

**AMENDMENTS TO TOURISM, RECREATION,
CULTURAL, AND CONVENTION FACILITIES TAX**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Tourism, Recreation, Cultural, and Convention Facilities Tax part and related provisions.

Highlighted Provisions:

This bill:

- ▶ modifies and repeals definitions;
- ▶ repeals the authority for a county to impose a tax on certain food sold by a restaurant;
- ▶ authorizes a county to impose a sales and use tax on the same transactions upon which the state sales and use tax is imposed, except for certain:
 - transactions relating to food; or
 - sales by remote sellers;
- ▶ addresses the transactions subject to tax under the Tourism, Recreation, Cultural, and Convention Facilities part;
- ▶ addresses the distribution of the sales and use tax;
- ▶ addresses the collection of an administrative fee by the State Tax Commission;
- ▶ requires the Revenue and Taxation Interim Committee to conduct a study relating to the distribution of the sales and use tax; and
- ▶ makes technical changes.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides effective dates.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

35 **59-12-602**, as last amended by Laws of Utah 1995, Chapter 248

36 **59-12-603**, as last amended by Laws of Utah 2007, Chapters 3, 9, and 219



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

39 Section 1. Section **59-12-102** is amended to read:

40 **59-12-102. Definitions.**

41 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

56 (f) Subsection 59-12-103(2)(e)(iii)(A);

57 (g) Section 59-12-204;

58 (h) Section 59-12-401;

- 59 (i) Section 59-12-402;
- 60 (j) Section 59-12-501;
- 61 (k) Section 59-12-502;
- 62 (l) Subsection 59-12-603(1)(a)(ii)(B):
- 63 [~~(h)~~] (m) Section 59-12-703;
- 64 [~~(m)~~] (n) Section 59-12-802;
- 65 [~~(n)~~] (o) Section 59-12-804;
- 66 [~~(o)~~] (p) Section 59-12-1001;
- 67 [~~(p)~~] (q) Section 59-12-1102;
- 68 [~~(q)~~] (r) Section 59-12-1302;
- 69 [~~(r)~~] (s) Section 59-12-1402;
- 70 [~~(s)~~] (t) Section 59-12-1503; or
- 71 [~~(t)~~] (u) Section 59-12-1703.
- 72 (5) "Aircraft" is as defined in Section 72-10-102.
- 73 (6) "Alcoholic beverage" means a beverage that:
- 74 (a) is suitable for human consumption; and
- 75 (b) contains .5% or more alcohol by volume.
- 76 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 77 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 78 device that is started and stopped by an individual:
- 79 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 80 device, skill device, or ride device; and
- 81 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 82 or ride device.
- 83 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 84 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 85 by an individual:
- 86 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 87 property; and
- 88 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 89 property.

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

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

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

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

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

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

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

103 (B) animal waste;

104 (C) methane produced:

105 (I) at landfills; or

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

107 (D) aquatic plants; and

108 (E) agricultural products.

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

110 (i) black liquor;

111 (ii) treated woods; or

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

113 (A) at landfills; or

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

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

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

118 and

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

120 (A) distinct and identifiable; and

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

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

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

127 (i) packaging that:

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

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

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

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

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

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

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

142 (i) on a transaction; and

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

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

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

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

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

149 and

150 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
151 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's

152 own purchases.

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

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

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

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

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

161 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
162 fuels that does not constitute industrial use under Subsection (42) or residential use under
163 Subsection (80).

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

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

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

172 (19) "Component part" includes:

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

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

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

178 (d) feed, seeds, and seedlings.

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

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

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

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

- 183 (21) "Computer software" means a set of coded instructions designed to cause:
184 (a) a computer to perform a task; or
185 (b) automatic data processing equipment to perform a task.
- 186 (22) "Construction materials" means any tangible personal property that will be
187 converted into real property.
- 188 (23) "Delivered electronically" means delivered to a purchaser by means other than
189 tangible storage media.
- 190 (24) (a) "Delivery charge" means a charge:
191 (i) by a seller of:
192 (A) tangible personal property; or
193 (B) services; and
194 (ii) for preparation and delivery of the tangible personal property or services described
195 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 196 (b) "Delivery charge" includes a charge for the following:
197 (i) transportation;
198 (ii) shipping;
199 (iii) postage;
200 (iv) handling;
201 (v) crating; or
202 (vi) packing.
- 203 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
204 (i) a bridge;
205 (ii) a crown if that crown covers at least 75% of a tooth structure;
206 (iii) a denture;
207 (iv) an implant;
208 (v) an orthodontic device designed to:
209 (A) retain the position or spacing of teeth; and
210 (B) replace a missing tooth;
211 (vi) a partial denture; or
212 (vii) a device similar to Subsections (25)(a)(i) through (vi).
213 (b) "Dental prosthesis" does not include an appliance or device, other than a device

214 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
215 apply force to the teeth and their supporting structures to:

- 216 (i) produce changes in their relationship to each other; and
- 217 (ii) control their growth and development.

218 (26) "Dietary supplement" means a product, other than tobacco, that:

- 219 (a) is intended to supplement the diet;
- 220 (b) contains one or more of the following dietary ingredients:
 - 221 (i) a vitamin;
 - 222 (ii) a mineral;
 - 223 (iii) an herb or other botanical;
 - 224 (iv) an amino acid;
 - 225 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 - 226 dietary intake; or
 - 227 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

228 described in Subsections (26)(b)(i) through (v);

229 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:

- 230 (A) tablet form;
- 231 (B) capsule form;
- 232 (C) powder form;
- 233 (D) softgel form;
- 234 (E) gelcap form; or
- 235 (F) liquid form; or

236 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
237 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:

- 238 (A) as conventional food; and
- 239 (B) for use as a sole item of:
 - 240 (I) a meal; or
 - 241 (II) the diet; and

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

- 243 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 244 (ii) as required by 21 C.F.R. Sec. 101.36.

245 (27) (a) "Direct mail" means printed material delivered or distributed by United States
246 mail or other delivery service:

247 (i) to:

248 (A) a mass audience; or

249 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

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

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

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

255 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
256 or supplies that:

257 (i) cannot withstand repeated use; and

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

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

260 (B) a health care provider as defined in Section 78-14-3;

261 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or

262 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

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

264 (i) a drug;

265 (ii) durable medical equipment;

266 (iii) a hearing aid;

267 (iv) a hearing aid accessory;

268 (v) mobility enhancing equipment; or

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

270 (A) eyeglasses; or

271 (B) contact lenses.

272 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
273 commission may by rule define what constitutes medical equipment or supplies.

