

- 30 ▶ provides that the portion of the tax under the Tourism, Recreation, Cultural, and
- 31 Convention Facilities Tax part, that is imposed on sales by restaurants, is imposed
- 32 on sales of prepared food and food and food ingredients;
- 33 ▶ modifies an appropriation to the State Tax Commission to provide that:
- 34 • in addition to other purposes allowed in the appropriation language, monies may
- 35 be expended to reimburse certain business locations for expenditures to pay for
- 36 in-house programming to account for sales under the reduced sales and use tax
- 37 rate imposed on food and food ingredients; and
- 38 • the deadline for a business location to submit a request for reimbursement to the
- 39 State Tax Commission is extended from before January 1, 2007, to before April
- 40 1, 2007; and
- 41 ▶ makes technical changes.

42 Monies Appropriated in this Bill:

43 None

44 Other Special Clauses:

45 This bill provides an immediate effective date and provides for retrospective operation.

46 Utah Code Sections Affected:

47 AMENDS:

- 48 **10-1-405**, as last amended by Chapter 253, Laws of Utah 2006
- 49 **11-41-102**, as last amended by Chapter 282, Laws of Utah 2006
- 50 **59-12-102**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 51 **59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session
- 52 **59-12-104.3**, as last amended by Chapter 253, Laws of Utah 2006
- 53 **59-12-108**, as last amended by Chapters 253 and 282, Laws of Utah 2006
- 54 **59-12-603**, as last amended by Chapters 134 and 253, Laws of Utah 2006

55 Uncodified Material Affected:

56 AMENDS UNCODIFIED MATERIAL:

57 **Uncodified Section 3, Chapter 9, Laws of Utah 2006, Third Special Session**

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

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

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

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

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

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

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

(A) except for:

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

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2; and

(V) Section 59-12-107.1; and

(B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and

(b) a uniform interlocal agreement:

(i) between:

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

(B) the commission;

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

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

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

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

88 (i) transmit monies collected under this part:

89 (A) monthly; and

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

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

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

94 (A) sufficient to reimburse the commission for the cost to the commission in rendering
95 the services; and

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

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

101 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
102 commission shall develop a uniform interlocal agreement that meets the requirements of this
103 section.

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

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

106 (b) used for administration of municipal telecommunications license taxes under this
107 part.

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

109 **11-41-102. Definitions.**

110 As used in this chapter:

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

112 (a) (i) county; or

113 (ii) municipality; and

- 114 (b) person.
- 115 (2) "Municipality" means a:
 - 116 (a) city; or
 - 117 (b) town.
- 118 (3) "Payment" includes:
 - 119 (a) a payment;
 - 120 (b) a rebate;
 - 121 (c) a refund; or
 - 122 (d) an amount similar to Subsections (3)(a) through (c).
- 123 (4) "Regional retail business" means a:
 - 124 (a) retail business that occupies a floor area of more than 80,000 square feet;
 - 125 (b) dealer as defined in Section 41-1a-102;
 - 126 (c) retail shopping facility that has at least two anchor tenants if the total number of
 - 127 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
 - 128 feet; or
 - 129 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 130 (5) (a) "Sales and use tax" means a tax:
 - 131 (i) imposed on transactions within a:
 - 132 (A) county; or
 - 133 (B) municipality; and
 - 134 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
 - 135 Sales and Use Tax Act.
- 136 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 137 authorized under:
 - 138 (i) Subsection 59-12-103(2)(a)(i);
 - 139 (ii) Subsection 59-12-103(2)(b)(i)[~~(A)~~];
 - 140 (iii) Subsection 59-12-103(2)[~~(b)(iii)(A)~~](c)(i);
 - 141 (iv) Subsection 59-12-103(2)(d)(i);

142 (v) Subsection 59-12-103(2)(e)(ii)(A);

143 (vi) Subsection 59-12-103(2)(e)(iii)(A);

144 [~~(iv)~~] (vii) Section 59-12-301;

145 [~~(v)~~] (viii) Section 59-12-352;

146 [~~(vi)~~] (ix) Section 59-12-353;

147 [~~(vii)~~] (x) Section 59-12-603; or

148 [~~(viii)~~] (xi) Section 59-12-1201.

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

150 (i) to a person;

151 (ii) by a:

152 (A) county; or

153 (B) municipality;

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

155 (A) county; or

156 (B) municipality; and

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

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

160 Section 3. Section **59-12-102** is amended to read:

161 **59-12-102. Definitions.**

162 As used in this chapter:

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

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

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

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

169 (a) listed under Subsection (4); and

- 170 (b) that are imposed within a local taxing jurisdiction.
- 171 (4) "Agreement sales and use tax" means a tax imposed under:
 - 172 (a) Subsection 59-12-103(2)(a)(i) [~~or (2)(b)(iii)(A)~~];
 - 173 (b) Subsection 59-12-103(2)(b)(i);
 - 174 (c) Subsection 59-12-103(2)(c)(i);
 - 175 (d) Subsection 59-12-103(2)(d)(i);
 - 176 (e) Subsection 59-12-103(2)(e)(ii)(A);
 - 177 (f) Subsection 59-12-103(2)(e)(iii)(A);
 - 178 [~~(b)~~] (g) Section 59-12-204;
 - 179 [~~(c)~~] (h) Section 59-12-401;
 - 180 [~~(d)~~] (i) Section 59-12-402;
 - 181 [~~(e)~~] (j) Section 59-12-501;
 - 182 [~~(f)~~] (k) Section 59-12-502;
 - 183 [~~(g)~~] (l) Section 59-12-703;
 - 184 [~~(h)~~] (m) Section 59-12-802;
 - 185 [~~(i)~~] (n) Section 59-12-804;
 - 186 [~~(j)~~] (o) Section 59-12-1001;
 - 187 [~~(k)~~] (p) Section 59-12-1102;
 - 188 [~~(l)~~] (q) Section 59-12-1302;
 - 189 [~~(m)~~] (r) Section 59-12-1402; or
 - 190 [~~(n)~~] (s) Section 59-12-1503.
- 191 (5) "Aircraft" is as defined in Section 72-10-102.
- 192 (6) "Alcoholic beverage" means a beverage that:
 - 193 (a) is suitable for human consumption; and
 - 194 (b) contains .5% or more alcohol by volume.
- 195 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 196 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 197 device that is started and stopped by an individual:

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

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

202 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
203 washing of tangible personal property if the cleaning or washing labor is primarily performed
204 by an individual:

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

207 (b) at the direction of the seller of the cleaning or washing of the tangible personal
208 property.

209 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

222 (B) animal waste;

223 (C) methane produced:

224 (I) at landfills; or

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

- 226 (D) aquatic plants; and
- 227 (E) agricultural products.
- 228 (b) "Biomass energy" does not include:
- 229 (i) black liquor;
- 230 (ii) treated woods; or
- 231 (iii) biomass from municipal solid waste other than methane produced:
- 232 (A) at landfills; or
- 233 (B) as a byproduct of the treatment of wastewater residuals.
- 234 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 235 property if:
- 236 (i) one or more of the items of tangible personal property is food and food ingredients;
- 237 and
- 238 (ii) the items of tangible personal property are:
- 239 (A) distinct and identifiable; and
- 240 (B) sold for one price that is not itemized.
- 241 (b) "Bundled transaction" does not include the sale of tangible personal property if the
- 242 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
- 243 tangible personal property included in the transaction.
- 244 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
- 245 and identifiable does not include:
- 246 (i) packaging that:
- 247 (A) accompanies the sale of the tangible personal property; and
- 248 (B) is incidental or immaterial to the sale of the tangible personal property;
- 249 (ii) tangible personal property provided free of charge with the purchase of another
- 250 item of tangible personal property; or
- 251 (iii) an item of tangible personal property included in the definition of "purchase
- 252 price."
- 253 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is

254 provided free of charge with the purchase of another item of tangible personal property if the
255 sales price of the purchased item of tangible personal property does not vary depending on the
256 inclusion of the tangible personal property provided free of charge.

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

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

261 (i) on a transaction; and

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

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

265 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

266 (14) "Certified service provider" means an agent certified:

267 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;

268 and

269 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
270 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
271 own purchases.

272 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
273 suitable for general use.

274 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
275 commission shall make rules:

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

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

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

280 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
281 fuels that does not constitute industrial use under Subsection (39) or residential use under

282 Subsection (76).

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

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

288 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
289 Utah Administrative Rulemaking Act, the commission may make rules defining what
290 constitutes a person's place of employment.

291 (19) "Component part" includes:

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

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

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

297 (d) feed, seeds, and seedlings.

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

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

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

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

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

303 (a) a computer to perform a task; or

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

305 (22) "Construction materials" means any tangible personal property that will be
306 converted into real property.

307 (23) "Delivered electronically" means delivered to a purchaser by means other than
308 tangible storage media.

309 (24) (a) "Delivery charge" means a charge:

- 310 (i) by a seller of:
- 311 (A) tangible personal property; or
- 312 (B) services; and
- 313 (ii) for preparation and delivery of the tangible personal property or services described
- 314 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 315 (b) "Delivery charge" includes a charge for the following:
- 316 (i) transportation;
- 317 (ii) shipping;
- 318 (iii) postage;
- 319 (iv) handling;
- 320 (v) crating; or
- 321 (vi) packing.
- 322 (25) "Dietary supplement" means a product, other than tobacco, that:
- 323 (a) is intended to supplement the diet;
- 324 (b) contains one or more of the following dietary ingredients:
- 325 (i) a vitamin;
- 326 (ii) a mineral;
- 327 (iii) an herb or other botanical;
- 328 (iv) an amino acid;
- 329 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 330 dietary intake; or
- 331 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 332 described in Subsections (25)(b)(i) through (v);
- 333 (c) (i) except as provided in Subsection (25)(c)(ii), is intended for ingestion in:
- 334 (A) tablet form;
- 335 (B) capsule form;
- 336 (C) powder form;
- 337 (D) softgel form;

- 338 (E) gelcap form; or
- 339 (F) liquid form; or
- 340 (ii) notwithstanding Subsection (25)(c)(i), if the product is not intended for ingestion in
- 341 a form described in Subsections (25)(c)(i)(A) through (F), is not represented:
 - 342 (A) as conventional food; and
 - 343 (B) for use as a sole item of:
 - 344 (I) a meal; or
 - 345 (II) the diet; and
 - 346 (d) is required to be labeled as a dietary supplement:
 - 347 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 348 (ii) as required by 21 C.F.R. Sec. 101.36.
- 349 (26) (a) "Direct mail" means printed material delivered or distributed by United States
- 350 mail or other delivery service:
 - 351 (i) to:
 - 352 (A) a mass audience; or
 - 353 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
 - 354 (ii) if the cost of the printed material is not billed directly to the recipients.
 - 355 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
 - 356 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
 - 357 (c) "Direct mail" does not include multiple items of printed material delivered to a
 - 358 single address.
- 359 (27) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 360 compound, substance, or preparation that is:
 - 361 (i) recognized in:
 - 362 (A) the official United States Pharmacopoeia;
 - 363 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 364 (C) the official National Formulary; or
 - 365 (D) a supplement to a publication listed in Subsections (27)(a)(i)(A) through (C);

- 366 (ii) intended for use in the:
- 367 (A) diagnosis of disease;
- 368 (B) cure of disease;
- 369 (C) mitigation of disease;
- 370 (D) treatment of disease; or
- 371 (E) prevention of disease; or
- 372 (iii) intended to affect:
- 373 (A) the structure of the body; or
- 374 (B) any function of the body.

