

**SALES AND USE TAX AND INCOME TAX  
AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay L. McIff**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Refundable Tax Credit Act and the Sales and Use Tax Act relating to the sales and use taxation of food and food ingredients and to enact a refundable low income tax credit.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts a refundable low income tax credit;
- ▶ provides that the tax credit is subject to apportionment for a nonresident individual or part-year resident individual;
- ▶ provides that the State Tax Commission shall make transfers from the General Fund to the Education Fund equal to the amount of the low income tax credit claimed;
- ▶ grants rulemaking authority to the State Tax Commission;
- ▶ provides that amounts paid or charged for food and food ingredients are subject to the state sales and use tax at a tax rate of 4.70% rather than 1.75%;
- ▶ provides that amounts paid or charged for food and food ingredients are subject to local sales and use taxes;
- ▶ repeals provisions relating to the sales and use taxation of a bundled transaction attributable to food and food ingredients and tangible personal property other than



- 28 food and food ingredients;
- 29       ▶ addresses whether revenue collected from amounts paid or charged for food and
- 30 food ingredients or a bundled transaction attributable to food and food ingredients
- 31 and tangible personal property other than food ingredients are subject to certain
- 32 provisions designating the state sales and use tax for particular purposes; and
- 33       ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35       None

36 **Other Special Clauses:**

37       This bill provides an effective date.

38       This bill provides for retrospective operation.

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41       **10-1-405**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 42       **11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384
- 43       **59-12-102**, as last amended by Laws of Utah 2008, Chapters 3, 28, 286, 323, 382, and
- 44 384
- 45       **59-12-103**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 5
- 46       **59-12-108**, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384
- 47       **59-12-401**, as last amended by Laws of Utah 2008, Chapter 384
- 48       **59-12-402**, as last amended by Laws of Utah 2008, Chapter 384
- 49       **59-12-501**, as last amended by Laws of Utah 2008, Chapters 7 and 384
- 50       **59-12-502**, as last amended by Laws of Utah 2008, Chapter 384
- 51       **59-12-703**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 52       **59-12-802**, as last amended by Laws of Utah 2008, Chapter 384
- 53       **59-12-804**, as last amended by Laws of Utah 2008, Chapter 384
- 54       **59-12-1001**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 55       **59-12-1302**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 56       **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 57       **59-12-1503**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 58       **59-12-1703**, as last amended by Laws of Utah 2008, Chapters 382 and 384

59           **59-12-1903**, as enacted by Laws of Utah 2008, Chapter 286

60           **59-12-2003**, as enacted by Laws of Utah 2008, Chapter 286

61           **59-12-2103**, as enacted by Laws of Utah 2008, Chapter 323

62 ENACTS:

63           **59-10-1102.1**, Utah Code Annotated 1953

64           **59-10-1108**, Utah Code Annotated 1953



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

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

68           **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**  
69 **Rulemaking authority -- Charge for services.**

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

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

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

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

77           (A) except for:

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

79           (II) Section 59-12-104;

80           (III) Section 59-12-104.1;

81           (IV) Section 59-12-104.2;

82           (V) Section 59-12-104.3;

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

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

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

88           (b) a uniform interlocal agreement:

89           (i) between:

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

91 (B) the commission;

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

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

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

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

97 (i) transmit monies collected under this part:

98 (A) monthly; and

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

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

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

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

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

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

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

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

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

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

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

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

- 121 (i) within the municipality;
- 122 (ii) at a rate of 3.5%; and
- 123 (iii) from a telecommunications provider required to pay the municipal
- 124 telecommunications license tax on or after July 1, 2007; and
- 125 (b) the commission shall collect a municipal telecommunications license tax within the
- 126 municipality at the rate imposed by the municipality if:
  - 127 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
  - 128 telecommunications license tax under this part at a rate of up to 3.5%;
  - 129 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
  - 130 the rate of the municipal telecommunications license tax; and
  - 131 (iii) a telecommunications provider is required to pay the municipal
  - 132 telecommunications license tax on or after the day on which the ordinance described in
  - 133 Subsection (4)(b)(ii) takes effect.