274 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
275 compound, substance, or preparation that is:

- 276 (i) recognized in:
- 277 (A) the official United States Pharmacopoeia;
- 278 (B) the official Homeopathic Pharmacopoeia of the United States;
- 279 (C) the official National Formulary; or
- 280 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
- 281 (ii) intended for use in the:
- 282 (A) diagnosis of disease;
- 283 (B) cure of disease;
- 284 (C) mitigation of disease;
- 285 (D) treatment of disease; or
- 286 (E) prevention of disease; or
- 287 (iii) intended to affect:
- 288 (A) the structure of the body; or
- 289 (B) any function of the body.
- 290 (b) "Drug" does not include:
- 291 (i) food and food ingredients;
- 292 (ii) a dietary supplement;
- 293 (iii) an alcoholic beverage; or
- 294 (iv) a prosthetic device.
- 295 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
- 296 equipment that:
- 297 (i) can withstand repeated use;
- 298 (ii) is primarily and customarily used to serve a medical purpose;
- 299 (iii) generally is not useful to a person in the absence of illness or injury; and
- 300 (iv) is not worn in or on the body.
- 301 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 302 equipment described in Subsection (30)(a).
- 303 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
- 304 mobility enhancing equipment.
- 305 (31) "Electronic" means:
- 306 (a) relating to technology; and

- 307 (b) having:
- 308 (i) electrical capabilities;
- 309 (ii) digital capabilities;
- 310 (iii) magnetic capabilities;
- 311 (iv) wireless capabilities;
- 312 (v) optical capabilities;
- 313 (vi) electromagnetic capabilities; or
- 314 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
- 315 (32) "Employee" is as defined in Section 59-10-401.
- 316 (33) "Fixed guideway" means a public transit facility that uses and occupies:
- 317 (a) rail for the use of public transit; or
- 318 (b) a separate right-of-way for the use of public transit.
- 319 (34) (a) "Food and food ingredients" means substances:
- 320 (i) regardless of whether the substances are in:
- 321 (A) liquid form;
- 322 (B) concentrated form;
- 323 (C) solid form;
- 324 (D) frozen form;
- 325 (E) dried form; or
- 326 (F) dehydrated form; and
- 327 (ii) that are:
- 328 (A) sold for:
- 329 (I) ingestion by humans; or
- 330 (II) chewing by humans; and
- 331 (B) consumed for the substance's:
- 332 (I) taste; or
- 333 (II) nutritional value.
- 334 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
- 335 (c) "Food and food ingredients" does not include:
- 336 (i) an alcoholic beverage;
- 337 (ii) tobacco; or

338 (iii) prepared food.

339 (35) (a) "Fundraising sales" means sales:

340 (i) (A) made by a school; or

341 (B) made by a school student;

342 (ii) that are for the purpose of raising funds for the school to purchase equipment,

343 materials, or provide transportation; and

344 (iii) that are part of an officially sanctioned school activity.

345 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"

346 means a school activity:

347 (i) that is conducted in accordance with a formal policy adopted by the school or school

348 district governing the authorization and supervision of fundraising activities;

349 (ii) that does not directly or indirectly compensate an individual teacher or other

350 educational personnel by direct payment, commissions, or payment in kind; and

351 (iii) the net or gross revenues from which are deposited in a dedicated account

352 controlled by the school or school district.

353 (36) "Geothermal energy" means energy contained in heat that continuously flows

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

355 (37) "Governing board of the agreement" means the governing board of the agreement

356 that is:

357 (a) authorized to administer the agreement; and

358 (b) established in accordance with the agreement.

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

360 (i) the executive branch of the state, including all departments, institutions, boards,

361 divisions, bureaus, offices, commissions, and committees;

362 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

363 Office of the Court Administrator, and similar administrative units in the judicial branch;

364 (iii) the legislative branch of the state, including the House of Representatives, the

365 Senate, the Legislative Printing Office, the Office of Legislative Research and General

366 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

367 Analyst;

368 (iv) the National Guard;

- 369 (v) an independent entity as defined in Section 63E-1-102; or
- 370 (vi) a political subdivision as defined in Section 17B-1-102.
- 371 (b) "Governmental entity" does not include the state systems of public and higher
- 372 education, including:
 - 373 (i) a college campus of the Utah College of Applied Technology;
 - 374 (ii) a school;
 - 375 (iii) the State Board of Education;
 - 376 (iv) the State Board of Regents; or
 - 377 (v) a state institution of higher education as defined in Section 53B-3-102.
- 378 (39) (a) "Hearing aid" means:
 - 379 (i) an instrument or device having an electronic component that is designed to:
 - 380 (A) (I) improve impaired human hearing; or
 - 381 (II) correct impaired human hearing; and
 - 382 (B) (I) be worn in the human ear; or
 - 383 (II) affixed behind the human ear;
 - 384 (ii) an instrument or device that is surgically implanted into the cochlea; or
 - 385 (iii) a telephone amplifying device.
- 386 (b) "Hearing aid" does not include:
 - 387 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
 - 388 having an electronic component that is designed to be worn on the body;
 - 389 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
 - 390 designed to be used by one individual, including:
 - 391 (A) a personal amplifying system;
 - 392 (B) a personal FM system;
 - 393 (C) a television listening system; or
 - 394 (D) a device or system similar to a device or system described in Subsections
 - 395 (39)(b)(ii)(A) through (C); or
 - 396 (iii) an assistive listening device or system designed to be used by more than one
 - 397 individual, including:
 - 398 (A) a device or system installed in:
 - 399 (I) an auditorium;

- 400 (II) a church;
- 401 (III) a conference room;
- 402 (IV) a synagogue; or
- 403 (V) a theater; or
- 404 (B) a device or system similar to a device or system described in Subsections
- 405 (39)(b)(iii)(A)(I) through (V).
- 406 (40) (a) "Hearing aid accessory" means a hearing aid:
- 407 (i) component;
- 408 (ii) attachment; or
- 409 (iii) accessory.
- 410 (b) "Hearing aid accessory" includes:
- 411 (i) a hearing aid neck loop;
- 412 (ii) a hearing aid cord;
- 413 (iii) a hearing aid ear mold;
- 414 (iv) hearing aid tubing;
- 415 (v) a hearing aid ear hook; or
- 416 (vi) a hearing aid remote control.
- 417 (c) "Hearing aid accessory" does not include:
- 418 (i) a component, attachment, or accessory designed to be used only with an:
- 419 (A) instrument or device described in Subsection (39)(b)(i); or
- 420 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
- 421 (ii) a hearing aid battery.
- 422 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
- 423 electricity.
- 424 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 425 other fuels:
- 426 (a) in mining or extraction of minerals;
- 427 (b) in agricultural operations to produce an agricultural product up to the time of
- 428 harvest or placing the agricultural product into a storage facility, including:
- 429 (i) commercial greenhouses;
- 430 (ii) irrigation pumps;

- 431 (iii) farm machinery;
- 432 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 433 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 434 (v) other farming activities;
- 435 (c) in manufacturing tangible personal property at an establishment described in SIC
- 436 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 437 Executive Office of the President, Office of Management and Budget;
- 438 (d) by a scrap recycler if:
- 439 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 440 one or more of the following items into prepared grades of processed materials for use in new
- 441 products:
- 442 (A) iron;
- 443 (B) steel;
- 444 (C) nonferrous metal;
- 445 (D) paper;
- 446 (E) glass;
- 447 (F) plastic;
- 448 (G) textile; or
- 449 (H) rubber; and
- 450 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
- 451 nonrecycled materials; or
- 452 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 453 cogeneration facility as defined in Section 54-2-1.
- 454 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
- 455 for installing tangible personal property.
- 456 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
- 457 for repairs or renovations of tangible personal property.
- 458 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 459 personal property for:
- 460 (i) (A) a fixed term; or
- 461 (B) an indeterminate term; and