- 375 (b) "Drug" does not include:
- 376 (i) food and food ingredients;
- 377 (ii) a dietary supplement;
- 378 (iii) an alcoholic beverage; or
- 379 (iv) a prosthetic device.

380 (28) (a) Except as provided in Subsection (28)(c), "durable medical equipment" means
381 equipment that:

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

386 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
387 equipment described in Subsection (28)(a).

388 (c) Notwithstanding Subsection (28)(a), "durable medical equipment" does not include
389 mobility enhancing equipment.

- 390 (29) "Electronic" means:
- 391 (a) relating to technology; and
- 392 (b) having:
- 393 (i) electrical capabilities;

- 394 (ii) digital capabilities;
- 395 (iii) magnetic capabilities;
- 396 (iv) wireless capabilities;
- 397 (v) optical capabilities;
- 398 (vi) electromagnetic capabilities; or
- 399 (vii) capabilities similar to Subsections (29)(b)(i) through (vi).
- 400 (30) "Employee" is as defined in Section 59-10-401.
- 401 (31) "Fixed guideway" means a public transit facility that uses and occupies:
- 402 (a) rail for the use of public transit; or
- 403 (b) a separate right-of-way for the use of public transit.
- 404 (32) (a) "Food and food ingredients" means substances:
- 405 (i) regardless of whether the substances are in:
- 406 (A) liquid form;
- 407 (B) concentrated form;
- 408 (C) solid form;
- 409 (D) frozen form;
- 410 (E) dried form; or
- 411 (F) dehydrated form; and
- 412 (ii) that are:
- 413 (A) sold for:
- 414 (I) ingestion by humans; or
- 415 (II) chewing by humans; and
- 416 (B) consumed for the substance's:
- 417 (I) taste; or
- 418 (II) nutritional value.
- 419 (b) "Food and food ingredients" includes an item described in Subsection (63)(b)(iii).
- 420 (c) "Food and food ingredients" does not include:
- 421 (i) an alcoholic beverage;

- 422 (ii) tobacco; or
- 423 (iii) prepared food.
- 424 (33) (a) "Fundraising sales" means sales:
- 425 (i) (A) made by a school; or
- 426 (B) made by a school student;
- 427 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 428 materials, or provide transportation; and
- 429 (iii) that are part of an officially sanctioned school activity.
- 430 (b) For purposes of Subsection (33)(a)(iii), "officially sanctioned school activity"
- 431 means a school activity:
- 432 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 433 district governing the authorization and supervision of fundraising activities;
- 434 (ii) that does not directly or indirectly compensate an individual teacher or other
- 435 educational personnel by direct payment, commissions, or payment in kind; and
- 436 (iii) the net or gross revenues from which are deposited in a dedicated account
- 437 controlled by the school or school district.
- 438 (34) "Geothermal energy" means energy contained in heat that continuously flows
- 439 outward from the earth that is used as the sole source of energy to produce electricity.
- 440 (35) "Governing board of the agreement" means the governing board of the agreement
- 441 that is:
- 442 (a) authorized to administer the agreement; and
- 443 (b) established in accordance with the agreement.
- 444 (36) (a) "Hearing aid" means:
- 445 (i) an instrument or device having an electronic component that is designed to:
- 446 (A) (I) improve impaired human hearing; or
- 447 (II) correct impaired human hearing; and
- 448 (B) (I) be worn in the human ear; or
- 449 (II) affixed behind the human ear;

- 450 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 451 (iii) a telephone amplifying device.
- 452 (b) "Hearing aid" does not include:
- 453 (i) except as provided in Subsection (36)(a)(i)(B) or (36)(a)(ii), an instrument or device
- 454 having an electronic component that is designed to be worn on the body;
- 455 (ii) except as provided in Subsection (36)(a)(iii), an assistive listening device or system
- 456 designed to be used by one individual, including:
- 457 (A) a personal amplifying system;
- 458 (B) a personal FM system;
- 459 (C) a television listening system; or
- 460 (D) a device or system similar to a device or system described in Subsections
- 461 (36)(b)(ii)(A) through (C); or
- 462 (iii) an assistive listening device or system designed to be used by more than one
- 463 individual, including:
- 464 (A) a device or system installed in:
- 465 (I) an auditorium;
- 466 (II) a church;
- 467 (III) a conference room;
- 468 (IV) a synagogue; or
- 469 (V) a theater; or
- 470 (B) a device or system similar to a device or system described in Subsections
- 471 (36)(b)(iii)(A)(I) through (V).
- 472 (37) (a) "Hearing aid accessory" means a hearing aid:
- 473 (i) component;
- 474 (ii) attachment; or
- 475 (iii) accessory.
- 476 (b) "Hearing aid accessory" includes:
- 477 (i) a hearing aid neck loop;

- 478 (ii) a hearing aid cord;
- 479 (iii) a hearing aid ear mold;
- 480 (iv) hearing aid tubing;
- 481 (v) a hearing aid ear hook; or
- 482 (vi) a hearing aid remote control.
- 483 (c) "Hearing aid accessory" does not include:
- 484 (i) a component, attachment, or accessory designed to be used only with an:
- 485 (A) instrument or device described in Subsection (36)(b)(i); or
- 486 (B) assistive listening device or system described in Subsection (36)(b)(ii) or (iii); or
- 487 (ii) a hearing aid battery.
- 488 (38) "Hydroelectric energy" means water used as the sole source of energy to produce
- 489 electricity.
- 490 (39) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 491 other fuels:
- 492 (a) in mining or extraction of minerals;
- 493 (b) in agricultural operations to produce an agricultural product up to the time of
- 494 harvest or placing the agricultural product into a storage facility, including:
- 495 (i) commercial greenhouses;
- 496 (ii) irrigation pumps;
- 497 (iii) farm machinery;
- 498 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 499 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 500 (v) other farming activities;
- 501 (c) in manufacturing tangible personal property at an establishment described in SIC
- 502 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 503 Executive Office of the President, Office of Management and Budget;
- 504 (d) by a scrap recycler if:
- 505 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

506 one or more of the following items into prepared grades of processed materials for use in new
507 products:

- 508 (A) iron;
- 509 (B) steel;
- 510 (C) nonferrous metal;
- 511 (D) paper;
- 512 (E) glass;
- 513 (F) plastic;
- 514 (G) textile; or
- 515 (H) rubber; and

516 (ii) the new products under Subsection (39)(d)(i) would otherwise be made with
517 nonrecycled materials; or

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

520 (40) (a) Except as provided in Subsection (40)(b), "installation charge" means a charge
521 for installing tangible personal property.

522 (b) Notwithstanding Subsection (40)(a), "installation charge" does not include a charge
523 for repairs or renovations of tangible personal property.

524 (41) (a) "Lease" or "rental" means a transfer of possession or control of tangible
525 personal property for:

- 526 (i) (A) a fixed term; or
- 527 (B) an indeterminate term; and
- 528 (ii) consideration.

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

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

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

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

539 (A) upon completion of required payments; and

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

541 (I) \$100; or

542 (II) 1% of the total required payments; or

543 (iii) providing tangible personal property along with an operator for a fixed period of
544 time or an indeterminate period of time if the operator is necessary for equipment to perform as
545 designed.

546 (d) For purposes of Subsection (41)(c)(iii), an operator is necessary for equipment to
547 perform as designed if the operator's duties exceed the:

548 (i) set-up of tangible personal property;

549 (ii) maintenance of tangible personal property; or

550 (iii) inspection of tangible personal property.

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

553 (43) "Local taxing jurisdiction" means a:

554 (a) county that is authorized to impose an agreement sales and use tax;

555 (b) city that is authorized to impose an agreement sales and use tax; or

556 (c) town that is authorized to impose an agreement sales and use tax.

557 (44) "Manufactured home" is as defined in Section 58-56-3.

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

559 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

560 Industrial Classification Manual of the federal Executive Office of the President, Office of
561 Management and Budget;

- 562 (b) a scrap recycler if:
- 563 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 564 one or more of the following items into prepared grades of processed materials for use in new
- 565 products:
- 566 (A) iron;
- 567 (B) steel;
- 568 (C) nonferrous metal;
- 569 (D) paper;
- 570 (E) glass;
- 571 (F) plastic;
- 572 (G) textile; or
- 573 (H) rubber; and
- 574 (ii) the new products under Subsection (45)(b)(i) would otherwise be made with
- 575 nonrecycled materials; or
- 576 (c) a cogeneration facility as defined in Section 54-2-1.
- 577 (46) "Member of the immediate family of the producer" means a person who is related
- 578 to a producer described in Subsection 59-12-104(20)(a) as a:
- 579 (a) child or stepchild, regardless of whether the child or stepchild is:
- 580 (i) an adopted child or adopted stepchild; or
- 581 (ii) a foster child or foster stepchild;
- 582 (b) grandchild or stepgrandchild;
- 583 (c) grandparent or stepgrandparent;
- 584 (d) nephew or stepnephew;
- 585 (e) niece or stepniece;
- 586 (f) parent or stepparent;
- 587 (g) sibling or stepsibling;
- 588 (h) spouse;
- 589 (i) person who is the spouse of a person described in Subsections (46)(a) through (g);

590 or

591 (j) person similar to a person described in Subsections (46)(a) through (i) as
592 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
593 Administrative Rulemaking Act.

594 (47) "Mobile home" is as defined in Section 58-56-3.

595 (48) "Mobile telecommunications service" is as defined in the Mobile
596 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

597 (49) (a) Except as provided in Subsection (49)(c), "mobility enhancing equipment"
598 means equipment that is:

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

601 (ii) appropriate for use in a:

602 (A) home; or

603 (B) motor vehicle; and

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

605 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
606 the equipment described in Subsection (49)(a).

607 (c) Notwithstanding Subsection (49)(a), "mobility enhancing equipment" does not
608 include:

609 (i) a motor vehicle;

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

612 (iii) durable medical equipment; or

613 (iv) a prosthetic device.

614 (50) "Model 1 seller" means a seller that has selected a certified service provider as the
615 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
616 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
617 seller's own purchases.