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

135 **11-41-102. Definitions.**

136 As used in this chapter:

- 137 (1) "Agreement" means an oral or written agreement between a:
  - 138 (a) (i) county; or
  - 139 (ii) municipality; and
  - 140 (b) person.
- 141 (2) "Municipality" means a:
  - 142 (a) city; or
  - 143 (b) town.
- 144 (3) "Payment" includes:
  - 145 (a) a payment;
  - 146 (b) a rebate;
  - 147 (c) a refund; or
  - 148 (d) an amount similar to Subsections (3)(a) through (c).
- 149 (4) "Regional retail business" means a:
  - 150 (a) retail business that occupies a floor area of more than 80,000 square feet;
  - 151 (b) dealer as defined in Section 41-1a-102;

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

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

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

157 (i) imposed on transactions within a:

158 (A) county; or

159 (B) municipality; and

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

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

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

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

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

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

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

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

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

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

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

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

174 (i) to a person;

175 (ii) by a:

176 (A) county; or

177 (B) municipality;

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

179 (A) county; or

180 (B) municipality; and

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

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

183 infrastructure.

184 Section 3. Section **59-10-1102.1** is enacted to read:

185 **59-10-1102.1. Apportionment of tax credit.**

186 A nonresident individual or a part-year resident individual that claims a tax credit in  
187 accordance with Section 59-10-1108 may only claim an apportioned amount of the tax credit  
188 equal to:

189 (1) for a nonresident individual, the product of:

190 (a) the state income tax percentage for the nonresident individual; and

191 (b) the amount of the tax credit that the nonresident individual would have been  
192 allowed to claim but for the apportionment requirements of this section; or

193 (2) for a part-year resident individual, the product of:

194 (a) the state income tax percentage for the part-year resident individual; and

195 (b) the amount of the tax credit that the part-year resident individual would have been  
196 allowed to claim but for the apportionment requirements of this section.

197 Section 4. Section **59-10-1108** is enacted to read:

198 **59-10-1108. Refundable low income tax credit -- Procedures for refund --**

199 **Transfers from General Fund to Education Fund -- Rulemaking authority.**

200 (1) As used in this section, "federal earned income tax credit" means the amount of the  
201 federal earned income tax credit a claimant claims as allowed:

202 (a) in accordance with Section 32, Internal Revenue Code;

203 (b) for the taxable year; and

204 (c) on the claimant's federal individual income tax return.

205 (2) Except as provided in Section 59-10-1102.1 and subject to Subsections (3) and (4),  
206 a claimant may claim a refundable low income tax credit equal to 6% of the federal earned  
207 income tax credit.

208 (3) For purposes of this section, if a husband and wife file a single return jointly, the  
209 husband and wife are considered to be one claimant.

210 (4) A claimant may not carry forward or carry back a tax credit provided for under this  
211 section.

212 (5) (a) In accordance with any rules prescribed by the commission under Subsection

213 (5)(b), the commission shall:

214 (i) make a refund to a claimant that claims a tax credit under this section if the amount  
215 of the tax credit exceeds the claimant's tax liability under this chapter; and

216 (ii) transfer at least annually from the General Fund into the Education Fund an amount  
217 equal to the amount of tax credit claimed under this section.

218 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
219 commission may make rules providing procedures for making:

220 (i) a refund to a claimant as required by Subsection (5)(a)(i); or

221 (ii) transfers from the General Fund into the Education Fund as required by Subsection  
222 (5)(a)(ii).

223 Section 5. Section **59-12-102** is amended to read:

224 **59-12-102. Definitions.**

225 As used in this chapter:

226 (1) "800 service" means a telecommunications service that:

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

228 (b) is typically marketed:

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

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

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

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

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

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

235 Federal Communications Commission.

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

237 (i) a subscriber purchases;

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

240 (A) prerecorded announcement; or

241 (B) live service; and

242 (iii) is typically marketed:

243 (A) under the name 900 service; or

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

245 Communications Commission.

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

247 (i) a collection service a seller of a telecommunications service provides to a  
248 subscriber; or

249 (ii) the following a subscriber sells to the subscriber's customer:

250 (A) a product; or

251 (B) a service.

252 (3) (a) "Admission or user fees" includes season passes.

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

255 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
256 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
257 Agreement after November 12, 2002.