- 462 (ii) consideration.
- 463 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
464 amount of consideration may be increased or decreased by reference to the amount realized
465 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
466 Code.
- 467 (c) "Lease" or "rental" does not include:
 - 468 (i) a transfer of possession or control of property under a security agreement or
469 deferred payment plan that requires the transfer of title upon completion of the required
470 payments;
 - 471 (ii) a transfer of possession or control of property under an agreement that requires the
472 transfer of title:
 - 473 (A) upon completion of required payments; and
 - 474 (B) if the payment of an option price does not exceed the greater of:
 - 475 (I) \$100; or
 - 476 (II) 1% of the total required payments; or
 - 477 (iii) providing tangible personal property along with an operator for a fixed period of
478 time or an indeterminate period of time if the operator is necessary for equipment to perform as
479 designed.
- 480 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to
481 perform as designed if the operator's duties exceed the:
 - 482 (i) set-up of tangible personal property;
 - 483 (ii) maintenance of tangible personal property; or
 - 484 (iii) inspection of tangible personal property.
- 485 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
486 if the tangible storage media is not physically transferred to the purchaser.
- 487 (46) "Local taxing jurisdiction" means a:
 - 488 (a) county that is authorized to impose an agreement sales and use tax;
 - 489 (b) city that is authorized to impose an agreement sales and use tax; or
 - 490 (c) town that is authorized to impose an agreement sales and use tax.
- 491 (47) "Manufactured home" is as defined in Section 58-56-3.
- 492 (48) For purposes of Section 59-12-104, "manufacturing facility" means:

- 493 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
494 Industrial Classification Manual of the federal Executive Office of the President, Office of
495 Management and Budget;
- 496 (b) a scrap recycler if:
- 497 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
498 one or more of the following items into prepared grades of processed materials for use in new
499 products:
- 500 (A) iron;
- 501 (B) steel;
- 502 (C) nonferrous metal;
- 503 (D) paper;
- 504 (E) glass;
- 505 (F) plastic;
- 506 (G) textile; or
- 507 (H) rubber; and
- 508 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
509 nonrecycled materials; or
- 510 (c) a cogeneration facility as defined in Section 54-2-1.
- 511 (49) "Member of the immediate family of the producer" means a person who is related
512 to a producer described in Subsection 59-12-104(20)(a) as a:
- 513 (a) child or stepchild, regardless of whether the child or stepchild is:
- 514 (i) an adopted child or adopted stepchild; or
- 515 (ii) a foster child or foster stepchild;
- 516 (b) grandchild or stepgrandchild;
- 517 (c) grandparent or stepgrandparent;
- 518 (d) nephew or stepnephew;
- 519 (e) niece or stepniece;
- 520 (f) parent or stepparent;
- 521 (g) sibling or stepsibling;
- 522 (h) spouse;
- 523 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);

524 or

525 (j) person similar to a person described in Subsections (49)(a) through (i) as
526 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
527 Administrative Rulemaking Act.

528 (50) "Mobile home" is as defined in Section 58-56-3.

529 (51) "Mobile telecommunications service" is as defined in the Mobile
530 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

531 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"
532 means equipment that is:

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

535 (ii) appropriate for use in a:

536 (A) home; or

537 (B) motor vehicle; and

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

539 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
540 the equipment described in Subsection (52)(a).

541 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not
542 include:

543 (i) a motor vehicle;

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

546 (iii) durable medical equipment; or

547 (iv) a prosthetic device.

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

552 (54) "Model 2 seller" means a seller that:

553 (a) except as provided in Subsection (54)(b), has selected a certified automated system
554 to perform the seller's sales tax functions for agreement sales and use taxes; and

555 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
556 sales tax:

- 557 (i) collected by the seller; and
- 558 (ii) to the appropriate local taxing jurisdiction.

559 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:

- 560 (i) sales in at least five states that are members of the agreement;
- 561 (ii) total annual sales revenues of at least \$500,000,000;
- 562 (iii) a proprietary system that calculates the amount of tax:
 - 563 (A) for an agreement sales and use tax; and
 - 564 (B) due to each local taxing jurisdiction; and
- 565 (iv) entered into a performance agreement with the governing board of the agreement.

566 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
567 sellers using the same proprietary system.

568 (56) "Modular home" means a modular unit as defined in Section 58-56-3.

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

570 (58) "Oil shale" means a group of fine black to dark brown shales containing
571 bituminous material that yields petroleum upon distillation.

572 (59) (a) "Other fuels" means products that burn independently to produce heat or
573 energy.

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

576 (60) "Pawnbroker" is as defined in Section 13-32a-102.

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

578 (62) (a) "Permanently attached to real property" means that for tangible personal
579 property attached to real property:

- 580 (i) the attachment of the tangible personal property to the real property:
 - 581 (A) is essential to the use of the tangible personal property; and
 - 582 (B) suggests that the tangible personal property will remain attached to the real
583 property in the same place over the useful life of the tangible personal property; or
- 584 (ii) if the tangible personal property is detached from the real property, the detachment
585 would:

586 (A) cause substantial damage to the tangible personal property; or
587 (B) require substantial alteration or repair of the real property to which the tangible
588 personal property is attached.

589 (b) "Permanently attached to real property" includes:
590 (i) the attachment of an accessory to the tangible personal property if the accessory is:
591 (A) essential to the operation of the tangible personal property; and
592 (B) attached only to facilitate the operation of the tangible personal property;
593 (ii) a temporary detachment of tangible personal property from real property for a
594 repair or renovation if the repair or renovation is performed where the tangible personal
595 property and real property are located; or
596 (iii) an attachment of the following tangible personal property to real property,
597 regardless of whether the attachment to real property is only through a line that supplies water,
598 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
599 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
600 (A) property attached to oil, gas, or water pipelines, other than the property listed in
601 Subsection (62)(c)(iii);
602 (B) a hot water heater;
603 (C) a water softener system; or
604 (D) a water filtration system, other than a water filtration system manufactured as part
605 of a refrigerator.

606 (c) "Permanently attached to real property" does not include:
607 (i) the attachment of portable or movable tangible personal property to real property if
608 that portable or movable tangible personal property is attached to real property only for:
609 (A) convenience;
610 (B) stability; or
611 (C) for an obvious temporary purpose;
612 (ii) the detachment of tangible personal property from real property other than the
613 detachment described in Subsection (62)(b)(ii); or
614 (iii) an attachment of the following tangible personal property to real property if the
615 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
616 cable, or supplies a similar item as determined by the commission by rule made in accordance

617 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

618 (A) a refrigerator;

619 (B) a washer;

620 (C) a dryer;

621 (D) a stove;

622 (E) a television;

623 (F) a computer;

624 (G) a telephone; or

625 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as
626 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
627 Administrative Rulemaking Act.

628 (63) "Person" includes any individual, firm, partnership, joint venture, association,
629 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
630 municipality, district, or other local governmental entity of the state, or any group or
631 combination acting as a unit.

632 (64) "Place of primary use":

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

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

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

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

640 (65) "Postproduction" means an activity related to the finishing or duplication of a
641 medium described in Subsection 59-12-104(56)(a).

642 (66) (a) "Prepared food" means:

643 (i) food:

644 (A) sold in a heated state; or

645 (B) heated by a seller;

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

648 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
649 by the seller, including a:

- 650 (A) plate;
- 651 (B) knife;
- 652 (C) fork;
- 653 (D) spoon;
- 654 (E) glass;
- 655 (F) cup;
- 656 (G) napkin; or
- 657 (H) straw.