- 618 (51) "Model 2 seller" means a seller that:
- 619 (a) except as provided in Subsection (51)(b), has selected a certified automated system
- 620 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 621 (b) notwithstanding Subsection (51)(a), retains responsibility for remitting all of the
- 622 sales tax:
 - 623 (i) collected by the seller; and
 - 624 (ii) to the appropriate local taxing jurisdiction.
- 625 (52) (a) Subject to Subsection (52)(b), "model 3 seller" means a seller that has:
 - 626 (i) sales in at least five states that are members of the agreement;
 - 627 (ii) total annual sales revenues of at least \$500,000,000;
 - 628 (iii) a proprietary system that calculates the amount of tax:
 - 629 (A) for an agreement sales and use tax; and
 - 630 (B) due to each local taxing jurisdiction; and
 - 631 (iv) entered into a performance agreement with the governing board of the agreement.
- 632 (b) For purposes of Subsection (52)(a), "model 3 seller" includes an affiliated group of
- 633 sellers using the same proprietary system.
- 634 (53) "Modular home" means a modular unit as defined in Section 58-56-3.
- 635 (54) "Motor vehicle" is as defined in Section 41-1a-102.
- 636 (55) "Oil shale" means a group of fine black to dark brown shales containing
- 637 bituminous material that yields petroleum upon distillation.
- 638 (56) (a) "Other fuels" means products that burn independently to produce heat or
- 639 energy.
- 640 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 641 personal property.
- 642 (57) "Pawnbroker" is as defined in Section 13-32a-102.
- 643 (58) "Pawn transaction" is as defined in Section 13-32a-102.
- 644 (59) (a) "Permanently attached to real property" means that for tangible personal
- 645 property attached to real property:

- 646 (i) the attachment of the tangible personal property to the real property:
- 647 (A) is essential to the use of the tangible personal property; and
- 648 (B) suggests that the tangible personal property will remain attached to the real
- 649 property in the same place over the useful life of the tangible personal property; or
- 650 (ii) if the tangible personal property is detached from the real property, the detachment
- 651 would:
- 652 (A) cause substantial damage to the tangible personal property; or
- 653 (B) require substantial alteration or repair of the real property to which the tangible
- 654 personal property is attached.
- 655 (b) "Permanently attached to real property" includes:
- 656 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 657 (A) essential to the operation of the tangible personal property; and
- 658 (B) attached only to facilitate the operation of the tangible personal property;
- 659 (ii) a temporary detachment of tangible personal property from real property for a
- 660 repair or renovation if the repair or renovation is performed where the tangible personal
- 661 property and real property are located; or
- 662 (iii) an attachment of the following tangible personal property to real property,
- 663 regardless of whether the attachment to real property is only through a line that supplies water,
- 664 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
- 665 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
- 666 (A) property attached to oil, gas, or water pipelines, other than the property listed in
- 667 Subsection (59)(c)(iii);
- 668 (B) a hot water heater;
- 669 (C) a water softener system; or
- 670 (D) a water filtration system, other than a water filtration system manufactured as part
- 671 of a refrigerator.
- 672 (c) "Permanently attached to real property" does not include:
- 673 (i) the attachment of portable or movable tangible personal property to real property if

674 that portable or movable tangible personal property is attached to real property only for:

675 (A) convenience;

676 (B) stability; or

677 (C) for an obvious temporary purpose;

678 (ii) the detachment of tangible personal property from real property other than the
679 detachment described in Subsection (59)(b)(ii); or

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

684 (A) a refrigerator;

685 (B) a washer;

686 (C) a dryer;

687 (D) a stove;

688 (E) a television;

689 (F) a computer;

690 (G) a telephone; or

691 (H) tangible personal property similar to Subsections (59)(c)(iii)(A) through (G) as
692 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
693 Administrative Rulemaking Act.

694 (60) "Person" includes any individual, firm, partnership, joint venture, association,
695 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
696 municipality, district, or other local governmental entity of the state, or any group or
697 combination acting as a unit.

698 (61) "Place of primary use":

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

- 702 (i) the residential street address of the purchaser; or
- 703 (ii) the primary business street address of the purchaser; or
- 704 (b) for mobile telecommunications service, is as defined in the Mobile
- 705 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 706 (62) "Postproduction" means an activity related to the finishing or duplication of a
- 707 medium described in Subsection 59-12-104(56)(a).
- 708 (63) (a) "Prepared food" means:
- 709 (i) food:
- 710 (A) sold in a heated state; or
- 711 (B) heated by a seller;
- 712 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 713 item; or
- 714 (iii) except as provided in Subsection (63)(c), food sold with an eating utensil provided
- 715 by the seller, including a:
- 716 (A) plate;
- 717 (B) knife;
- 718 (C) fork;
- 719 (D) spoon;
- 720 (E) glass;
- 721 (F) cup;
- 722 (G) napkin; or
- 723 (H) straw.
- 724 (b) "Prepared food" does not include:
- 725 (i) food that a seller only:
- 726 (A) cuts;
- 727 (B) repackages; or
- 728 (C) pasteurizes; or
- 729 (ii) (A) the following:

- 730 (I) raw egg;
- 731 (II) raw fish;
- 732 (III) raw meat;
- 733 (IV) raw poultry; or
- 734 (V) a food containing an item described in Subsections (63)(b)(ii)(A)(I) through (IV);
- 735 and
- 736 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 737 Food and Drug Administration's Food Code that a consumer cook the items described in
- 738 Subsection (63)(b)(ii)(A) to prevent food borne illness; or
- 739 (iii) the following if sold without eating utensils provided by the seller:
- 740 (A) food and food ingredients sold by a seller if the seller's proper primary
- 741 classification under the 2002 North American Industry Classification System of the federal
- 742 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 743 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 744 Manufacturing;
- 745 (B) food and food ingredients sold in an unheated state:
- 746 (I) by weight or volume; and
- 747 (II) as a single item; or
- 748 (C) a bakery item, including:
- 749 (I) a bagel;
- 750 (II) a bar;
- 751 (III) a biscuit;
- 752 (IV) bread;
- 753 (V) a bun;
- 754 (VI) a cake;
- 755 (VII) a cookie;
- 756 (VIII) a croissant;
- 757 (IX) a danish;

- 758 (X) a donut;
- 759 (XI) a muffin;
- 760 (XII) a pastry;
- 761 (XIII) a pie;
- 762 (XIV) a roll;
- 763 (XV) a tart;
- 764 (XVI) a torte; or
- 765 (XVII) a tortilla.
- 766 (c) Notwithstanding Subsection (63)(a)(iii), an eating utensil provided by the seller
- 767 does not include the following used to transport the food:
 - 768 (i) a container; or
 - 769 (ii) packaging.
- 770 (64) "Prescription" means an order, formula, or recipe that is issued:
 - 771 (a) (i) orally;
 - 772 (ii) in writing;
 - 773 (iii) electronically; or
 - 774 (iv) by any other manner of transmission; and
 - 775 (b) by a licensed practitioner authorized by the laws of a state.
- 776 (65) (a) Except as provided in Subsection (65)(b)(ii) or (iii), "prewritten computer
- 777 software" means computer software that is not designed and developed:
 - 778 (i) by the author or other creator of the computer software; and
 - 779 (ii) to the specifications of a specific purchaser.
- 780 (b) "Prewritten computer software" includes:
 - 781 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 782 software is not designed and developed:
 - 783 (A) by the author or other creator of the computer software; and
 - 784 (B) to the specifications of a specific purchaser;
 - 785 (ii) notwithstanding Subsection (65)(a), computer software designed and developed by

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

788 (iii) notwithstanding Subsection (65)(a) and except as provided in Subsection (65)(c),
789 prewritten computer software or a prewritten portion of prewritten computer software:

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

791 (B) if the modification or enhancement described in Subsection (65)(b)(iii)(A) is
792 designed and developed to the specifications of a specific purchaser.

793 (c) Notwithstanding Subsection (65)(b)(iii), "prewritten computer software" does not
794 include a modification or enhancement described in Subsection (65)(b)(iii) if the charges for
795 the modification or enhancement are:

796 (i) reasonable; and

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

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

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

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

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

803 (b) "Prosthetic device" includes:

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

805 (ii) replacement parts for a prosthetic device.

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

807 (i) corrective eyeglasses;

808 (ii) contact lenses;

809 (iii) hearing aids; or

810 (iv) dental prostheses.

811 (67) (a) "Protective equipment" means an item:

812 (i) for human wear; and

813 (ii) that is:

- 814 (A) designed as protection:
- 815 (I) to the wearer against injury or disease; or
- 816 (II) against damage or injury of other persons or property; and
- 817 (B) not suitable for general use.
- 818 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 819 commission shall make rules:
- 820 (i) listing the items that constitute "protective equipment"; and
- 821 (ii) that are consistent with the list of items that constitute "protective equipment"
- 822 under the agreement.
- 823 (68) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 824 (i) valued in money; and
- 825 (ii) for which tangible personal property or services are:
- 826 (A) sold;
- 827 (B) leased; or
- 828 (C) rented.
- 829 (b) "Purchase price" and "sales price" include:
- 830 (i) the seller's cost of the tangible personal property or services sold;
- 831 (ii) expenses of the seller, including:
- 832 (A) the cost of materials used;
- 833 (B) a labor cost;
- 834 (C) a service cost;
- 835 (D) interest;
- 836 (E) a loss;
- 837 (F) the cost of transportation to the seller; or
- 838 (G) a tax imposed on the seller; or
- 839 (iii) a charge by the seller for any service necessary to complete the sale.
- 840 (c) "Purchase price" and "sales price" do not include:
- 841 (i) a discount:

- 842 (A) in a form including:
- 843 (I) cash;
- 844 (II) term; or
- 845 (III) coupon;
- 846 (B) that is allowed by a seller;
- 847 (C) taken by a purchaser on a sale; and
- 848 (D) that is not reimbursed by a third party; or
- 849 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 850 provided to the purchaser:
- 851 (A) the amount of a trade-in;
- 852 (B) the following from credit extended on the sale of tangible personal property or
- 853 services:
- 854 (I) interest charges;
- 855 (II) financing charges; or
- 856 (III) carrying charges;
- 857 (C) a tax or fee legally imposed directly on the consumer;
- 858 (D) a delivery charge; or
- 859 (E) an installation charge.
- 860 (69) "Purchaser" means a person to whom:
- 861 (a) a sale of tangible personal property is made; or
- 862 (b) a service is furnished.
- 863 (70) "Regularly rented" means:
- 864 (a) rented to a guest for value three or more times during a calendar year; or
- 865 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 866 value.
- 867 (71) "Renewable energy" means:
- 868 (a) biomass energy;
- 869 (b) hydroelectric energy;

870 (c) geothermal energy;

871 (d) solar energy; or

872 (e) wind energy.

873 (72) (a) "Renewable energy production facility" means a facility that:

874 (i) uses renewable energy to produce electricity; and

875 (ii) has a production capacity of 20 kilowatts or greater.