258 (5) "Agreement combined tax rate" means the sum of the tax rates:

259 (a) listed under Subsection (6); and

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

261 (6) "Agreement sales and use tax" means a tax imposed under:

262 (a) Subsection 59-12-103(2)(a)(i)(A);

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

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

265 [~~(d) Subsection 59-12-103(2)(d)(i)(A)(I);~~]

266 [~~(e)~~] (c) Section 59-12-204;

267 [~~(f)~~] (d) Section 59-12-401;

268 [~~(g)~~] (e) Section 59-12-402;

269 [~~(h)~~] (f) Section 59-12-501;

270 [~~(i)~~] (g) Section 59-12-502;

271 [~~(j)~~] (h) Section 59-12-703;

272 [~~(k)~~] (i) Section 59-12-802;

273 [~~(l)~~] (j) Section 59-12-804;

274 [~~(m)~~] (k) Section 59-12-1001;

275 [~~(n)~~] (l) Section 59-12-1102;

276           ~~[(m)]~~ (m) Section 59-12-1302;  
277           ~~[(n)]~~ (n) Section 59-12-1402;  
278           ~~[(o)]~~ (o) Section 59-12-1503;  
279           ~~[(p)]~~ (p) Section 59-12-1703;  
280           ~~[(q)]~~ (q) Section 59-12-1802;  
281           ~~[(r)]~~ (r) Section 59-12-1903;  
282           ~~[(s)]~~ (s) Section 59-12-2003; or  
283           ~~[(t)]~~ (t) Section 59-12-2103.

284           (7) "Aircraft" is as defined in Section 72-10-102.

285           (8) "Alcoholic beverage" means a beverage that:

286           (a) is suitable for human consumption; and

287           (b) contains .5% or more alcohol by volume.

288           (9) (a) "Ancillary service" means a service associated with, or incidental to, the  
289 provision of telecommunications service.

290           (b) "Ancillary service" includes:

291           (i) a conference bridging service;

292           (ii) a detailed communications billing service;

293           (iii) directory assistance;

294           (iv) a vertical service; or

295           (v) a voice mail service.

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

297           (11) "Assisted amusement device" means an amusement device, skill device, or ride  
298 device that is started and stopped by an individual:

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

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

303           (12) "Assisted cleaning or washing of tangible personal property" means cleaning or  
304 washing of tangible personal property if the cleaning or washing labor is primarily performed  
305 by an individual:

306           (a) who is not the purchaser of the cleaning or washing of the tangible personal

307 property; and

308 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
309 property.

310 (13) "Authorized carrier" means:

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

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

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

318 (14) (a) Except as provided in Subsection (14)(b), "biomass energy" means any of the  
319 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

323 (B) animal waste;

324 (C) methane produced:

325 (I) at landfills; or

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

327 (D) aquatic plants; and

328 (E) agricultural products.

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

330 (i) black liquor;

331 (ii) treated woods; or

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

333 (A) at landfills; or

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

335 (15) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
336 property, products, or services if the tangible personal property, products, or services are:

337 (i) distinct and identifiable; and

- 338 (ii) sold for one nonitemized price.
- 339 (b) "Bundled transaction" does not include:
- 340 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 341 the basis of the selection by the purchaser of the items of tangible personal property included in
- 342 the transaction;
- 343 (ii) the sale of real property;
- 344 (iii) the sale of services to real property;
- 345 (iv) the retail sale of tangible personal property and a service if:
- 346 (A) the tangible personal property:
- 347 (I) is essential to the use of the service; and
- 348 (II) is provided exclusively in connection with the service; and
- 349 (B) the service is the true object of the transaction;
- 350 (v) the retail sale of two services if:
- 351 (A) one service is provided that is essential to the use or receipt of a second service;
- 352 (B) the first service is provided exclusively in connection with the second service; and
- 353 (C) the second service is the true object of the transaction;
- 354 (vi) a transaction that includes tangible personal property or a product subject to
- 355 taxation under this chapter and tangible personal property or a product that is not subject to
- 356 taxation under this chapter if the:
- 357 (A) seller's purchase price of the tangible personal property or product subject to
- 358 taxation under this chapter is de minimis; or
- 359 (B) seller's sales price of the tangible personal property or product subject to taxation
- 360 under this chapter is de minimis; and
- 361 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 362 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 363 (A) that retail sale includes:
- 364 (I) food and food ingredients;
- 365 (II) a drug;
- 366 (III) durable medical equipment;
- 367 (IV) mobility enhancing equipment;
- 368 (V) an over-the-counter drug;

