or charged for food and food ingredients if the food and food ingredients
5313 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
5314 personal property other than food and food ingredients.]~~

5315 (3) (a) Beginning on January 1, 2009 and ending on June 30, 2016, to impose a tax
5316 under this part, a city or town legislative body shall obtain approval from a majority of the
5317 members of the city or town legislative body.

5318 (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or
5319 town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

5320 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or
5321 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before June
5322 30, 2016, the city or town legislative body obtains approval from a majority vote of the
5323 members of the city or town legislative body to continue to impose the tax.

5324 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of
5325 the members of the city or town legislative body to continue to impose a tax under this part on
5326 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

5327 (4) The commission shall transmit revenues collected within a city or town from a tax
5328 under this part:

5329 (a) to the city or town legislative body;

5330 (b) monthly; and

5331 (c) by electronic funds transfer.

5332 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
5333 collect, and enforce a tax under this part in accordance with:

- 5334 (i) the same procedures used to administer, collect, and enforce the tax under:
- 5335 (A) Part 1, Tax Collection; or
- 5336 (B) Part 2, Local Sales and Use Tax Act; and
- 5337 (ii) Chapter 1, General Taxation Policies.
- 5338 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
- 5339 (6) The commission shall retain and deposit an administrative charge in accordance
- 5340 with Section 59-1-306 from the revenues the commission collects from a tax under this part.
- 5341 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
- 5342 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
- 5343 repeal, or change shall take effect:
- 5344 (A) on the first day of a calendar quarter; and
- 5345 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 5346 the requirements of Subsection (7)(a)(i) from the city or town.
- 5347 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
- 5348 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
- 5349 this part;
- 5350 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
- 5351 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
- 5352 (D) if the city or town enacts the tax or changes the rate of the tax described in
- 5353 Subsection (7)(a)(ii)(A), the rate of the tax.
- 5354 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
- 5355 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes
- 5356 effect on the first day of the first billing period that begins on or after the effective date of the
- 5357 enactment of the tax or the tax rate increase.
- 5358 (ii) If the billing period for a transaction begins before the effective date of the repeal
- 5359 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
- 5360 decrease applies to a billing period if the billing statement for the billing period is rendered on
- 5361 or after the effective date of the repeal of the tax or the tax rate decrease.
- 5362 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
- 5363 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
- 5364 described in Subsection (7)(a)(i) takes effect:

5365 (A) on the first day of a calendar quarter; and
5366 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
5367 rate of the tax under Subsection (7)(a)(i).

5368 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5369 commission may by rule define the term "catalogue sale."

5370 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
5371 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
5372 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
5373 effect:

5374 (A) on the first day of a calendar quarter; and

5375 (B) after a 90-day period beginning on the date the commission receives notice meeting
5376 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

5377 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

5378 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
5379 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

5380 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

5381 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

5382 (D) if the city or town enacts the tax or changes the rate of the tax described in
5383 Subsection (7)(d)(ii)(A), the rate of the tax.

5384 (e) (i) If the billing period for a transaction begins before the effective date of the
5385 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
5386 rate increase takes effect on the first day of the first billing period that begins on or after the
5387 effective date of the enactment of the tax or the tax rate increase.

5388 (ii) If the billing period for a transaction begins before the effective date of the repeal
5389 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
5390 decrease applies to a billing period if the billing statement for the billing period is rendered on
5391 or after the effective date of the repeal of the tax or the tax rate decrease.

5392 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
5393 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
5394 described in Subsection (7)(d)(i) takes effect:

5395 (A) on the first day of a calendar quarter; and

5396 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
5397 Subsection (7)(d)(i).

5398 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5399 commission may by rule define the term "catalogue sale".

5400 Section 24. Section **59-12-2204** is amended to read:

5401 **59-12-2204. Transactions that may not be subject to taxation under this part.**

5402 ~~[(+)]~~ A county, city, or town may not impose a sales and use tax under this part on~~[-~~
5403 ~~(a)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are
5404 exempt from taxation under Section 59-12-104~~[-and]~~.