876 (b) A facility is a renewable energy production facility regardless of whether the
877 facility is:

878 (i) connected to an electric grid; or

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

880 (73) "Rental" is as defined in Subsection (41).

881 (74) "Repairs or renovations of tangible personal property" means:

882 (a) a repair or renovation of tangible personal property that is not permanently attached
883 to real property; or

884 (b) attaching tangible personal property to other tangible personal property if the other
885 tangible personal property to which the tangible personal property is attached is not
886 permanently attached to real property.

887 (75) "Research and development" means the process of inquiry or experimentation
888 aimed at the discovery of facts, devices, technologies, or applications and the process of
889 preparing those devices, technologies, or applications for marketing.

890 (76) "Residential use" means the use in or around a home, apartment building, sleeping
891 quarters, and similar facilities or accommodations.

892 (77) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
893 than:

894 (a) resale;

895 (b) sublease; or

896 (c) subrent.

897 (78) (a) "Retailer" means any person engaged in a regularly organized business in

898 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
899 who is selling to the user or consumer and not for resale.

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

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

905 (b) "Sale" includes:

906 (i) installment and credit sales;

907 (ii) any closed transaction constituting a sale;

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

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

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

915 (80) "Sale at retail" is as defined in Subsection (77).

916 (81) "Sale-leaseback transaction" means a transaction by which title to tangible
917 personal property that is subject to a tax under this chapter is transferred:

918 (a) by a purchaser-lessee;

919 (b) to a lessor;

920 (c) for consideration; and

921 (d) if:

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

924 (ii) the sale of the tangible personal property to the lessor is intended as a form of
925 financing;

- 926 (A) for the property; and
927 (B) to the purchaser-lessee; and
928 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
929 is required to:
- 930 (A) capitalize the property for financial reporting purposes; and
931 (B) account for the lease payments as payments made under a financing arrangement.
932 (82) "Sales price" is as defined in Subsection (68).
933 (83) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
934 amounts charged by a school:
- 935 (i) sales that are directly related to the school's educational functions or activities
936 including:
- 937 (A) the sale of:
938 (I) textbooks;
939 (II) textbook fees;
940 (III) laboratory fees;
941 (IV) laboratory supplies; or
942 (V) safety equipment;
943 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
944 that:
- 945 (I) a student is specifically required to wear as a condition of participation in a
946 school-related event or school-related activity; and
947 (II) is not readily adaptable to general or continued usage to the extent that it takes the
948 place of ordinary clothing;
949 (C) sales of the following if the net or gross revenues generated by the sales are
950 deposited into a school district fund or school fund dedicated to school meals:
- 951 (I) food and food ingredients; or
952 (II) prepared food; or
953 (D) transportation charges for official school activities; or

954 (ii) amounts paid to or amounts charged by a school for admission to a school-related
955 event or school-related activity.

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

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

958 (ii) except as provided in Subsection (83)(a)(i)(B):

959 (A) clothing;

960 (B) clothing accessories or equipment;

961 (C) protective equipment; or

962 (D) sports or recreational equipment; or

963 (iii) amounts paid to or amounts charged by a school for admission to a school-related
964 event or school-related activity if the amounts paid or charged are passed through to a person:

965 (A) other than a:

966 (I) school;

967 (II) nonprofit organization authorized by a school board or a governing body of a
968 private school to organize and direct a competitive secondary school activity; or

969 (III) nonprofit association authorized by a school board or a governing body of a
970 private school to organize and direct a competitive secondary school activity; and

971 (B) that is required to collect sales and use taxes under this chapter.

972 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
973 commission may make rules defining the term "passed through."

974 (84) For purposes of this section and Section 59-12-104, "school" means:

975 (a) an elementary school or a secondary school that:

976 (i) is a:

977 (A) public school; or

978 (B) private school; and

979 (ii) provides instruction for one or more grades kindergarten through 12; or

980 (b) a public school district.

981 (85) "Seller" means a person that makes a sale, lease, or rental of:

982 (a) tangible personal property; or

983 (b) a service.

984 (86) (a) "Semiconductor fabricating, processing, research, or development materials"

985 means tangible personal property:

986 (i) used primarily in the process of:

987 (A) (I) manufacturing a semiconductor;

988 (II) fabricating a semiconductor; or

989 (III) research or development of a:

990 (Aa) semiconductor; or

991 (Bb) semiconductor manufacturing process; or

992 (B) maintaining an environment suitable for a semiconductor; or

993 (ii) consumed primarily in the process of:

994 (A) (I) manufacturing a semiconductor;

995 (II) fabricating a semiconductor; or

996 (III) research or development of a:

997 (Aa) semiconductor; or

998 (Bb) semiconductor manufacturing process; or

999 (B) maintaining an environment suitable for a semiconductor.

1000 (b) "Semiconductor fabricating, processing, research, or development materials"

1001 includes:

1002 (i) parts used in the repairs or renovations of tangible personal property described in

1003 Subsection (86)(a); or

1004 (ii) a chemical, catalyst, or other material used to:

1005 (A) produce or induce in a semiconductor a:

1006 (I) chemical change; or

1007 (II) physical change;

1008 (B) remove impurities from a semiconductor; or

1009 (C) improve the marketable condition of a semiconductor.

1010 (87) "Senior citizen center" means a facility having the primary purpose of providing
1011 services to the aged as defined in Section 62A-3-101.

1012 (88) "Simplified electronic return" means the electronic return:

1013 (a) described in Section 318(C) of the agreement; and

1014 (b) approved by the governing board of the agreement.

1015 (89) "Solar energy" means the sun used as the sole source of energy for producing
1016 electricity.

1017 (90) (a) "Sports or recreational equipment" means an item:

1018 (i) designed for human use; and

1019 (ii) that is:

1020 (A) worn in conjunction with:

1021 (I) an athletic activity; or

1022 (II) a recreational activity; and

1023 (B) not suitable for general use.

1024 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1025 commission shall make rules:

1026 (i) listing the items that constitute "sports or recreational equipment"; and

1027 (ii) that are consistent with the list of items that constitute "sports or recreational
1028 equipment" under the agreement.

1029 (91) "State" means the state of Utah, its departments, and agencies.

1030 (92) "Storage" means any keeping or retention of tangible personal property or any
1031 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1032 sale in the regular course of business.

1033 (93) (a) "Tangible personal property" means personal property that:

1034 (i) may be:

1035 (A) seen;

1036 (B) weighed;

1037 (C) measured;

- 1038 (D) felt; or
- 1039 (E) touched; or
- 1040 (ii) is in any manner perceptible to the senses.
- 1041 (b) "Tangible personal property" includes:
- 1042 (i) electricity;
- 1043 (ii) water;
- 1044 (iii) gas;
- 1045 (iv) steam; or
- 1046 (v) prewritten computer software.
- 1047 (94) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
- 1048 and require further processing other than mechanical blending before becoming finished
- 1049 petroleum products.
- 1050 (95) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1051 software" means an item listed in Subsection (95)(b) if that item is purchased or leased
- 1052 primarily to enable or facilitate one or more of the following to function:
- 1053 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1054 (ii) telecommunications transmission equipment, machinery, or software.
- 1055 (b) The following apply to Subsection (95)(a):
- 1056 (i) a pole;
- 1057 (ii) software;
- 1058 (iii) a supplementary power supply;
- 1059 (iv) temperature or environmental equipment or machinery;
- 1060 (v) test equipment;
- 1061 (vi) a tower; or
- 1062 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1063 Subsections (95)(b)(i) through (vi) as determined by the commission by rule made in
- 1064 accordance with Subsection (95)(c).
- 1065 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1066 commission may by rule define what constitutes equipment, machinery, or software that
1067 functions similarly to an item listed in Subsections (95)(b)(i) through (vi).

1068 (96) "Telecommunications equipment, machinery, or software required for 911
1069 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1070 Sec. 20.18.

1071 (97) "Telecommunications maintenance or repair equipment, machinery, or software"
1072 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1073 one or more of the following, regardless of whether the equipment, machinery, or software is
1074 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1075 following:

- 1076 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1077 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1078 (c) telecommunications transmission equipment, machinery, or software.

1079 (98) (a) "Telecommunications switching or routing equipment, machinery, or software"
1080 means an item listed in Subsection (98)(b) if that item is purchased or leased primarily for
1081 switching or routing:

- 1082 (i) voice communications;
- 1083 (ii) data communications; or
- 1084 (iii) telephone service.

1085 (b) The following apply to Subsection (98)(a):

- 1086 (i) a bridge;
- 1087 (ii) a computer;
- 1088 (iii) a cross connect;
- 1089 (iv) a modem;
- 1090 (v) a multiplexer;
- 1091 (vi) plug in circuitry;
- 1092 (vii) a router;
- 1093 (viii) software;

- 1094 (ix) a switch; or
- 1095 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1096 Subsections (98)(b)(i) through (ix) as determined by the commission by rule made in
- 1097 accordance with Subsection (98)(c).
- 1098 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1099 commission may by rule define what constitutes equipment, machinery, or software that
- 1100 functions similarly to an item listed in Subsections (98)(b)(i) through (ix).
- 1101 (99) (a) "Telecommunications transmission equipment, machinery, or software" means
- 1102 an item listed in Subsection (99)(b) if that item is purchased or leased primarily for sending,
- 1103 receiving, or transporting:
- 1104 (i) voice communications;
- 1105 (ii) data communications; or
- 1106 (iii) telephone service.
- 1107 (b) The following apply to Subsection (99)(a):
- 1108 (i) an amplifier;
- 1109 (ii) a cable;
- 1110 (iii) a closure;
- 1111 (iv) a conduit;
- 1112 (v) a controller;
- 1113 (vi) a duplexer;
- 1114 (vii) a filter;
- 1115 (viii) an input device;
- 1116 (ix) an input/output device;
- 1117 (x) an insulator;
- 1118 (xi) microwave machinery or equipment;
- 1119 (xii) an oscillator;
- 1120 (xiii) an output device;
- 1121 (xiv) a pedestal;

- 1122 (xv) a power converter;
- 1123 (xvi) a power supply;
- 1124 (xvii) a radio channel;
- 1125 (xviii) a radio receiver;
- 1126 (xix) a radio transmitter;
- 1127 (xx) a repeater;
- 1128 (xxi) software;
- 1129 (xxii) a terminal;
- 1130 (xxiii) a timing unit;
- 1131 (xxiv) a transformer;
- 1132 (xxv) a wire; or
- 1133 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1134 Subsections (99)(b)(i) through (xxv) as determined by the commission by rule made in
- 1135 accordance with Subsection (99)(c).

1136 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1137 commission may by rule define what constitutes equipment, machinery, or software that

1138 functions similarly to an item listed in Subsections (99)(b)(i) through (xxv).