658 (b) "Prepared food" does not include:

659 (i) food that a seller only:

- 660 (A) cuts;
- 661 (B) repackages; or
- 662 (C) pasteurizes; or

663 (ii) (A) the following:

- 664 (I) raw egg;
- 665 (II) raw fish;
- 666 (III) raw meat;
- 667 (IV) raw poultry; or
- 668 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);

669 and

670 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
671 Food and Drug Administration's Food Code that a consumer cook the items described in
672 Subsection (66)(b)(ii)(A) to prevent food borne illness; or

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

674 (A) food and food ingredients sold by a seller if the seller's proper primary
675 classification under the 2002 North American Industry Classification System of the federal
676 Executive Office of the President, Office of Management and Budget, is manufacturing in
677 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
678 Manufacturing;

- 679 (B) food and food ingredients sold in an unheated state:
- 680 (I) by weight or volume; and
- 681 (II) as a single item; or
- 682 (C) a bakery item, including:
- 683 (I) a bagel;
- 684 (II) a bar;
- 685 (III) a biscuit;
- 686 (IV) bread;
- 687 (V) a bun;
- 688 (VI) a cake;
- 689 (VII) a cookie;
- 690 (VIII) a croissant;
- 691 (IX) a danish;
- 692 (X) a donut;
- 693 (XI) a muffin;
- 694 (XII) a pastry;
- 695 (XIII) a pie;
- 696 (XIV) a roll;
- 697 (XV) a tart;
- 698 (XVI) a torte; or
- 699 (XVII) a tortilla.
- 700 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
- 701 does not include the following used to transport the food:
- 702 (i) a container; or
- 703 (ii) packaging.
- 704 (67) "Prescription" means an order, formula, or recipe that is issued:
- 705 (a) (i) orally;
- 706 (ii) in writing;
- 707 (iii) electronically; or
- 708 (iv) by any other manner of transmission; and
- 709 (b) by a licensed practitioner authorized by the laws of a state.

710 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
711 software" means computer software that is not designed and developed:
712 (i) by the author or other creator of the computer software; and
713 (ii) to the specifications of a specific purchaser.
714 (b) "Prewritten computer software" includes:
715 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
716 software is not designed and developed:
717 (A) by the author or other creator of the computer software; and
718 (B) to the specifications of a specific purchaser;
719 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
720 the author or other creator of the computer software to the specifications of a specific purchaser
721 if the computer software is sold to a person other than the purchaser; or
722 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
723 prewritten computer software or a prewritten portion of prewritten computer software:
724 (A) that is modified or enhanced to any degree; and
725 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
726 designed and developed to the specifications of a specific purchaser.
727 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
728 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
729 the modification or enhancement are:
730 (i) reasonable; and
731 (ii) separately stated on the invoice or other statement of price provided to the
732 purchaser.
733 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:
734 (i) artificially replace a missing portion of the body;
735 (ii) prevent or correct a physical deformity or physical malfunction; or
736 (iii) support a weak or deformed portion of the body.
737 (b) "Prosthetic device" includes:
738 (i) parts used in the repairs or renovation of a prosthetic device;
739 (ii) replacement parts for a prosthetic device; or
740 (iii) a dental prosthesis.

- 741 (c) "Prosthetic device" does not include:
- 742 (i) corrective eyeglasses;
- 743 (ii) contact lenses; or
- 744 (iii) hearing aids.
- 745 (70) (a) "Protective equipment" means an item:
- 746 (i) for human wear; and
- 747 (ii) that is:
- 748 (A) designed as protection:
- 749 (I) to the wearer against injury or disease; or
- 750 (II) against damage or injury of other persons or property; and
- 751 (B) not suitable for general use.
- 752 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 753 commission shall make rules:
- 754 (i) listing the items that constitute "protective equipment"; and
- 755 (ii) that are consistent with the list of items that constitute "protective equipment"
- 756 under the agreement.
- 757 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 758 printed matter, other than a photocopy:
- 759 (i) regardless of:
- 760 (A) characteristics;
- 761 (B) copyright;
- 762 (C) form;
- 763 (D) format;
- 764 (E) method of reproduction; or
- 765 (F) source; and
- 766 (ii) made available in printed or electronic format.
- 767 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 768 commission may by rule define the term "photocopy."
- 769 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 770 (i) valued in money; and
- 771 (ii) for which tangible personal property or services are:

- 772 (A) sold;
- 773 (B) leased; or
- 774 (C) rented.
- 775 (b) "Purchase price" and "sales price" include:
- 776 (i) the seller's cost of the tangible personal property or services sold;
- 777 (ii) expenses of the seller, including:
- 778 (A) the cost of materials used;
- 779 (B) a labor cost;
- 780 (C) a service cost;
- 781 (D) interest;
- 782 (E) a loss;
- 783 (F) the cost of transportation to the seller; or
- 784 (G) a tax imposed on the seller; or
- 785 (iii) a charge by the seller for any service necessary to complete the sale.
- 786 (c) "Purchase price" and "sales price" do not include:
- 787 (i) a discount:
- 788 (A) in a form including:
- 789 (I) cash;
- 790 (II) term; or
- 791 (III) coupon;
- 792 (B) that is allowed by a seller;
- 793 (C) taken by a purchaser on a sale; and
- 794 (D) that is not reimbursed by a third party; or
- 795 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 796 provided to the purchaser:
- 797 (A) the amount of a trade-in;
- 798 (B) the following from credit extended on the sale of tangible personal property or
- 799 services:
- 800 (I) interest charges;
- 801 (II) financing charges; or
- 802 (III) carrying charges;

- 803 (C) a tax or fee legally imposed directly on the consumer;
- 804 (D) a delivery charge; or
- 805 (E) an installation charge.
- 806 (73) "Purchaser" means a person to whom:
 - 807 (a) a sale of tangible personal property is made; or
 - 808 (b) a service is furnished.
- 809 (74) "Regularly rented" means:
 - 810 (a) rented to a guest for value three or more times during a calendar year; or
 - 811 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 812 value.
- 813 (75) "Renewable energy" means:
 - 814 (a) biomass energy;
 - 815 (b) hydroelectric energy;
 - 816 (c) geothermal energy;
 - 817 (d) solar energy; or
 - 818 (e) wind energy.
- 819 (76) (a) "Renewable energy production facility" means a facility that:
 - 820 (i) uses renewable energy to produce electricity; and
 - 821 (ii) has a production capacity of 20 kilowatts or greater.
 - 822 (b) A facility is a renewable energy production facility regardless of whether the
 - 823 facility is:
 - 824 (i) connected to an electric grid; or
 - 825 (ii) located on the premises of an electricity consumer.
- 826 (77) "Rental" is as defined in Subsection (44).
- 827 (78) "Repairs or renovations of tangible personal property" means:
 - 828 (a) a repair or renovation of tangible personal property that is not permanently attached
 - 829 to real property; or
 - 830 (b) attaching tangible personal property to other tangible personal property if the other
 - 831 tangible personal property to which the tangible personal property is attached is not
 - 832 permanently attached to real property.
- 833 (79) "Research and development" means the process of inquiry or experimentation

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

836 (80) "Residential use" means the use in or around a home, apartment building, sleeping
837 quarters, and similar facilities or accommodations.

838 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
839 than:

840 (a) resale;

841 (b) sublease; or

842 (c) subrent.

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

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

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

851 (b) "Sale" includes:

852 (i) installment and credit sales;

853 (ii) any closed transaction constituting a sale;

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

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

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

861 (84) "Sale at retail" is as defined in Subsection (81).