- 369 (VI) a prosthetic device; or
- 370 (VII) a medical supply; and
- 371 (B) subject to Subsection (15)(f):
  - 372 (I) the seller's purchase price of the tangible personal property subject to taxation under
  - 373 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
  - 374 (II) the seller's sales price of the tangible personal property subject to taxation under
  - 375 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 376 (c) (i) For purposes of Subsection (15)(a) (i), tangible personal property, a product, or a
- 377 service that is distinct and identifiable does not include:
  - 378 (A) packaging that:
    - 379 (I) accompanies the sale of the tangible personal property, product, or service; and
    - 380 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
    - 381 service;
  - 382 (B) tangible personal property, a product, or a service provided free of charge with the
  - 383 purchase of another item of tangible personal property, a product, or a service; or
  - 384 (C) an item of tangible personal property, a product, or a service included in the
  - 385 definition of "purchase price."
- 386 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a
- 387 product, or a service is provided free of charge with the purchase of another item of tangible
- 388 personal property, a product, or a service if the sales price of the purchased item of tangible
- 389 personal property, product, or service does not vary depending on the inclusion of the tangible
- 390 personal property, product, or service provided free of charge.
- 391 (d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price
- 392 does not include a price that is separately identified by product on the following, regardless of
- 393 whether the following is in paper format or electronic format:
  - 394 (A) a binding sales document; or
  - 395 (B) another supporting sales-related document that is available to a purchaser.
- 396 (ii) For purposes of Subsection (15)(d)(i), a binding sales document or another
- 397 supporting sales-related document that is available to a purchaser includes:
  - 398 (A) a bill of sale;
  - 399 (B) a contract;

- 400 (C) an invoice;
- 401 (D) a lease agreement;
- 402 (E) a periodic notice of rates and services;
- 403 (F) a price list;
- 404 (G) a rate card;
- 405 (H) a receipt; or
- 406 (I) a service agreement.

407 (e) (i) For purposes of Subsection (15)(b)(vi), the sales price of tangible personal  
408 property or a product subject to taxation under this chapter is de minimis if:

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

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

413 (ii) For purposes of Subsection (15)(b)(vi), a seller:

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

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

420 (iii) For purposes of Subsection (15)(b)(vi), a seller shall use the full term of a service  
421 contract to determine if the sales price of tangible personal property or a product is de minimis.

422 (f) For purposes of Subsection (15)(b)(vii)(B), a seller may not use a combination of  
423 the seller's purchase price and the seller's sales price to determine if tangible personal property  
424 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
425 price of that retail sale.

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

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

430 (i) on a transaction; and

- 431 (ii) in the states that are members of the agreement;
- 432 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 433 member of the agreement; and
- 434 (c) maintains a record of the transaction described in Subsection (16)(a)(i).
- 435 (17) "Certified service provider" means an agent certified:
- 436 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
- 437 and
- 438 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
- 439 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
- 440 own purchases.
- 441 (18) (a) Subject to Subsection (18)(b), "clothing" means all human wearing apparel
- 442 suitable for general use.
- 443 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 444 commission shall make rules:
- 445 (i) listing the items that constitute "clothing"; and
- 446 (ii) that are consistent with the list of items that constitute "clothing" under the
- 447 agreement.
- 448 (19) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 449 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
- 450 fuels that does not constitute industrial use under Subsection (46) or residential use under
- 451 Subsection (91).
- 452 (21) (a) "Common carrier" means a person engaged in or transacting the business of
- 453 transporting passengers, freight, merchandise, or other property for hire within this state.
- 454 (b) (i) "Common carrier" does not include a person who, at the time the person is
- 455 traveling to or from that person's place of employment, transports a passenger to or from the
- 456 passenger's place of employment.
- 457 (ii) For purposes of Subsection (21)(b)(i), in accordance with Title 63G, Chapter 3,
- 458 Utah Administrative Rulemaking Act, the commission may make rules defining what
- 459 constitutes a person's place of employment.
- 460 (22) "Component part" includes:
- 461 (a) poultry, dairy, and other livestock feed, and their components;

462 (b) baling ties and twine used in the baling of hay and straw;  
463 (c) fuel used for providing temperature control of orchards and commercial  
464 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
465 off-highway type farm machinery; and

466 (d) feed, seeds, and seedlings.