1139 (100) (a) "Telephone service" means a two-way transmission:

1140 (i) by:

1141 (A) wire;

1142 (B) radio;

1143 (C) lightwave; or

1144 (D) other electromagnetic means; and

1145 (ii) of one or more of the following:

1146 (A) a sign;

1147 (B) a signal;

1148 (C) writing;

1149 (D) an image;

- 1150 (E) sound;
- 1151 (F) a message;
- 1152 (G) data; or
- 1153 (H) other information of any nature.
- 1154 (b) "Telephone service" includes:
- 1155 (i) mobile telecommunications service;
- 1156 (ii) private communications service; or
- 1157 (iii) automated digital telephone answering service.
- 1158 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1159 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1160 Tax Freedom Act, Pub. L. No. 105-277.
- 1161 (101) Notwithstanding where a call is billed or paid, "telephone service address"
- 1162 means:
- 1163 (a) if the location described in this Subsection (101)(a) is known, the location of the
- 1164 telephone service equipment:
- 1165 (i) to which a call is charged; and
- 1166 (ii) from which the call originates or terminates;
- 1167 (b) if the location described in Subsection (101)(a) is not known but the location
- 1168 described in this Subsection (101)(b) is known, the location of the origination point of the
- 1169 signal of the telephone service first identified by:
- 1170 (i) the telecommunications system of the seller; or
- 1171 (ii) if the system used to transport the signal is not that of the seller, information
- 1172 received by the seller from its service provider; or
- 1173 (c) if the locations described in Subsection (101)(a) or (b) are not known, the location
- 1174 of a purchaser's primary place of use.
- 1175 (102) (a) "Telephone service provider" means a person that:
- 1176 (i) owns, controls, operates, or manages a telephone service; and
- 1177 (ii) engages in an activity described in Subsection (102)(a)(i) for the shared use with or

1178 resale to any person of the telephone service.

1179 (b) A person described in Subsection (102)(a) is a telephone service provider whether
1180 or not the Public Service Commission of Utah regulates:

1181 (i) that person; or

1182 (ii) the telephone service that the person owns, controls, operates, or manages.

1183 (103) "Tobacco" means:

1184 (a) a cigarette;

1185 (b) a cigar;

1186 (c) chewing tobacco;

1187 (d) pipe tobacco; or

1188 (e) any other item that contains tobacco.

1189 (104) "Unassisted amusement device" means an amusement device, skill device, or
1190 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1191 the amusement device, skill device, or ride device.

1192 (105) (a) "Use" means the exercise of any right or power over tangible personal
1193 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1194 property, item, or service.

1195 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1196 the regular course of business and held for resale.

1197 (106) (a) Subject to Subsection (106)(b), "vehicle" means the following that are
1198 required to be titled, registered, or titled and registered:

1199 (i) an aircraft as defined in Section 72-10-102;

1200 (ii) a vehicle as defined in Section 41-1a-102;

1201 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1202 (iv) a vessel as defined in Section 41-1a-102.

1203 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1204 (i) a vehicle described in Subsection (106)(a); or

1205 (ii) (A) a locomotive;

- 1206 (B) a freight car;
- 1207 (C) railroad work equipment; or
- 1208 (D) other railroad rolling stock.

1209 (107) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1210 exchanging a vehicle as defined in Subsection (106).

1211 (108) (a) Except as provided in Subsection (108)(b), "waste energy facility" means a
1212 facility that generates electricity:

1213 (i) using as the primary source of energy waste materials that would be placed in a
1214 landfill or refuse pit if it were not used to generate electricity, including:

1215 (A) tires;

1216 (B) waste coal; or

1217 (C) oil shale; and

1218 (ii) in amounts greater than actually required for the operation of the facility.

1219 (b) "Waste energy facility" does not include a facility that incinerates:

1220 (i) municipal solid waste;

1221 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1222 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1223 (109) "Watercraft" means a vessel as defined in Section 73-18-2.

1224 (110) "Wind energy" means wind used as the sole source of energy to produce
1225 electricity.

1226 (111) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1227 location by the United States Postal Service.

1228 Section 4. Section **59-12-103** is amended to read:

1229 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1230 **tax revenues.**

1231 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1232 charged for the following transactions:

1233 (a) retail sales of tangible personal property made within the state;

- 1234 (b) amounts paid:
- 1235 (i) (A) to a common carrier; or
- 1236 (B) whether the following are municipally or privately owned, to a:
- 1237 (I) telephone service provider; or
- 1238 (II) telegraph corporation as defined in Section 54-2-1; and
- 1239 (ii) for:
- 1240 (A) telephone service, other than mobile telecommunications service, that originates
- 1241 and terminates within the boundaries of this state;
- 1242 (B) mobile telecommunications service that originates and terminates within the
- 1243 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1244 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1245 (C) telegraph service;
- 1246 (c) sales of the following for commercial use:
- 1247 (i) gas;
- 1248 (ii) electricity;
- 1249 (iii) heat;
- 1250 (iv) coal;
- 1251 (v) fuel oil; or
- 1252 (vi) other fuels;
- 1253 (d) sales of the following for residential use:
- 1254 (i) gas;
- 1255 (ii) electricity;
- 1256 (iii) heat;
- 1257 (iv) coal;
- 1258 (v) fuel oil; or
- 1259 (vi) other fuels;
- 1260 (e) sales of prepared food;
- 1261 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or

1262 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1263 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1264 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1265 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1266 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1267 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1268 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1269 exhibition, cultural, or athletic activity;

1270 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1271 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1272 (i) the tangible personal property; and

1273 (ii) parts used in the repairs or renovations of the tangible personal property described
1274 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1275 of that tangible personal property;

1276 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1277 assisted cleaning or washing of tangible personal property;

1278 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1279 accommodations and services that are regularly rented for less than 30 consecutive days;

1280 (j) amounts paid or charged for laundry or dry cleaning services;

1281 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1282 this state the tangible personal property is:

1283 (i) stored;

1284 (ii) used; or

1285 (iii) otherwise consumed;

1286 (l) amounts paid or charged for tangible personal property if within this state the
1287 tangible personal property is:

1288 (i) stored;

1289 (ii) used; or

1290 (iii) consumed; and
 1291 (m) amounts paid or charged for prepaid telephone calling cards.
 1292 (2) (a) Except as provided in ~~Subsection~~ Subsections (2)(b) ~~[or (f);]~~ through (e), a
 1293 state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the
 1294 sum of:
 1295 (i) a state tax imposed on the transaction at a tax rate of 4.75%; and
 1296 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 1297 transaction under this chapter other than this part.
 1298 (b) ~~[(i)–A]~~ Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
 1299 imposed on a transaction described in Subsection (1)(d) equal to the sum of:
 1300 ~~[(A)]~~ (i) a state tax imposed on the transaction at a tax rate of 2%; and
 1301 ~~[(B)]~~ (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on
 1302 the transaction under this chapter other than this part~~[-or]~~.
 1303 (c) Except as provided in Subsection (2)(d) or (e), beginning on January 1, 2007, a
 1304 state tax and a local tax is imposed on amounts paid or charged for food and food ingredients
 1305 equal to the sum of:
 1306 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
 1307 a tax rate of 2.75%; and
 1308 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 1309 amounts paid or charged for food and food ingredients under this chapter other than this part.
 1310 ~~[(ii)–if]~~ (d) Except as provided in Subsection (2)(e), if a seller collects a tax in
 1311 accordance with Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
 1312 state tax and a local tax is imposed on the transaction equal to the sum of:
 1313 ~~[(A)]~~ (i) a state tax imposed on the transaction at a tax rate of:
 1314 ~~[(B)]~~ (A) 4.75% for a transaction other than a transaction described in Subsection
 1315 ~~[(1)(B)]~~ (2)(d)(i)(B) or (2)(d)(i)(C); ~~[or]~~
 1316 ~~[(B)]~~ (B) 2% for a transaction described in Subsection (1)(d); ~~[and]~~ or
 1317 (C) beginning on January 1, 2007, 2.75% on the amounts paid or charged for food and

1318 food ingredients; and

1319 ~~[(B)]~~ (ii) a local tax imposed on the transaction at a tax rate equal to the sum of the
1320 following tax rates:

1321 ~~[(F)]~~ (A) the tax rate authorized by Section 59-12-204, but only if all of the counties,
1322 cities, and towns in the state impose the tax ~~[under]~~ authorized by Section 59-12-204; and

1323 ~~[(H)]~~ (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties
1324 in the state impose the tax ~~[under]~~ authorized by Section 59-12-1102.

1325 ~~[(iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax~~
1326 ~~and a local tax is imposed on amounts paid or charged for food and food ingredients equal to~~
1327 ~~the sum of:]~~

1328 ~~[(A) a state tax imposed on the amounts paid or charged for food and food ingredients~~
1329 ~~at a rate of 2.75%; and]~~

1330 ~~[(B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~
1331 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

1332 (e) (i) A state tax and a local tax is imposed on an entire bundled transaction as
1333 provided in this Subsection (2)(e) if the bundled transaction is attributable to food and food
1334 ingredients and tangible personal property other than food and food ingredients.

1335 (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by a
1336 seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),
1337 beginning on January 1, 2007, a state tax and a local tax is imposed on the entire bundled
1338 transaction equal to the sum of:

1339 (A) a state tax imposed on the entire bundled transaction at the tax rate described in
1340 Subsection (2)(a)(i); and

1341 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1342 described in Subsection (2)(a)(ii).

1343 (iii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by
1344 a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state
1345 tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

1346 (A) a state tax imposed on the entire bundled transaction at the tax rate described in
1347 Subsection (2)(d)(i)(A); and

1348 (B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum
1349 of the following tax rates:

1350 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
1351 and towns in the state impose the tax authorized by Section 59-12-204; and

1352 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
1353 state impose the tax authorized by Section 59-12-1102.

1354 ~~[(e)]~~ (f) Subject to Subsections (2)~~[(d)]~~(g) and ~~[(e)]~~ (h), a tax rate repeal or tax rate
1355 change for a tax rate imposed under the following shall take effect on the first day of a calendar
1356 quarter:

- 1357 (i) Subsection (2)(a)(i);
- 1358 (ii) Subsection (2)(b)(i)~~[(A)]~~;
- 1359 (iii) Subsection (2)~~[(b)(ii)(A)]~~(c)(i); ~~[or]~~
- 1360 (iv) Subsection (2)~~[(b)(iii)(A)]~~(d)(i);
- 1361 (v) Subsection (2)(e)(ii)(A); or
- 1362 (vi) Subsection (2)(e)(iii)(A).