5405 ~~[(b) except as provided in Subsection (2), amounts paid or charged for food and food~~
5406 ~~ingredients.]~~

5407 ~~[(2) A county, city, or town imposing a sales and use tax under this part shall impose~~
5408 ~~the sales and use tax on amounts paid or charged for food and food ingredients if the food and~~
5409 ~~food ingredients are sold as part of a bundled transaction attributable to food and food~~
5410 ~~ingredients and tangible personal property other than food and food ingredients.]~~

5411 Section 25. Section **59-12-2213** is amended to read:

5412 **59-12-2213. County, city, or town option sales and use tax to fund a system for**
5413 **public transit -- Base -- Rate.**

5414 (1) Subject to the other provisions of this part, a county, city, or town may impose a
5415 sales and use tax under this section of up to:

5416 (a) for a county, city, or town other than a county, city, or town described in Subsection
5417 (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the
5418 county, city, or town to fund a system for public transit; or

5419 (b) except as provided in Subsection (3), for a county, city, or town within which a tax
5420 is not imposed under Section 59-12-2216, .30% on the transactions described in Subsection
5421 59-12-103(1) located within the county, city, or town, to fund a system for public transit.

5422 (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not
5423 required to submit an opinion question to the county's, city's, or town's registered voters in
5424 accordance with Section 59-12-2208 to impose a sales and use tax under this section if the
5425 county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July
5426 1, 2011.

5427 (3) (a) Beginning on July 1, 2013, the tax rate percentage described in Subsection
5428 (1)(b) is a tax rate of up to .27%.

5429 (b) Notwithstanding the notice requirements of Section 59-12-2209, a county, city, or
5430 town is not required to provide notice to the commission of a tax rate decrease made in
5431 accordance with Subsection (2)(a).

5432 Section 26. Section **59-12-2215** is amended to read:

5433 **59-12-2215. City or town option sales and use tax for highways or to fund a**
5434 **system for public transit -- Base -- Rate.**

5435 (1) [~~Subject~~] (a) Except as provided in Subsection (1)(b) and subject to the other
5436 provisions of this part, a city or town may impose a sales and use tax of up to .30% on the
5437 transactions described in Subsection 59-12-103(1) located within the city or town.

5438 (b) (i) Beginning on July 1, 2013, the tax rate percentage described in Subsection (1)(a)
5439 is a tax rate of up to .27%.

5440 (ii) Notwithstanding the notice requirements of Section 59-12-2209, a city or town is
5441 not required to provide notice to the commission of a tax rate decrease made in accordance
5442 with Subsection (1)(b)(i).

5443 (2) A city or town imposing a sales and use tax under this section shall expend the
5444 revenues collected from the sales and use tax:

5445 (a) for the construction and maintenance of highways under the jurisdiction of the city
5446 or town imposing the tax;

5447 (b) to fund a system for public transit; or

5448 (c) for a combination of Subsections (2)(a) and (b).

5449 Section 27. Section **59-12-2216** is amended to read:

5450 **59-12-2216. County option sales and use tax for a fixed guideway, to fund a**
5451 **system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of**
5452 **revenues.**

5453 (1) [~~Subject~~] (a) Except as provided in Subsection (1)(b), and subject to the other
5454 provisions of this part, a county legislative body may impose a sales and use tax of up to .30%
5455 on the transactions described in Subsection 59-12-103(1) within the county, including the cities
5456 and towns within the county.

5457 (b) (i) Beginning on July 1, 2013, the tax rate percentage described in Subsection (1)(a)

5458 is a tax rate of up to .27%.

5459 (ii) Notwithstanding the notice requirements of Section 59-12-2209, a county is not
5460 required to provide notice to the commission of a tax rate decrease made in accordance with
5461 Subsection (1)(b)(i).