467 (23) "Computer" means an electronic device that accepts information:

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

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

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

471 (24) "Computer software" means a set of coded instructions designed to cause:

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

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

474 (25) (a) "Conference bridging service" means an ancillary service that links two or  
475 more participants of an audio conference call or video conference call.

476 (b) "Conference bridging service" includes providing a telephone number as part of the  
477 ancillary service described in Subsection (25)(a).

478 (c) "Conference bridging service" does not include a telecommunications service used  
479 to reach the ancillary service described in Subsection (25)(a).

480 (26) "Construction materials" means any tangible personal property that will be  
481 converted into real property.

482 (27) "Delivered electronically" means delivered to a purchaser by means other than  
483 tangible storage media.

484 (28) (a) "Delivery charge" means a charge:

485 (i) by a seller of:

486 (A) tangible personal property;

487 (B) a product transferred electronically; or

488 (C) services; and

489 (ii) for preparation and delivery of the tangible personal property, product transferred  
490 electronically, or services described in Subsection (28)(a)(i) to a location designated by the  
491 purchaser.

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

- 493 (i) transportation;
- 494 (ii) shipping;
- 495 (iii) postage;
- 496 (iv) handling;
- 497 (v) crating; or
- 498 (vi) packing.

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

501 (30) "Dietary supplement" means a product, other than tobacco, that:

502 (a) is intended to supplement the diet;

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

504 (i) a vitamin;

505 (ii) a mineral;

506 (iii) an herb or other botanical;

507 (iv) an amino acid;

508 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
509 dietary intake; or

510 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
511 described in Subsections (30)(b)(i) through (v);

512 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:

513 (A) tablet form;

514 (B) capsule form;

515 (C) powder form;

516 (D) softgel form;

517 (E) gelcap form; or

518 (F) liquid form; or

519 (ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion in  
520 a form described in Subsections (30)(c)(i)(A) through (F), is not represented:

521 (A) as conventional food; and

522 (B) for use as a sole item of:

523 (I) a meal; or

- 524 (II) the diet; and
- 525 (d) is required to be labeled as a dietary supplement:
- 526 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 527 (ii) as required by 21 C.F.R. Sec. 101.36.
- 528 (31) (a) "Direct mail" means printed material delivered or distributed by United States
- 529 mail or other delivery service:
- 530 (i) to:
- 531 (A) a mass audience; or
- 532 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 533 (ii) if the cost of the printed material is not billed directly to the recipients.
- 534 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 535 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 536 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 537 single address.
- 538 (32) "Directory assistance" means an ancillary service of providing:
- 539 (a) address information; or
- 540 (b) telephone number information.
- 541 (33) (a) "Disposable home medical equipment or supplies" means medical equipment
- 542 or supplies that:
- 543 (i) cannot withstand repeated use; and
- 544 (ii) are purchased by, for, or on behalf of a person other than:
- 545 (A) a health care facility as defined in Section 26-21-2;
- 546 (B) a health care provider as defined in Section 78B-3-403;
- 547 (C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or
- 548 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).
- 549 (b) "Disposable home medical equipment or supplies" does not include:
- 550 (i) a drug;
- 551 (ii) durable medical equipment;
- 552 (iii) a hearing aid;
- 553 (iv) a hearing aid accessory;
- 554 (v) mobility enhancing equipment; or