1363 ~~[(d)]~~ (g) (i) For a transaction described in Subsection (2)~~[(d)]~~(g)(iii), a tax rate increase
1364 shall take effect on the first day of the first billing period~~[(A)]~~ that begins after the effective
1365 date of the tax rate increase~~[-and (B)]~~ if the billing period for the transaction begins before the
1366 effective date of a tax rate increase imposed under:

- 1367 ~~[(f)]~~ (A) Subsection (2)(a)(i);
- 1368 ~~[(H)]~~ (B) Subsection (2)(b)(i)~~[(A)]~~; ~~[or]~~
- 1369 ~~[(HH)]~~ (C) Subsection (2)~~[(b)(ii)(A)]~~(c)(i);
- 1370 (D) Subsection (2)(d)(i);
- 1371 (E) Subsection (2)(e)(ii)(A); or
- 1372 (F) Subsection (2)(e)(iii)(A).

1373 (ii) For a transaction described in Subsection (2)~~[(d)]~~(g)(iii), the repeal of a tax or a tax

1374 rate decrease shall take effect on the first day of the last billing period~~[-(A)]~~ that began before
1375 the effective date of the repeal of the tax or the tax rate decrease~~[-and-(B)]~~ if the billing period
1376 for the transaction begins before the effective date of the repeal of the tax or the tax rate
1377 decrease imposed under:

1378 ~~[(H)]~~ (A) Subsection (2)(a)(i);

1379 ~~[(H)]~~ (B) Subsection (2)(b)(i)~~[(A)]~~; ~~[or]~~

1380 ~~[(H)]~~ (C) Subsection (2)~~[(b)(ii)(A)]~~(c)(i);

1381 (D) Subsection (2)(d)(i);

1382 (E) Subsection (2)(e)(ii)(A); or

1383 (F) Subsection (2)(e)(iii)(A).

1384 (iii) Subsections (2)~~[(H)]~~(g)(i) and (ii) apply to transactions subject to a tax under:

1385 (A) Subsection (1)(b);

1386 (B) Subsection (1)(c);

1387 (C) Subsection (1)(d);

1388 (D) Subsection (1)(e);

1389 (E) Subsection (1)(f);

1390 (F) Subsection (1)(g);

1391 (G) Subsection (1)(h);

1392 (H) Subsection (1)(i);

1393 (I) Subsection (1)(j); or

1394 (J) Subsection (1)(k).

1395 ~~[(e)(i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A)]~~

1396 (h) (i) For a tax rate described in Subsection (2)(h)(ii), if a tax due on a catalogue sale

1397 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal

1398 or change in a tax rate ~~[imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A)]~~ takes effect:

1399 (A) on the first day of a calendar quarter; and

1400 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change

1401 ~~[under Subsection (2)(a)(i) or (2)(b)(ii)(A)]~~.

1402 (ii) Subsection (2)(h)(i) applies to the tax rates described in the following:

1403 (A) Subsection (2)(a)(i);

1404 (B) Subsection (2)(b)(i);

1405 (C) Subsection (2)(c)(i);

1406 (D) Subsection (2)(d)(i);

1407 (E) Subsection (2)(e)(ii)(A); or

1408 (F) Subsection (2)(e)(iii)(A).

1409 ~~[(ii)]~~ (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
1410 Act, the commission may by rule define the term "catalogue sale."

1411 ~~[(f) If the price of a bundled transaction is attributable to food and food ingredients and~~
1412 ~~tangible personal property other than food and food ingredients, the tax imposed on the entire~~
1413 ~~bundled transaction is the sum of the tax rates described in Subsection (2)(a).]~~

1414 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes
1415 shall be deposited into the General Fund:

1416 (i) the tax imposed by Subsection (2)(a)(i);

1417 (ii) the tax imposed by Subsection (2)(b)(i)~~[(A)]~~;

1418 (iii) the tax imposed by Subsection (2)~~[(b)(ii)(A)]~~(c)(i); ~~[or]~~

1419 (iv) the tax imposed by Subsection (2)~~[(b)(iii)(A)]~~ (d)(i);

1420 (v) the tax imposed by Subsection (2)(e)(ii)(A); and

1421 (vi) the tax imposed by Subsection (2)(e)(iii)(A).

1422 (b) The following local taxes ~~[described in Subsections (2)(a)(ii), (2)(b)(i)(B), and~~
1423 ~~(2)(b)(iii)(B)]~~ shall be distributed to a county, city, or town as provided in this chapter~~[-]~~:

1424 (i) the tax imposed by Subsection (2)(a)(ii);

1425 (ii) the tax imposed by Subsection (2)(b)(ii);

1426 (iii) the tax imposed by Subsection (2)(c)(i); and

1427 (iv) the tax imposed by Subsection (2)(e)(ii)(B).

1428 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
1429 state shall receive the county's, city's, or town's proportionate share of the revenues generated

1430 by the following local [~~tax described in Subsection (2)(b)(ii)(B)] taxes as provided in
1431 Subsection (3)(c)(ii)[~~;~~];~~

1432 (A) the local tax described in Subsection (2)(d)(ii); and

1433 (B) the local tax described in Subsection (2)(e)(iii)(B).

1434 (ii) [~~The~~] For revenues generated by a tax described in Subsection (3)(c)(i), the
1435 commission shall determine a county's, city's, or town's proportionate share of the revenues
1436 [~~under Subsection (3)(c)(i)] by:~~

1437 (A) calculating an amount equal to the population of the unincorporated area of the
1438 county, city, or town divided by the total population of the state; and

1439 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
1440 amount of revenues generated by the [~~local tax under Subsection (2)(b)(ii)(B)] taxes described
1441 in Subsection (3)(c)(i) for all counties, cities, and towns.~~

1442 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
1443 purposes of this section shall be derived from the most recent official census or census estimate
1444 of the United States Census Bureau.

1445 (B) If a needed population estimate is not available from the United States Census
1446 Bureau, population figures shall be derived from the estimate from the Utah Population
1447 Estimates Committee created by executive order of the governor.

1448 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1449 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1450 through (g):

1451 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1452 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1453 (B) for the fiscal year; or

1454 (ii) \$17,500,000.

1455 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1456 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1457 Department of Natural Resources to:

1458 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1459 protect sensitive plant and animal species; or

1460 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1461 act, to political subdivisions of the state to implement the measures described in Subsections
1462 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1463 (ii) Money transferred to the Department of Natural Resources under Subsection
1464 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1465 person to list or attempt to have listed a species as threatened or endangered under the
1466 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1467 (iii) At the end of each fiscal year:

1468 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1469 Conservation and Development Fund created in Section 73-10-24;

1470 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1471 Program Subaccount created in Section 73-10c-5; and

1472 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1473 Program Subaccount created in Section 73-10c-5.

1474 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1475 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1476 created in Section 4-18-6.

1477 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1478 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1479 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1480 water rights.

1481 (ii) At the end of each fiscal year:

1482 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1483 Conservation and Development Fund created in Section 73-10-24;

1484 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1485 Program Subaccount created in Section 73-10c-5; and

1486 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1487 Program Subaccount created in Section 73-10c-5.

1488 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1489 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1490 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1491 (ii) In addition to the uses allowed of the Water Resources Conservation and
1492 Development Fund under Section 73-10-24, the Water Resources Conservation and
1493 Development Fund may also be used to:

1494 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1495 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1496 quantifying surface and ground water resources and describing the hydrologic systems of an
1497 area in sufficient detail so as to enable local and state resource managers to plan for and
1498 accommodate growth in water use without jeopardizing the resource;

1499 (B) fund state required dam safety improvements; and

1500 (C) protect the state's interest in interstate water compact allocations, including the
1501 hiring of technical and legal staff.

1502 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1503 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1504 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1505 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1506 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1507 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1508 (i) provide for the installation and repair of collection, treatment, storage, and
1509 distribution facilities for any public water system, as defined in Section 19-4-102;

1510 (ii) develop underground sources of water, including springs and wells; and

1511 (iii) develop surface water sources.

1512 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1513 2006, the difference between the following amounts shall be expended as provided in this

1514 Subsection (5), if that difference is greater than \$1:
1515 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1516 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
1517 (ii) \$17,500,000.
1518 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
1519 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1520 credits; and
1521 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1522 restoration.
1523 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1524 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1525 created in Section 73-10-24.
1526 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1527 remaining difference described in Subsection (5)(a) shall be:
1528 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1529 credits; and
1530 (B) expended by the Division of Water Resources for cloud-seeding projects
1531 authorized by Title 73, Chapter 15, Modification of Weather.
1532 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1533 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1534 created in Section 73-10-24.
1535 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1536 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1537 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1538 Division of Water Resources for:
1539 (i) preconstruction costs:
1540 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1541 26, Bear River Development Act; and

1542 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1543 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1544 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1545 Chapter 26, Bear River Development Act;

1546 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1547 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1548 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1549 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1550 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
1551 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1552 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
1553 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
1554 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1555 incurred for employing additional technical staff for the administration of water rights.

1556 (g) At the end of each fiscal year, any unexpended dedicated credits described in
1557 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
1558 Fund created in Section 73-10-24.

1559 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1560 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)
1561 through (d):

1562 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1563 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1564 (B) for the fiscal year; or

1565 (ii) \$18,743,000.

1566 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
1567 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation
1568 Revolving Loan Fund created in Section 72-2-117.

1569 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation

1570 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made
1571 by the Department of Transportation at the request of local governments.

1572 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1573 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
1574 Department of Transportation for the State Park Access Highways Improvement Program
1575 created in Section 72-3-207.

1576 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
1577 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as
1578 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
1579 roads.

1580 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
1581 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1582 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1583 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1584 transactions under Subsection (1).

1585 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1586 have been paid off and the highway projects completed that are intended to be paid from
1587 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1588 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1589 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1590 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1591 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1592 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
1593 year 2004-05, the commission shall each year on or before the September 30 immediately
1594 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
1595 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
1596 greater than \$0.

1597 (b) The difference described in Subsection (8)(a) is equal to the difference between:

1598 (i) the total amount of the revenues [~~under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)~~]
1599 the commission received from sellers collecting [~~a tax in accordance with Subsection~~
1600 ~~59-12-107(1)(b)] the taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal
1601 year immediately preceding the September 30 described in Subsection (8)(a); and~~

1602 (ii) \$7,279,673.

1603 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1604 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
1605 July 1, [~~2006~~] 2007, the Division of Finance shall deposit into the Centennial Highway Fund
1606 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
1607 (3)(a) equal to 8.3% of the revenues collected from the following taxes [~~described in~~
1608 ~~Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A)]~~, which represents a portion of the
1609 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1610 on vehicles and vehicle-related products[-];

1611 (i) the tax imposed by Subsection (2)(a)(i);

1612 (ii) the tax imposed by Subsection (2)(b)(i);

1613 (iii) the tax imposed by Subsection (2)(c)(i); and

1614 (iv) the tax imposed by Subsection (2)(e)(ii)(A).