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

864 (a) by a purchaser-lessee;

865 (b) to a lessor;

866 (c) for consideration; and

867 (d) if:

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

869 of the tangible personal property;

870 (ii) the sale of the tangible personal property to the lessor is intended as a form of

871 financing:

872 (A) for the property; and

873 (B) to the purchaser-lessee; and

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

875 is required to:

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

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

878 (86) "Sales price" is as defined in Subsection (72).

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

880 amounts charged by a school:

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

882 including:

883 (A) the sale of:

884 (I) textbooks;

885 (II) textbook fees;

886 (III) laboratory fees;

887 (IV) laboratory supplies; or

888 (V) safety equipment;

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

890 that:

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

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

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

894 place of ordinary clothing;

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

896 deposited into a school district fund or school fund dedicated to school meals:
897 (I) food and food ingredients; or
898 (II) prepared food; or
899 (D) transportation charges for official school activities; or
900 (ii) amounts paid to or amounts charged by a school for admission to a school-related
901 event or school-related activity.
902 (b) "Sales relating to schools" does not include:
903 (i) bookstore sales of items that are not educational materials or supplies;
904 (ii) except as provided in Subsection (87)(a)(i)(B):
905 (A) clothing;
906 (B) clothing accessories or equipment;
907 (C) protective equipment; or
908 (D) sports or recreational equipment; or
909 (iii) amounts paid to or amounts charged by a school for admission to a school-related
910 event or school-related activity if the amounts paid or charged are passed through to a person:
911 (A) other than a:
912 (I) school;
913 (II) nonprofit organization authorized by a school board or a governing body of a
914 private school to organize and direct a competitive secondary school activity; or
915 (III) nonprofit association authorized by a school board or a governing body of a
916 private school to organize and direct a competitive secondary school activity; and
917 (B) that is required to collect sales and use taxes under this chapter.
918 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
919 commission may make rules defining the term "passed through."
920 (88) For purposes of this section and Section 59-12-104, "school":
921 (a) means:
922 (i) an elementary school or a secondary school that:
923 (A) is a:
924 (I) public school; or
925 (II) private school; and
926 (B) provides instruction for one or more grades kindergarten through 12; or

- 927 (ii) a public school district; and
- 928 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 929 (89) "Seller" means a person that makes a sale, lease, or rental of:
- 930 (a) tangible personal property; or
- 931 (b) a service.
- 932 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
- 933 means tangible personal property:
- 934 (i) used primarily in the process of:
- 935 (A) (I) manufacturing a semiconductor;
- 936 (II) fabricating a semiconductor; or
- 937 (III) research or development of a:
- 938 (Aa) semiconductor; or
- 939 (Bb) semiconductor manufacturing process; or
- 940 (B) maintaining an environment suitable for a semiconductor; or
- 941 (ii) consumed primarily in the process of:
- 942 (A) (I) manufacturing a semiconductor;
- 943 (II) fabricating a semiconductor; or
- 944 (III) research or development of a:
- 945 (Aa) semiconductor; or
- 946 (Bb) semiconductor manufacturing process; or
- 947 (B) maintaining an environment suitable for a semiconductor.
- 948 (b) "Semiconductor fabricating, processing, research, or development materials"
- 949 includes:
- 950 (i) parts used in the repairs or renovations of tangible personal property described in
- 951 Subsection (90)(a); or
- 952 (ii) a chemical, catalyst, or other material used to:
- 953 (A) produce or induce in a semiconductor a:
- 954 (I) chemical change; or
- 955 (II) physical change;
- 956 (B) remove impurities from a semiconductor; or
- 957 (C) improve the marketable condition of a semiconductor.

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

960 (92) "Simplified electronic return" means the electronic return:

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

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

963 (93) "Solar energy" means the sun used as the sole source of energy for producing
964 electricity.

965 (94) (a) "Sports or recreational equipment" means an item:

966 (i) designed for human use; and

967 (ii) that is:

968 (A) worn in conjunction with:

969 (I) an athletic activity; or

970 (II) a recreational activity; and

971 (B) not suitable for general use.

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

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

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

977 (95) "State" means the state of Utah, its departments, and agencies.

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

981 (97) (a) "Tangible personal property" means personal property that:

982 (i) may be:

983 (A) seen;

984 (B) weighed;

985 (C) measured;

986 (D) felt; or

987 (E) touched; or

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

989 (b) "Tangible personal property" includes:

990 (i) electricity;

991 (ii) water;

992 (iii) gas;

993 (iv) steam; or

994 (v) prewritten computer software.

995 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon

996 and require further processing other than mechanical blending before becoming finished

997 petroleum products.

998 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or

999 software" means an item listed in Subsection (99)(b) if that item is purchased or leased

1000 primarily to enable or facilitate one or more of the following to function:

1001 (i) telecommunications switching or routing equipment, machinery, or software; or

1002 (ii) telecommunications transmission equipment, machinery, or software.

1003 (b) The following apply to Subsection (99)(a):

1004 (i) a pole;

1005 (ii) software;

1006 (iii) a supplementary power supply;

1007 (iv) temperature or environmental equipment or machinery;

1008 (v) test equipment;

1009 (vi) a tower; or

1010 (vii) equipment, machinery, or software that functions similarly to an item listed in

1011 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in

1012 accordance with Subsection (99)(c).

1013 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1014 commission may by rule define what constitutes equipment, machinery, or software that

1015 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1016 (100) "Telecommunications equipment, machinery, or software required for 911

1017 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1018 Sec. 20.18.

1019 (101) "Telecommunications maintenance or repair equipment, machinery, or software"

1020 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1021 one or more of the following, regardless of whether the equipment, machinery, or software is
1022 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1023 following:

- 1024 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1025 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1026 (c) telecommunications transmission equipment, machinery, or software.

1027 (102) (a) "Telecommunications switching or routing equipment, machinery, or
1028 software" means an item listed in Subsection (102)(b) if that item is purchased or leased
1029 primarily for switching or routing:

- 1030 (i) voice communications;
- 1031 (ii) data communications; or
- 1032 (iii) telephone service.

1033 (b) The following apply to Subsection (102)(a):

- 1034 (i) a bridge;
- 1035 (ii) a computer;
- 1036 (iii) a cross connect;
- 1037 (iv) a modem;
- 1038 (v) a multiplexer;
- 1039 (vi) plug in circuitry;
- 1040 (vii) a router;
- 1041 (viii) software;
- 1042 (ix) a switch; or

1043 (x) equipment, machinery, or software that functions similarly to an item listed in
1044 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in
1045 accordance with Subsection (102)(c).

1046 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1047 commission may by rule define what constitutes equipment, machinery, or software that
1048 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).

1049 (103) (a) "Telecommunications transmission equipment, machinery, or software"
1050 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for

- 1051 sending, receiving, or transporting:
- 1052 (i) voice communications;
- 1053 (ii) data communications; or
- 1054 (iii) telephone service.
- 1055 (b) The following apply to Subsection (103)(a):
- 1056 (i) an amplifier;
- 1057 (ii) a cable;
- 1058 (iii) a closure;
- 1059 (iv) a conduit;
- 1060 (v) a controller;
- 1061 (vi) a duplexer;
- 1062 (vii) a filter;
- 1063 (viii) an input device;
- 1064 (ix) an input/output device;
- 1065 (x) an insulator;
- 1066 (xi) microwave machinery or equipment;
- 1067 (xii) an oscillator;
- 1068 (xiii) an output device;
- 1069 (xiv) a pedestal;
- 1070 (xv) a power converter;
- 1071 (xvi) a power supply;
- 1072 (xvii) a radio channel;
- 1073 (xviii) a radio receiver;
- 1074 (xix) a radio transmitter;
- 1075 (xx) a repeater;
- 1076 (xxi) software;
- 1077 (xxii) a terminal;
- 1078 (xxiii) a timing unit;
- 1079 (xxiv) a transformer;
- 1080 (xxv) a wire; or
- 1081 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

1082 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
1083 accordance with Subsection (103)(c).