- 555 (vi) tangible personal property used to correct impaired vision, including:
- 556 (A) eyeglasses; or
- 557 (B) contact lenses.
- 558 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 559 commission may by rule define what constitutes medical equipment or supplies.
- 560 (34) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 561 compound, substance, or preparation that is:
- 562 (i) recognized in:
- 563 (A) the official United States Pharmacopoeia;
- 564 (B) the official Homeopathic Pharmacopoeia of the United States;
- 565 (C) the official National Formulary; or
- 566 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);
- 567 (ii) intended for use in the:
- 568 (A) diagnosis of disease;
- 569 (B) cure of disease;
- 570 (C) mitigation of disease;
- 571 (D) treatment of disease; or
- 572 (E) prevention of disease; or
- 573 (iii) intended to affect:
- 574 (A) the structure of the body; or
- 575 (B) any function of the body.
- 576 (b) "Drug" does not include:
- 577 (i) food and food ingredients;
- 578 (ii) a dietary supplement;
- 579 (iii) an alcoholic beverage; or
- 580 (iv) a prosthetic device.
- 581 (35) (a) Except as provided in Subsection (35)(c), "durable medical equipment" means
- 582 equipment that:
- 583 (i) can withstand repeated use;
- 584 (ii) is primarily and customarily used to serve a medical purpose;
- 585 (iii) generally is not useful to a person in the absence of illness or injury; and

- 586 (iv) is not worn in or on the body.
- 587 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 588 equipment described in Subsection (35)(a).
- 589 (c) Notwithstanding Subsection (35)(a), "durable medical equipment" does not include
- 590 mobility enhancing equipment.
- 591 (36) "Electronic" means:
- 592 (a) relating to technology; and
- 593 (b) having:
- 594 (i) electrical capabilities;
- 595 (ii) digital capabilities;
- 596 (iii) magnetic capabilities;
- 597 (iv) wireless capabilities;
- 598 (v) optical capabilities;
- 599 (vi) electromagnetic capabilities; or
- 600 (vii) capabilities similar to Subsections (36)(b)(i) through (vi).
- 601 (37) "Employee" is as defined in Section 59-10-401.
- 602 (38) "Fixed guideway" means a public transit facility that uses and occupies:
- 603 (a) rail for the use of public transit; or
- 604 (b) a separate right-of-way for the use of public transit.
- 605 (39) "Fixed wireless service" means a telecommunications service that provides radio
- 606 communication between fixed points.
- 607 (40) (a) "Food and food ingredients" means substances:
- 608 (i) regardless of whether the substances are in:
- 609 (A) liquid form;
- 610 (B) concentrated form;
- 611 (C) solid form;
- 612 (D) frozen form;
- 613 (E) dried form; or
- 614 (F) dehydrated form; and
- 615 (ii) that are:
- 616 (A) sold for:

- 617 (I) ingestion by humans; or
- 618 (II) chewing by humans; and
- 619 (B) consumed for the substance's:
- 620 (I) taste; or
- 621 (II) nutritional value.
- 622 (b) "Food and food ingredients" includes an item described in Subsection (75)(b)(iii).
- 623 (c) "Food and food ingredients" does not include:
- 624 (i) an alcoholic beverage;
- 625 (ii) tobacco; or
- 626 (iii) prepared food.
- 627 (41) (a) "Fundraising sales" means sales:
- 628 (i) (A) made by a school; or
- 629 (B) made by a school student;
- 630 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 631 materials, or provide transportation; and
- 632 (iii) that are part of an officially sanctioned school activity.
- 633 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"
- 634 means a school activity:
- 635 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 636 district governing the authorization and supervision of fundraising activities;
- 637 (ii) that does not directly or indirectly compensate an individual teacher or other
- 638 educational personnel by direct payment, commissions, or payment in kind; and
- 639 (iii) the net or gross revenues from which are deposited in a dedicated account
- 640 controlled by the school or school district.
- 641 (42) "Geothermal energy" means energy contained in heat that continuously flows
- 642 outward from the earth that is used as the sole source of energy to produce electricity.
- 643 (43) "Governing board of the agreement" means the governing board of the agreement
- 644 that is:
- 645 (a) authorized to administer the agreement; and
- 646 (b) established in accordance with the agreement.
- 647 (44) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

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

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

652 (iii) the legislative branch of the state, including the House of Representatives, the  
653 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
654 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
655 Analyst;

656 (iv) the National Guard;

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

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

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

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

662 (ii) a school;

663 (iii) the State Board of Education;

664 (iv) the State Board of Regents; or

665 (v) a state institution of higher education as defined in Section 53B-3-102.