1615 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
1616 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
1617 highway projects completed that are intended to be paid from revenues deposited in the
1618 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
1619 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
1620 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
1621 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes
1622 [~~described in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A)]~~, which represents a portion
1623 of the approximately 17% of sales and use tax revenues generated annually by the sales and use
1624 tax on vehicles and vehicle-related products[-];

1625 (i) the tax imposed by Subsection (2)(a)(i);

1626 (ii) the tax imposed by Subsection (2)(b)(i);

1627 (iii) the tax imposed by Subsection (2)(c)(i); and

1628 (iv) the tax imposed by Subsection (2)(e)(ii)(A).

1629 Section 5. Section **59-12-104.3** is amended to read:

1630 **59-12-104.3. Credit for certain repossessions of a motor vehicle.**

1631 (1) (a) Subject to Subsections (2) and (3), a seller that collects a tax under this chapter
1632 on the sale of a motor vehicle may claim a credit for a tax under this chapter for a motor
1633 vehicle that:

1634 (i) has been repossessed; and

1635 (ii) that the seller resells.

1636 (b) A seller of a motor vehicle other than the seller that collects a tax under this chapter
1637 on the sale of that motor vehicle may claim a credit for a tax under this chapter:

1638 (i) for a motor vehicle that the seller:

1639 (A) repossessed; and

1640 (B) resells; and

1641 (ii) if the seller that collected the tax under this chapter on that motor vehicle:

1642 (A) is no longer doing business in this state; and

1643 (B) does not owe a tax under this chapter.

1644 (2) The amount of the credit allowed by Subsection (1) is equal to the product of:

1645 (a) the portion of the motor vehicle's purchase price that:

1646 (i) was subject to a tax under this chapter; and

1647 (ii) remains unpaid after the motor vehicle is resold; and

1648 (b) the sum of the tax [rate] rates imposed:

1649 ~~[(i) (A) for a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),~~
1650 ~~described in Subsection 59-12-103(2)(b)(ii); or]~~

1651 ~~[(B) for a seller other than a seller described in Subsection (2)(b)(i)(A), described in~~
1652 ~~Subsection 59-12-103(2)(a);]~~

1653 (i) under this chapter;

1654 (ii) ~~imposed~~ on the motor vehicle's purchase price; and
1655 (iii) ~~imposed~~ on the date the motor vehicle was purchased by the person that owns the
1656 motor vehicle at the time of the repossession.

1657 (3) If a seller recovers any portion of a motor vehicle's unpaid purchase price that is
1658 used to calculate a credit allowed by Subsection (1)(b), the seller shall report and remit a tax
1659 under this chapter to the commission:

1660 (a) on the portion of the motor vehicle's unpaid purchase price that:

1661 (i) the seller recovers; and

1662 (ii) is used to calculate the credit allowed by Subsection (1)(b); and

1663 (b) on a return filed for the time period for which the portion of the motor vehicle's
1664 unpaid purchase price is recovered.

1665 Section 6. Section **59-12-108** is amended to read:

1666 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
1667 **Certain amounts allocated to local taxing jurisdictions.**

1668 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
1669 chapter of \$50,000 or more for the previous calendar year shall:

1670 (i) file a return with the commission:

1671 (A) monthly on or before the last day of the month immediately following the month
1672 for which the seller collects a tax under this chapter; and

1673 (B) for the month for which the seller collects a tax under this chapter; and

1674 (ii) remit with the return required by Subsection (1)(a)(i) the amount the person is
1675 required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b):

1676 (A) if that seller's tax liability under this chapter for the previous calendar year is less
1677 than \$96,000, by any method permitted by the commission; or

1678 (B) if that seller's tax liability under this chapter for the previous calendar year is
1679 \$96,000 or more, by electronic funds transfer.

1680 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:

1681 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

- 1682 (ii) a fee under Section 19-6-716;
- 1683 (iii) a fee under Section 19-6-805;
- 1684 (iv) a charge under Section 69-2-5.5; or
- 1685 (v) a tax under this chapter.

1686 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63, Chapter 46a,
 1687 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
 1688 for making same-day payments other than by electronic funds transfer if making payments by
 1689 electronic funds transfer fails.

1690 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 1691 commission shall establish by rule procedures and requirements for determining the amount a
 1692 seller is required to remit to the commission under this Subsection (1).

1693 (2) (a) Except as provided in Subsection [~~(2)(b)~~] (3), a seller subject to Subsection (1)
 1694 or a seller described in Subsection [~~(3)~~] (4) may retain each month ~~[an]~~ the amount ~~[not to~~
 1695 ~~exceed:]~~ allowed by this Subsection (2).

1696 [~~(i)~~] (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may
 1697 retain each month 1.31% of any amounts the seller is required to remit to the commission:

1698 [~~(A)~~] (i) for a transaction described in Subsection 59-12-103(1) that is subject to [the
 1699 sum of the tax rates described in Subsection 59-12-103(2)(a)] a state tax and a local tax
 1700 imposed in accordance with the following, for the month for which the seller is filing a return
 1701 in accordance with Subsection (1)[~~;~~ and]:

1702 (A) Subsection 59-12-103(2)(a);

1703 (B) Subsection 59-12-103(2)(b);

1704 (C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on
 1705 the amounts paid or charged for food and food ingredients in accordance with Subsections
 1706 59-12-103(2)(d)(i)(C) and (2)(d)(ii); and

1707 (D) Subsection 59-12-103(2)(e); and

1708 [~~(B)~~] (ii) for an agreement sales and use tax[~~;~~ and].

1709 [~~(i)~~] (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4)

1710 may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction
1711 described in Subsection 59-12-103(1) that is subject to [the sum of the tax rates described in
1712 Subsection 59-12-103(2)(b)(iii), the sum of:] the state tax and the local tax imposed in
1713 accordance with Subsection 59-12-103(2)(c).

1714 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
1715 equal to the sum of:

1716 (A) 1.31% of any amounts the seller is required to remit to the commission [~~in~~
1717 ~~accordance with Subsection 59-12-103(2)(b)(iii)] for:~~

1718 (I) the state tax and the local tax imposed in accordance with Subsection
1719 59-12-103(2)(c);

1720 [~~(F)~~] (II) the month for which the seller is filing a return in accordance with Subsection
1721 (1); and

1722 [~~(H)~~] (III) an agreement sales and use tax; and

1723 (B) 1.31% of the difference between:

1724 (I) the amounts the seller would have been required to remit to the commission:

1725 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
1726 to the [~~sum of the tax rates described in] state tax and the local tax imposed in accordance with~~
1727 Subsection 59-12-103(2)(a);

1728 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1729 (1); and

1730 (Cc) for an agreement sales and use tax; and

1731 (II) the amounts the seller is required to remit to the commission for:

1732 (Aa) the state tax and the local tax imposed in accordance with Subsection
1733 59-12-103(2)[~~(b)(iii)](c);~~

1734 (Bb) [~~for~~] the month for which the seller is filing a return in accordance with
1735 Subsection (1); and

1736 (Cc) [~~for~~] an agreement sales and use tax[~~;~~ and].

1737 (d) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may

1738 retain each month the amount calculated under Subsection (2)(d)(ii) for a transaction described
1739 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed on the
1740 amounts paid or charged for food and food ingredients in accordance with Subsections
1741 59-12-103(2)(d)(i)(C) and (2)(d)(ii).

1742 (ii) For purposes of Subsection (2)(d)(i), the amount a seller may retain is an amount
1743 equal to the sum of:

1744 (A) 1.31% of any amounts the seller is required to remit to the commission for:

1745 (I) the state tax and the local tax imposed on the amounts paid or charged for food and
1746 food ingredients in accordance with Subsections 59-12-103(2)(d)(i)(C) and (2)(d)(ii);

1747 (II) the month for which the seller is filing a return in accordance with Subsection (1);
1748 and

1749 (III) an agreement sales and use tax; and

1750 (B) 1.31% of the difference between:

1751 (I) the amounts the seller would have been required to remit to the commission:

1752 (Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii) if the
1753 transaction had been subject to the state tax and the local tax imposed in accordance with
1754 Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii);

1755 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1756 (1); and

1757 (Cc) for an agreement sales and use tax; and

1758 (II) the amounts the seller is required to remit to the commission for:

1759 (Aa) the state tax and the local tax imposed in accordance with Subsections
1760 59-12-103(2)(d)(i)(C) and (2)(d)(ii);

1761 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
1762 and

1763 (Cc) an agreement sales and use tax.

1764 [(iii)] (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may
1765 retain each month 1% of any amounts the seller is required to remit to the commission:

1766 ~~[(A)]~~ (i) for the month for which the seller is filing a return in accordance with
1767 Subsection (1); and

1768 ~~[(B)]~~ (ii) under:

1769 ~~[(F)]~~ (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1770 ~~[(H)]~~ (B) Subsection 59-12-603(1)(a)(i)(A); or

1771 ~~[(H)]~~ (C) Subsection 59-12-603(1)(a)(i)(B).

1772 ~~[(b)]~~ (3) A state government entity that is required to remit taxes monthly in
1773 accordance with Subsection (1) may not retain any amount under Subsection (2)~~[(a)]~~.

1774 ~~[(3)]~~ (4) A seller that has a tax liability under this chapter for the previous calendar
1775 year of less than \$50,000 may:

1776 (a) voluntarily meet the requirements of Subsection (1); and

1777 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
1778 amounts allowed by Subsection (2)~~[(a)]~~.

1779 ~~[(4)]~~ (5) Penalties for late payment shall be as provided in Section 59-1-401.

1780 ~~[(5)]~~ (6) (a) For any amounts required to be remitted to the commission under this part,
1781 the commission shall each month calculate an amount equal to the difference between:

1782 (i) the total amount retained for that month by all sellers had the percentages listed
1783 under ~~[Subsection (2)(a)(i) and (ii)]~~ Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii) been 1.5%; and

1784 (ii) the total amount retained for that month by all sellers at the percentages listed
1785 under ~~[Subsection (2)(a)(i) and (ii)]~~ Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii).

1786 (b) The commission shall each month allocate the amount calculated under Subsection
1787 ~~[(5)]~~ (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and
1788 use tax that the commission distributes to each county, city, and town for that month compared
1789 to the total agreement sales and use tax that the commission distributes for that month to all
1790 counties, cities, and towns.

1791 Section 7. Section 59-12-603 is amended to read:

1792 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
1793 **ordinance required -- Administration -- Collection -- Distribution -- Enactment or repeal**

1794 **of tax or tax rate change -- Effective date -- Notice requirements.**

1795 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
1796 part, impose a tax as follows:

1797 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
1798 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
1799 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
1800 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

1801 (B) beginning on or after January 1, 1999, a county legislative body of any county
1802 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
1803 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
1804 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
1805 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
1806 to a repair or an insurance agreement;

1807 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
1808 sales of [~~prepared foods and beverages~~] the following that are sold by [~~restaurants; and~~] a
1809 restaurant:

1810 (A) prepared food; or

1811 (B) food and food ingredients; and

1812 (iii) a county legislative body of any county may impose a tax of not to exceed .5% on
1813 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

1814 (b) A tax imposed under Subsection (1)(a) is in addition to the transient room tax
1815 authorized under Part 3, Transient Room Tax, and is subject to the audit provisions of Section
1816 17-31-5.5.