1084 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1085 commission may by rule define what constitutes equipment, machinery, or software that
1086 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).

1087 (104) (a) "Telephone service" means a two-way transmission:

1088 (i) by:

1089 (A) wire;

1090 (B) radio;

1091 (C) lightwave; or

1092 (D) other electromagnetic means; and

1093 (ii) of one or more of the following:

1094 (A) a sign;

1095 (B) a signal;

1096 (C) writing;

1097 (D) an image;

1098 (E) sound;

1099 (F) a message;

1100 (G) data; or

1101 (H) other information of any nature.

1102 (b) "Telephone service" includes:

1103 (i) mobile telecommunications service;

1104 (ii) private communications service; or

1105 (iii) automated digital telephone answering service.

1106 (c) "Telephone service" does not include a service or a transaction that a state or a
1107 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1108 Tax Freedom Act, Pub. L. No. 105-277.

1109 (105) Notwithstanding where a call is billed or paid, "telephone service address"
1110 means:

1111 (a) if the location described in this Subsection (105)(a) is known, the location of the
1112 telephone service equipment:

- 1113 (i) to which a call is charged; and
- 1114 (ii) from which the call originates or terminates;
- 1115 (b) if the location described in Subsection (105)(a) is not known but the location
- 1116 described in this Subsection (105)(b) is known, the location of the origination point of the
- 1117 signal of the telephone service first identified by:
 - 1118 (i) the telecommunications system of the seller; or
 - 1119 (ii) if the system used to transport the signal is not that of the seller, information
 - 1120 received by the seller from its service provider; or
 - 1121 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location
 - 1122 of a purchaser's primary place of use.
- 1123 (106) (a) "Telephone service provider" means a person that:
 - 1124 (i) owns, controls, operates, or manages a telephone service; and
 - 1125 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or
 - 1126 resale to any person of the telephone service.
- 1127 (b) A person described in Subsection (106)(a) is a telephone service provider whether
- 1128 or not the Public Service Commission of Utah regulates:
 - 1129 (i) that person; or
 - 1130 (ii) the telephone service that the person owns, controls, operates, or manages.
- 1131 (107) "Tobacco" means:
 - 1132 (a) a cigarette;
 - 1133 (b) a cigar;
 - 1134 (c) chewing tobacco;
 - 1135 (d) pipe tobacco; or
 - 1136 (e) any other item that contains tobacco.
- 1137 (108) "Unassisted amusement device" means an amusement device, skill device, or
- 1138 ride device that is started and stopped by the purchaser or renter of the right to use or operate
- 1139 the amusement device, skill device, or ride device.
- 1140 (109) (a) "Use" means the exercise of any right or power over tangible personal
- 1141 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
- 1142 property, item, or service.
- 1143 (b) "Use" does not include the sale, display, demonstration, or trial of that property in

1144 the regular course of business and held for resale.

1145 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are
1146 required to be titled, registered, or titled and registered:

- 1147 (i) an aircraft as defined in Section 72-10-102;
- 1148 (ii) a vehicle as defined in Section 41-1a-102;
- 1149 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1150 (iv) a vessel as defined in Section 41-1a-102.

1151 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1152 (i) a vehicle described in Subsection (110)(a); or
- 1153 (ii) (A) a locomotive;
- 1154 (B) a freight car;
- 1155 (C) railroad work equipment; or
- 1156 (D) other railroad rolling stock.

1157 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1158 exchanging a vehicle as defined in Subsection (110).

1159 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a
1160 facility that generates electricity:

- 1161 (i) using as the primary source of energy waste materials that would be placed in a
1162 landfill or refuse pit if it were not used to generate electricity, including:
 - 1163 (A) tires;
 - 1164 (B) waste coal; or
 - 1165 (C) oil shale; and
- 1166 (ii) in amounts greater than actually required for the operation of the facility.

1167 (b) "Waste energy facility" does not include a facility that incinerates:

- 1168 (i) municipal solid waste;
- 1169 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1170 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1171 (113) "Watercraft" means a vessel as defined in Section 73-18-2.

1172 (114) "Wind energy" means wind used as the sole source of energy to produce
1173 electricity.

1174 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

1175 location by the United States Postal Service.

1176 Section 2. Section **59-12-602** is amended to read:

1177 **59-12-602. Definitions.**

1178 As used in this part:

1179 (1) "Convention facility" means any publicly owned or operated convention center,
1180 sports arena, or other facility at which conventions, conferences, and other gatherings are held
1181 and whose primary business or function is to host such conventions, conferences, and other
1182 gatherings.

1183 (2) "Cultural facility" means any publicly owned or operated museum, theater, art
1184 center, music hall, or other cultural or arts facility.

1185 (3) "Eligible county" means a county:

1186 (a) within which a tax under Subsection 59-12-603(1)(a)(ii)(A) is imposed on January
1187 1, 2008, at a tax rate of 1% of all sales of prepared food or food and food ingredients sold by a
1188 restaurant; and

1189 (b) except as provided in Subsection 59-12-603(1)(c), within which a tax under
1190 Subsection 59-12-603(1)(a)(ii)(B) is imposed on January 1, 2009, at a tax rate of .07% on the
1191 transactions described in Subsection 59-12-103(1), located within the county, including
1192 transactions located within a city or town in the county.

1193 (4) "Minimum tax revenue distribution" means an amount equal to the total amount of
1194 tax revenue a county receives from a tax imposed under Subsection 59-12-603(1)(a)(ii)(A) for
1195 the calendar year beginning on January 1, 2008.

1196 [~~(3)~~] (5) "Recreation facility" or "tourist facility" means any publicly owned or
1197 operated park, campground, marina, dock, golf course, water park, historic park, monument,
1198 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1199 [~~(4)~~] (a) "~~Restaurant~~" ~~includes any coffee shop, cafeteria, luncheonette, soda fountain,~~
1200 ~~or fast-food service where food is prepared for immediate consumption.]~~

1201 [~~(b)~~] "~~Restaurant~~" ~~does not include:]~~

1202 [~~(i)~~] ~~any retail establishment whose primary business or function is the sale of fuel or~~
1203 ~~food items for off-premise, but not immediate, consumption; and]~~

1204 [~~(ii)~~] ~~a theater that sells food items, but not a dinner theater.]~~

1205 Section 3. Section **59-12-603** is amended to read:

1206 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
1207 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**
1208 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

1209 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
1210 part, impose a tax as follows:

1211 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
1212 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
1213 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
1214 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

1215 (B) beginning on or after January 1, 1999, a county legislative body of any county
1216 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
1217 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
1218 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
1219 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
1220 to a repair or an insurance agreement;

1221 (ii) (A) beginning on January 1, 2007, and ending on December 31, 2008, a county
1222 legislative body of any county may impose a tax of not to exceed 1% of all sales of the
1223 following that are sold by a restaurant:

1224 ~~(A)~~ (I) prepared food; or

1225 ~~(B)~~ (II) food and food ingredients; and

1226 (B) except as provided in Subsection (1)(c), beginning on January 1, 2009, a county
1227 legislative body of any county may impose a tax of not to exceed .07% on the transactions
1228 described in Subsection 59-12-103(1) located within the county, including transactions located
1229 within a city or town in the county; and

1230 (iii) a county legislative body of a county of the first class may impose a tax of not to
1231 exceed .5% on charges for the accommodations and services described in Subsection
1232 59-12-103(1)(i).