666 (45) "Hydroelectric energy" means water used as the sole source of energy to produce  
667 electricity.

668 (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
669 other fuels:

670 (a) in mining or extraction of minerals;

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

673 (i) commercial greenhouses;

674 (ii) irrigation pumps;

675 (iii) farm machinery;

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

678 (v) other farming activities;

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

682 (d) by a scrap recycler if:

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

686 (A) iron;

687 (B) steel;

688 (C) nonferrous metal;

689 (D) paper;

690 (E) glass;

691 (F) plastic;

692 (G) textile; or

693 (H) rubber; and

694 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with  
695 nonrecycled materials; or

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

698 (47) (a) Except as provided in Subsection (47)(b), "installation charge" means a charge  
699 for installing:

700 (i) tangible personal property; or

701 (ii) a product transferred electronically.

702 (b) "Installation charge" does not include a charge for repairs or renovations of:

703 (i) tangible personal property; or

704 (ii) a product transferred electronically.

705 (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
706 personal property or a product transferred electronically for:

707 (i) (A) a fixed term; or

708 (B) an indeterminate term; and

709 (ii) consideration.

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

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

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

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

720 (A) upon completion of required payments; and

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

722 (I) \$100; or

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

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

727 (d) For purposes of Subsection (48)(c)(iii), an operator is necessary for equipment to  
728 perform as designed if the operator's duties exceed the:

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

730 (ii) maintenance of tangible personal property; or

731 (iii) inspection of tangible personal property.

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

734 (50) "Local taxing jurisdiction" means a:

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

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

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

738 (51) "Manufactured home" is as defined in Section 58-56-3.

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

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

741 Industrial Classification Manual of the federal Executive Office of the President, Office of  
742 Management and Budget;

743 (b) a scrap recycler if:

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

747 (A) iron;

748 (B) steel;

749 (C) nonferrous metal;

750 (D) paper;

751 (E) glass;

752 (F) plastic;

753 (G) textile; or

754 (H) rubber; and

755 (ii) the new products under Subsection (52)(b)(i) would otherwise be made with  
756 nonrecycled materials; or

757 (c) a cogeneration facility as defined in Section 54-2-1.

758 (53) "Member of the immediate family of the producer" means a person who is related  
759 to a producer described in Subsection 59-12-104(20)(a) as a:

760 (a) child or stepchild, regardless of whether the child or stepchild is:

761 (i) an adopted child or adopted stepchild; or

762 (ii) a foster child or foster stepchild;

763 (b) grandchild or stepgrandchild;

764 (c) grandparent or stepgrandparent;

765 (d) nephew or stepnephew;

766 (e) niece or stepniece;

767 (f) parent or stepparent;

768 (g) sibling or stepsibling;

769 (h) spouse;

770 (i) person who is the spouse of a person described in Subsections (53)(a) through (g);

771 or

772 (j) person similar to a person described in Subsections (53)(a) through (i) as  
773 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
774 Administrative Rulemaking Act.

775 (54) "Mobile home" is as defined in Section 58-56-3.

776 (55) "Mobile telecommunications service" is as defined in the Mobile  
777 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

778 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of  
779 the technology used, if:

- 780 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 781 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 782 (iii) the origination point described in Subsection (56)(a)(i) and the termination point  
783 described in Subsection (56)(a)(ii) are not fixed.

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

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

788 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"  
789 means equipment that is:

- 790 (i) primarily and customarily used to provide or increase the ability to move from one  
791 place to another;
- 792 (ii) appropriate for use in a:
  - 793 (A) home; or
  - 794 (B) motor vehicle; and
- 795 (iii) not generally used by persons with normal mobility.

796 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
797 the equipment described in Subsection (57)(a).

798 (c) Notwithstanding Subsection (57)(a), "mobility enhancing equipment" does not  
799 include:

- 800 (i) a motor vehicle;
- 801 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
802 vehicle manufacturer;

803 (iii) durable medical equipment; or

804 (iv) a prosthetic device.

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

809 (59) "Model 2 seller" means a seller that:

810 (a) except as provided in Subsection (59)(b), has selected a certified automated system  
811 to perform the seller's sales tax functions for agreement sales and use taxes; and

812 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the  
813 sales tax:

814 (i) collected by the seller; and

815 (ii) to the appropriate local taxing jurisdiction.