5462 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
5463 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the
5464 percentage of revenues the county will receive from the sales and use tax under this section that
5465 will be allocated to fund one or more of the following:

5466 (a) a project or service relating to a fixed guideway for the portion of the project or
5467 service that is performed within the county;

5468 (b) a project or service relating to a system for public transit, except for a fixed
5469 guideway, for the portion of the project or service that is performed within the county;

5470 (c) the following relating to a state highway within the county:

5471 (i) a project within the county if the project:

5472 (A) begins on or after the day on which a county legislative body imposes a tax under
5473 this section; and

5474 (B) involves an environmental study, an improvement, new construction, or a
5475 renovation;

5476 (ii) debt service on a project described in Subsection (2)(c)(i); or

5477 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

5478 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
5479 to a highway that is:

5480 (i) a principal arterial highway or minor arterial highway;

5481 (ii) included in a metropolitan planning organization's regional transportation plan; and

5482 (iii) not a state highway.

5483 (3) A county legislative body shall in the resolution described in Subsection (2)
5484 allocate 100% of the revenues the county will receive from the sales and use tax under this
5485 section for one or more of the purposes described in Subsection (2).

5486 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section
5487 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
5488 section.

5489 (5) The revenues collected from a sales and use tax under this section shall be:
5490 (a) allocated in accordance with the allocations specified in the resolution under
5491 Subsection (2); and
5492 (b) expended as provided in this section.

5493 (6) If a county legislative body allocates revenues collected from a sales and use tax
5494 under this section for a state highway project described in Subsection (2)(c)(i), before
5495 beginning the state highway project within the county, the county legislative body shall:
5496 (a) obtain approval from the Transportation Commission to complete the project; and
5497 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter
5498 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

5499 (7) If after a county legislative body imposes a sales and use tax under this section the
5500 county legislative body seeks to change an allocation specified in the resolution under
5501 Subsection (2), the county legislative body may change the allocation by:
5502 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage
5503 of revenues the county will receive from the sales and use tax under this section that will be
5504 allocated to fund one or more of the items described in Subsection (2);
5505 (b) obtaining approval to change the allocation of the sales and use tax by a majority of
5506 all of the members of the county legislative body; and
5507 (c) subject to Subsection (8):
5508 (i) in accordance with Section 59-12-2208, submitting an opinion question to the
5509 county's registered voters voting on changing the allocation so that each registered voter has the
5510 opportunity to express the registered voter's opinion on whether the allocation should be
5511 changed; and
5512 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation
5513 from a majority of the county's registered voters voting on changing the allocation.

5514 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
5515 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
5516 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
5517 (7)(b).

5518 (9) Revenues collected from a sales and use tax under this section that a county
5519 allocates for a purpose described in Subsection (2)(c) shall be:

5520 (a) deposited into the Highway Projects Within Counties Fund created by Section
5521 72-2-121.1; and
5522 (b) expended as provided in Section 72-2-121.1.
5523 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),
5524 revenues collected from a sales and use tax under this section that a county allocates for a
5525 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation
5526 if the transfer of the revenues is required under an interlocal agreement:

5527 (i) entered into on or before January 1, 2010; and
5528 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.
5529 (b) The Department of Transportation shall expend the revenues described in
5530 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

5531 Section 28. **Effective date.**

5532 (1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2013.

5533 (2) The amendments to the following take effect on July 1, 2014:

5534 (a) Section 10-1-405 (Effective 07/01/14);

5535 (b) Section 59-12-102 (Effective 07/01/14); and

5536 (c) Section 59-12-103 (Effective 07/01/14).

5537 (3) The enactments of the following take effect on January 1, 2014:

5538 (a) Section 59-10-1102.1;

5539 (b) Section 59-10-1110; and

5540 (c) Section 59-10-1111.

5541 Section 29. **Repealer.**

5542 This bill repeals:

5543 Section **26-9-4, Rural Health Care Facilities Account -- Source of revenues --**
5544 **Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues**
5545 **lapse into the General Fund.**