1233 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
1234 17-31-5.5.

1235 (c) (i) Beginning on January 1, 2009, a county legislative body may not impose a tax:

1236 (A) under this section on the sales and uses described in Section 59-12-104 to the

1237 extent the sales and uses are exempt from taxation under Section 59-12-104;
1238 (B) under this section on amounts paid or charged by a seller that collects a tax under
1239 Subsection 59-12-107(1)(b); and
1240 (C) under Subsection (1)(a)(ii)(B) on amounts paid or charged for food and food
1241 ingredients.
1242 (ii) Notwithstanding Subsection (1)(c)(i)(C), beginning on January 1, 2009, a county
1243 legislative body imposing a tax under Subsection (1)(a)(ii)(B) shall impose the tax under
1244 Subsection (1)(a)(ii)(B) on amounts paid or charged for food and food ingredients if:
1245 (A) the food and food ingredients are sold as part of a bundled transaction attributable
1246 to food and food ingredients and tangible personal property other than food and food
1247 ingredients; and
1248 (B) the seller collecting the tax is a seller other than a seller that collects a tax in
1249 accordance with Subsection 59-12-107(1)(b).
1250 (d) For purposes of this Subsection (1), the location of a transaction shall be
1251 determined in accordance with Section 59-12-207.
1252 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
1253 for in Subsections (1)(a)(i) through (iii) may be used for the purposes of:
1254 (i) financing tourism promotion; and
1255 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and
1256 convention facilities as defined in Section 59-12-602.
1257 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
1258 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
1259 marketing and ticketing system designed to:
1260 (i) promote tourism in ski areas within the county by persons that do not reside within
1261 the state; and
1262 (ii) combine the sale of:
1263 (A) ski lift tickets; and
1264 (B) accommodations and services described in Subsection 59-12-103(1)(i).
1265 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
1266 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local Government
1267 Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

1268 (4) (a) In order to impose the tax under Subsection (1), each county legislative body
1269 shall annually adopt an ordinance imposing the tax.

1270 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
1271 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
1272 those items and sales described in Subsection (1).

1273 (c) The name of the county as the taxing agency shall be substituted for that of the state
1274 where necessary, and an additional license is not required if one has been or is issued under
1275 Section 59-12-106.

1276 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
1277 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
1278 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
1279 amendments to Part 1, Tax Collection.

1280 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
1281 board in accordance with Section 17-31-8, the county legislative body of the county of the first
1282 class shall create a tax advisory board in accordance with this Subsection (6).

1283 (b) The tax advisory board shall be composed of nine members appointed as follows:

1284 (i) four members shall be appointed by the county legislative body of the county of the
1285 first class as follows:

1286 (A) one member shall be a resident of the unincorporated area of the county;

1287 (B) two members shall be residents of the incorporated area of the county; and

1288 (C) one member shall be a resident of the unincorporated or incorporated area of the
1289 county; and

1290 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
1291 towns within the county of the first class appointed by an organization representing all mayors
1292 of cities and towns within the county of the first class.

1293 (c) Five members of the tax advisory board constitute a quorum.

1294 (d) The county legislative body of the county of the first class shall determine:

1295 (i) terms of the members of the tax advisory board;

1296 (ii) procedures and requirements for removing a member of the tax advisory board;

1297 (iii) voting requirements, except that action of the tax advisory board shall be by at
1298 least a majority vote of a quorum of the tax advisory board;

1299 (iv) chairs or other officers of the tax advisory board;

1300 (v) how meetings are to be called and the frequency of meetings; and

1301 (vi) the compensation, if any, of members of the tax advisory board.

1302 (e) The tax advisory board under this Subsection (6) shall advise the county legislative

1303 body of the county of the first class on the expenditure of revenues collected within the county

1304 of the first class from the taxes described in Subsection (1)(a).

1305 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part

1306 shall be administered, collected, and enforced in accordance with:

1307 (A) the same procedures used to administer, collect, and enforce the tax under:

1308 (I) Part 1, Tax Collection; or

1309 (II) Part 2, Local Sales and Use Tax Act; and

1310 (B) Chapter 1, General Taxation Policies.

1311 (ii) ~~[A] (A) Except as provided in Subsection (7)(a)(ii)(B), a tax under this part is not~~

1312 ~~subject to Section 59-12-107.1 or Subsections 59-12-205(2) through (7).~~

1313 (B) Beginning on January 1, 2009, a tax under Subsection (1)(a)(ii)(B) is subject to

1314 Section 59-12-107.1.

1315 ~~[(b) Except as provided in Subsection (7)(c):]~~

1316 ~~[(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B);]~~

1317 (b) (i) Except as provided in Subsection (7)(b)(ii) through (iv) and subject to

1318 Subsection (7)(c), the commission shall distribute the revenues collected from the tax to the

1319 county imposing the tax[; and].

1320 (ii) ~~[for] Subject to Subsection (7)(c), for a tax under Subsection (1)(a)(i)(B), the~~

1321 ~~commission shall distribute the revenues [according to the distribution formula provided in~~

1322 ~~Subsection (8):] collected from the tax as follows:~~

1323 ~~[(c) The commission shall deduct from the distributions under Subsection (7)(b) an~~

1324 ~~administrative charge for collecting the tax as provided in Section 59-12-206.]~~

1325 ~~[(8) The commission shall distribute the revenues generated by the tax under~~

1326 ~~Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according~~

1327 ~~to the following formula:]~~

1328 ~~[(a)] (A) the commission shall distribute 70% of the revenues [based on] collected~~

1329 from the tax on the basis of the percentages generated by dividing the revenues collected by

1330 each county under Subsection (1)(a)(i)(B) by the total revenues collected by all counties under
1331 Subsection (1)(a)(i)(B); and

1332 ~~[(b)]~~ (B) subject to Subsection (7)(d), the commission shall distribute 30% of the
1333 revenues ~~based on~~ collected from the tax on the basis of the percentages generated by
1334 dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the
1335 total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

1336 (iii) (A) Subject to Subsections (7)(b)(iv) and (7)(c), for a tax under Subsection
1337 (1)(a)(ii)(B), the commission shall distribute at least the minimum tax revenue distribution to
1338 an eligible county for a calendar year beginning with the calendar year that begins on January
1339 1, 2009.

1340 (B) The commission shall proportionally reduce monthly revenue distributions to a
1341 county that, but for Subsection (7)(b)(iii)(A), would receive a distribution in excess of the
1342 minimum tax revenue distribution.