1817 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
1818 for in Subsections (1)(a)(i) through (iii) may be used for the purposes of:

1819 (i) financing tourism promotion; and

1820 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and
1821 convention facilities as defined in Section 59-12-602.

1822 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
1823 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
1824 marketing and ticketing system designed to:

1825 (i) promote tourism in ski areas within the county by persons that do not reside within
1826 the state; and

1827 (ii) combine the sale of:

1828 (A) ski lift tickets; and

1829 (B) accommodations and services described in Subsection 59-12-103(1)(i).

1830 (3) The tax imposed under Subsection (1)(a)(iii) shall be in addition to the tax imposed
1831 under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

1832 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other
1833 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local Government
1834 Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

1835 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
1836 shall annually adopt an ordinance imposing the tax.

1837 (b) The ordinance under Subsection (5)(a) shall include provisions substantially the
1838 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
1839 those items and sales described in Subsection (1).

1840 (c) The name of the county as the taxing agency shall be substituted for that of the state
1841 where necessary, and an additional license is not required if one has been or is issued under
1842 Section 59-12-106.

1843 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
1844 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
1845 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
1846 amendments to Part 1, Tax Collection.

1847 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
1848 shall be administered, collected, and enforced in accordance with:

1849 (A) the same procedures used to administer, collect, and enforce the tax under:

1850 (I) Part 1, Tax Collection; or
1851 (II) Part 2, Local Sales and Use Tax Act; and
1852 (B) Chapter 1, General Taxation Policies.
1853 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections
1854 59-12-205(2) through (7).
1855 (b) Except as provided in Subsection (7)(c):
1856 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
1857 commission shall distribute the revenues to the county imposing the tax; and
1858 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
1859 according to the distribution formula provided in Subsection (8).
1860 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the
1861 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided
1862 in Section 59-12-206.
1863 (8) The commission shall distribute the revenues generated by the tax under Subsection
1864 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
1865 following formula:
1866 (a) the commission shall distribute 70% of the revenues based on the percentages
1867 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
1868 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and
1869 (b) the commission shall distribute 30% of the revenues based on the percentages
1870 generated by dividing the population of each county collecting a tax under Subsection
1871 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
1872 (9) (a) For purposes of this Subsection (9):
1873 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
1874 Annexation to County.
1875 (ii) "Annexing area" means an area that is annexed into a county.
1876 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
1877 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or

1878 change shall take effect:

1879 (A) on the first day of a calendar quarter; and

1880 (B) after a 90-day period beginning on the date the commission receives notice meeting
1881 the requirements of Subsection (9)(b)(ii) from the county.

1882 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

1883 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

1884 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

1885 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

1886 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1887 (9)(b)(ii)(A), the rate of the tax.

1888 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
1889 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
1890 first billing period:

1891 (A) that begins after the effective date of the enactment of the tax or the tax rate
1892 increase; and

1893 (B) if the billing period for the transaction begins before the effective date of the
1894 enactment of the tax or the tax rate increase imposed under Subsection (1).

1895 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
1896 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1897 billing period:

1898 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1899 and

1900 (B) if the billing period for the transaction begins before the effective date of the repeal
1901 of the tax or the tax rate decrease imposed under Subsection (1).

1902 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

1903 (A) Subsection 59-12-103(1)(e);

1904 (B) Subsection 59-12-103(1)(i); or

1905 (C) Subsection 59-12-103(1)(k).

1906 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
1907 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
1908 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

1909 (A) on the first day of a calendar quarter; and

1910 (B) after a 90-day period beginning on the date the commission receives notice meeting
1911 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

1912 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

1913 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
1914 repeal, or change in the rate of a tax under this part for the annexing area;

1915 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

1916 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

1917 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1918 (9)(d)(ii)(A), the rate of the tax.

1919 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
1920 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
1921 first billing period:

1922 (A) that begins after the effective date of the enactment of the tax or the tax rate
1923 increase; and

1924 (B) if the billing period for the transaction begins before the effective date of the
1925 enactment of the tax or the tax rate increase imposed under Subsection (1).

1926 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
1927 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1928 billing period:

1929 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1930 and

1931 (B) if the billing period for the transaction begins before the effective date of the repeal
1932 of the tax or the tax rate decrease imposed under Subsection (1).

1933 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

1934 (A) Subsection 59-12-103(1)(e);

1935 (B) Subsection 59-12-103(1)(i); or

1936 (C) Subsection 59-12-103(1)(k).

1937 Section 8. **Uncodified Section 3, Chapter 9, Laws of Utah 2006, Third Special**

1938 **Session**, which amends Uncodified Section 5, Chapter 282, Laws of Utah 2006, is amended to
1939 read:

1940 Section 5. **Appropriation.**

1941 (1) Subject to Subsection (2), there is appropriated from the General Fund, for fiscal
1942 year 2006-07 only, \$6,000,000 to the State Tax Commission for distribution to certain business
1943 locations to reimburse some of the business location's costs in complying with the reduced
1944 sales and use tax rate imposed on food and food ingredients.

1945 (2) The Legislature intends that the State Tax Commission may expend up to 2% of the
1946 amount appropriated for administrative costs.

1947 (3) The Legislature intends that, to the extent funds are available, the State Tax
1948 Commission distribute these monies as provided in Subsections (4) through (6).

1949 (4) (a) Except as provided in Subsection (4)(b), the State Tax Commission shall
1950 reimburse a business location:

1951 (i) that:

1952 (A) in 2005, remitted taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act, in
1953 an amount greater than or equal to \$15,000 but less than or equal to \$150,000;

1954 (B) remitted sales and use taxes on food and food ingredients as defined in Section
1955 59-12-102 to the State Tax Commission before March 1, 2006; and

1956 (C) submits a request for reimbursement to the State Tax Commission postmarked
1957 before [~~January~~] April 1, 2007;

1958 (ii) for the verifiable amounts that the business location actually expended:

1959 (A) after May 1, 2006, but on or before December 31, 2006; and

1960 (B) to:

1961 (1) purchase computer hardware, software, or programming to account for sales under

1962 the reduced sales and use tax rate imposed on food and food ingredients; [~~and~~] or
1963 (II) pay for in-house programming to account for sales under the reduced sales and use
1964 tax rate imposed on food and food ingredients; and
1965 (iii) in an amount that does not exceed the lesser of:
1966 (A) 75% of the verifiable amounts described in Subsection (4)(a)(ii); or
1967 (B) \$5,000.
1968 (b) If the total amount of requests for reimbursement under Subsection (4)(a) exceed
1969 the monies that are available for reimbursement, the State Tax Commission shall reduce each
1970 claim by a pro rata share.
1971 (5) (a) Except as provided in Subsection (5)(b), if, after the State Tax Commission
1972 makes the reimbursements required by Subsection (4), monies described in Subsection (1)
1973 remain for reimbursement, the State Tax Commission shall reimburse a business location:
1974 (i) that:
1975 (A) in 2005, remitted taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act, in
1976 an amount greater than \$150,000 but less than or equal to \$500,000;
1977 (B) remitted sales and use taxes on food and food ingredients as defined in Section
1978 59-12-102 to the State Tax Commission before March 1, 2006; and
1979 (C) submits a request for reimbursement to the State Tax Commission postmarked
1980 before [~~January~~] April 1, 2007;
1981 (ii) for the verifiable amounts that the business location actually expended:
1982 (A) after May 1, 2006, but on or before December 31, 2006; and
1983 (B) to:
1984 (I) purchase computer hardware, software, or programming to account for sales under
1985 the reduced sales and use tax rate imposed on food and food ingredients; [~~and~~] or
1986 (II) pay for in-house programming to account for sales under the reduced sales and use
1987 tax rate imposed on food and food ingredients; and
1988 (iii) in an amount that does not exceed the lesser of:
1989 (A) 50% of the verifiable amounts described in Subsection (5)(a)(ii); or

1990 (B) \$10,000.

1991 (b) If the total amount of requests for reimbursement under Subsection (5)(a) exceed
1992 the monies that are available for reimbursement, the State Tax Commission shall reduce each
1993 claim by a pro rata share.

1994 (6) (a) Except as provided in Subsection (6)(b), if, after the State Tax Commission
1995 makes the reimbursements required by Subsections (4) and (5), monies described in Subsection
1996 (1) remain for reimbursement, the State Tax Commission shall reimburse a business location:

1997 (i) that:

1998 (A) in 2005, remitted taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act, in
1999 an amount greater than or equal to \$15,000;

2000 (B) remitted sales and use taxes on food and food ingredients as defined in Section
2001 59-12-102 to the State Tax Commission before March 1, 2006; and

2002 (C) submits a request for reimbursement to the State Tax Commission postmarked
2003 before ~~[January]~~ April 1, 2007;

2004 (ii) for the verifiable amounts that the business location actually expended:

2005 (A) after May 1, 2006, but on or before December 31, 2006; and

2006 (B) for a business location that, in 2005, remitted taxes imposed by Title 59, Chapter
2007 12, Sales and Use Tax Act:

2008 (I) in an amount greater than or equal to \$15,000 but less than or equal to \$500,000, for
2009 amounts expended that were not reimbursed in accordance with Subsection (4) or (5), to:

2010 (Aa) purchase computer hardware, software, or programming~~[:-(Aa)]~~ to account for
2011 sales under the reduced sales and use tax rate imposed on food and food ingredients; ~~[and]~~ or

2012 ~~[(Bb) that were not reimbursed in accordance with Subsection (4) or (5); or]~~

2013 (Bb) pay for in-house programming to account for sales under the reduced sales and
2014 use tax rate imposed on food and food ingredients; or

2015 (II) in an amount greater than \$500,000, for amounts expended to:

2016 (Aa) purchase computer hardware, software, or programming to account for sales
2017 under the reduced sales and use tax rate imposed on food and food ingredients; [and] or

2018 (Bb) pay for in-house programming to account for sales under the reduced sales and
2019 use tax rate imposed on food and food ingredients; and

2020 (iii) in an amount that does not exceed 50% of the verifiable amounts described in
2021 Subsection (6)(a)(ii).

2022 (b) If the total amount of requests for reimbursement under Subsection (6)(a) exceed
2023 the monies that are available for reimbursement, the State Tax Commission shall reduce each
2024 claim by a pro rata share.

2025 Section 9. **Effective date -- Retrospective operation.**

2026 If approved by two-thirds of all the members elected to each house, this bill:

2027 (1) takes effect upon approval by the governor, or the day following the constitutional
2028 time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in
2029 the case of a veto, the date of veto override; and

2030 (2) has retrospective operation to January 1, 2007.