1343 (iv) Subject to Subsection (7)(c), for a tax under Subsection (1)(a)(ii)(B) imposed by a
1344 county of the first class, beginning on January 1, 2012, the commission shall distribute the
1345 revenues the county receives from the tax in accordance with Subsection (7)(b)(iii) as follows:

1346 (A) the commission shall distribute 50% of the revenues the county receives from the
1347 tax in accordance with Subsection (7)(b)(iii) to the county of the first class imposing the tax;
1348 and

1349 (B) the commission shall distribute 50% of the revenues the county receives from the
1350 tax in accordance with Subsection (7)(b)(iii) as follows:

1351 (I) the commission shall distribute 50% of the revenues to the cities and towns within
1352 the county of the first class on the basis of the percentages generated by dividing the revenues
1353 collected from the tax under Subsection (1)(a)(ii)(B) within each city and town within the
1354 county of the first class by the total revenues collected from the tax under Subsection
1355 (1)(a)(ii)(B) within all cities and towns within the county of the first class; and

1356 (II) subject to Subsection (7)(d), the commission shall distribute 50% of the revenues
1357 to the cities and towns within the county of the first class on the basis of the percentages
1358 generated by dividing the population of each city and town within the county of the first class
1359 by the total population of all cities and towns within the county of the first class.

1360 (c) (i) (A) Subject to Subsection (7)(c)(ii), the commission may retain an amount of tax

1361 collected under this part not to exceed the lesser of:

1362 (I) 1.5%; or

1363 (II) an amount equal to the cost to the commission of administering this part.

1364 (B) If the commission retains an amount under Subsection (7)(c)(i)(A), the commission

1365 shall:

1366 (I) deposit the amount in the Sales and Use Tax Administrative Fees Account; and

1367 (II) expend the amount as provided in Subsection 59-12-206(2).

1368 (ii) An amount the commission retains under Section 59-12-206 shall be based on the

1369 distribution amounts after calculating the distributions required by this Subsection (7).

1370 (d) (i) Population figures for purposes of Subsections (7)(b)(ii)(B) and (7)(b)(iv)(B)(II)

1371 shall be based on the most recent official census or census estimate of the United States Census

1372 Bureau.

1373 (ii) If a needed population estimate is not available from the United States Census

1374 Bureau, population figures for purposes of Subsections (7)(b)(ii)(B) and (7)(b)(iv)(B)(II) shall

1375 be derived from the estimate from the Utah Population Estimates Committee created by

1376 executive order of the governor.

1377 ~~[(9)]~~ (8) (a) For purposes of this Subsection ~~[(9)]~~ (8):

1378 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,

1379 Annexation to County.

1380 (ii) "Annexing area" means an area that is annexed into a county.

1381 (b) (i) Except as provided in Subsection ~~[(9)]~~ (8)(c), if, on or after July 1, 2004, a

1382 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,

1383 or change shall take effect:

1384 (A) on the first day of a calendar quarter; and

1385 (B) after a 90-day period beginning on the date the commission receives notice meeting

1386 the requirements of Subsection ~~[(9)]~~ (8)(b)(ii) from the county.

1387 (ii) The notice described in Subsection ~~[(9)]~~ (8)(b)(i)(B) shall state:

1388 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

1389 (B) the statutory authority for the tax described in Subsection ~~[(9)]~~ (8)(b)(ii)(A);

1390 (C) the effective date of the tax described in Subsection ~~[(9)]~~ (8)(b)(ii)(A); and

1391 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

1392 [~~(9)~~] (8)(b)(ii)(A), the rate of the tax.

1393 (c) (i) Notwithstanding Subsection [~~(9)~~] (8)(b)(i), for a transaction described in
1394 Subsection [~~(9)~~] (8)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
1395 first day of the first billing period:

1396 (A) that begins after the effective date of the enactment of the tax or the tax rate
1397 increase; and

1398 (B) if the billing period for the transaction begins before the effective date of the
1399 enactment of the tax or the tax rate increase imposed under Subsection (1).

1400 (ii) Notwithstanding Subsection [~~(9)~~] (8)(b)(i), for a transaction described in
1401 Subsection [~~(9)~~] (8)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
1402 day of the last billing period:

1403 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1404 and

1405 (B) if the billing period for the transaction begins before the effective date of the repeal
1406 of the tax or the tax rate decrease imposed under Subsection (1).

1407 (iii) Subsections [~~(9)~~] (8)(c)(i) and (ii) apply to transactions subject to a tax under:

1408 (A) Subsection 59-12-103(1)(e);

1409 (B) Subsection 59-12-103(1)(i); or

1410 (C) Subsection 59-12-103(1)(k).

1411 (d) (i) Except as provided in Subsection [~~(9)~~] (8)(e), if, for an annexation that occurs
1412 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
1413 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
1414 effect:

1415 (A) on the first day of a calendar quarter; and

1416 (B) after a 90-day period beginning on the date the commission receives notice meeting
1417 the requirements of Subsection [~~(9)~~] (8)(d)(ii) from the county that annexes the annexing area.

1418 (ii) The notice described in Subsection [~~(9)~~] (8)(d)(i)(B) shall state:

1419 (A) that the annexation described in Subsection [~~(9)~~] (8)(d)(i) will result in an
1420 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

1421 (B) the statutory authority for the tax described in Subsection [~~(9)~~] (8)(d)(ii)(A);

1422 (C) the effective date of the tax described in Subsection [~~(9)~~] (8)(d)(ii)(A); and

1423 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1424 [~~(9)~~] (8)(d)(ii)(A), the rate of the tax.

1425 (e) (i) Notwithstanding Subsection [~~(9)~~] (8)(d)(i), for a transaction described in
1426 Subsection [~~(9)~~] (8)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
1427 first day of the first billing period:

1428 (A) that begins after the effective date of the enactment of the tax or the tax rate
1429 increase; and

1430 (B) if the billing period for the transaction begins before the effective date of the
1431 enactment of the tax or the tax rate increase imposed under Subsection (1).

1432 (ii) Notwithstanding Subsection [~~(9)~~] (8)(d)(i), for a transaction described in
1433 Subsection [~~(9)~~] (8)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
1434 day of the last billing period:

1435 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1436 and

1437 (B) if the billing period for the transaction begins before the effective date of the repeal
1438 of the tax or the tax rate decrease imposed under Subsection (1).

1439 (iii) Subsections [~~(9)~~] (8)(e)(i) and (ii) apply to transactions subject to a tax under:

1440 (A) Subsection 59-12-103(1)(e);

1441 (B) Subsection 59-12-103(1)(i); or

1442 (C) Subsection 59-12-103(1)(k).

1443 (9) On or before November 30, 2014, and every five years after November 30, 2014,
1444 the Revenue and Taxation Interim Committee shall study the requirements of Subsection
1445 (7)(b)(iii) and determine whether the requirements of Subsection (7)(b)(iii) should be
1446 continued, modified, or repealed.

1447 Section 4. **Effective date.**

1448 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2008.

1449 (2) The amendments to Section 59-12-602 take effect on January 1, 2009.

Legislative Review Note
as of 2-8-08 12:51 PM

Office of Legislative Research and General Counsel

Fiscal Note

**S.B. 218 - Amendments to Tourism, Recreation, Cultural, and Convention
Facilities Tax**
2008 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Individuals and businesses that frequent restaurants will experience a decrease in sales tax liability of \$16 million in FY 2009 and \$33 million in FY 2010. Individuals and businesses that purchase non-food items will experience a sales tax increase of \$16 million in FY 2009 and \$33 million in FY 2010. Beginning in calendar year 2012, cities and towns within counties of the first class will experience an increase in sales tax distribution, whereas counties of the first class will experience a decrease in sales tax distribution.