816 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:

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

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

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

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

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

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

823 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of  
824 sellers using the same proprietary system.

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

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

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

829 (64) (a) "Other fuels" means products that burn independently to produce heat or  
830 energy.

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

833 (65) (a) "Paging service" means a telecommunications service that provides

834 transmission of a coded radio signal for the purpose of activating a specific pager.

835 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal  
836 includes a transmission by message or sound.

837 (66) "Pawnbroker" is as defined in Section 13-32a-102.

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

839 (68) (a) "Permanently attached to real property" means that for tangible personal  
840 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

857 (iii) property attached to oil, gas, or water pipelines, other than the property listed in  
858 Subsection (68)(c)(iii).

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

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

862 (A) convenience;

863 (B) stability; or

864 (C) for an obvious temporary purpose;

865 (ii) the detachment of tangible personal property from real property other than the  
866 detachment described in Subsection (68)(b)(ii);

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

871 (A) a refrigerator;

872 (B) a washer;

873 (C) a dryer;

874 (D) a stove;

875 (E) a television;

876 (F) a computer;

877 (G) a telephone; or

878 (H) tangible personal property similar to Subsections (68)(c)(iii)(A) through (G) as  
879 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
880 Administrative Rulemaking Act; or

881 (iv) the following if attached to real property, regardless of whether the attachment to  
882 real property is only through a line that supplies water, electricity, gas, telephone, cable, or  
883 supplies a similar item as determined by the commission by rule made in accordance with Title  
884 63G, Chapter 3, Utah Administrative Rulemaking Act:

885 (A) a hot water heater;

886 (B) a water softener system; or

887 (C) a water filtration system.

888 (69) "Person" includes any individual, firm, partnership, joint venture, association,  
889 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
890 municipality, district, or other local governmental entity of the state, or any group or  
891 combination acting as a unit.

892 (70) "Place of primary use":

893 (a) for telecommunications service other than mobile telecommunications service,  
894 means the street address representative of where the purchaser's use of the telecommunications  
895 service primarily occurs, which shall be:

- 896 (i) the residential street address of the purchaser; or
- 897 (ii) the primary business street address of the purchaser; or
- 898 (b) for mobile telecommunications service, is as defined in the Mobile
- 899 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 900 (71) (a) "Postpaid calling service" means a telecommunications service a person
- 901 obtains by making a payment on a call-by-call basis:
- 902 (i) through the use of a:
- 903 (A) bank card;
- 904 (B) credit card;
- 905 (C) debit card; or
- 906 (D) travel card; or
- 907 (ii) by a charge made to a telephone number that is not associated with the origination
- 908 or termination of the telecommunications service.
- 909 (b) "Postpaid calling service" includes a service that would be a prepaid wireless
- 910 calling service if the service were exclusively a telecommunications service.
- 911 (72) "Postproduction" means an activity related to the finishing or duplication of a
- 912 medium described in Subsection 59-12-104 (55)(a).
- 913 (73) "Prepaid calling service" means a telecommunications service:
- 914 (a) that allows a purchaser access to telecommunications service that is exclusively
- 915 telecommunications service;
- 916 (b) that:
- 917 (i) is paid for in advance; and
- 918 (ii) enables the origination of a call using an:
- 919 (A) access number; or
- 920 (B) authorization code;
- 921 (c) that is dialed:
- 922 (i) manually; or
- 923 (ii) electronically; and
- 924 (d) sold in predetermined units or dollars that decline:
- 925 (i) by a known amount; and
- 926 (ii) with use.

- 927 (74) "Prepaid wireless calling service" means a telecommunications service:  
928 (a) that provides the right to utilize:  
929 (i) mobile wireless service; and  
930 (ii) other service that is not a telecommunications service, including:  
931 (A) the download of a product transferred electronically;  
932 (B) a content service; or  
933 (C) an ancillary service;  
934 (b) that:  
935 (i) is paid for in advance; and  
936 (ii) enables the origination of a call using an:  
937 (A) access number; or  
938 (B) authorization code;  
939 (c) that is dialed:  
940 (i) manually; or  
941 (ii) electronically; and  
942 (d) sold in predetermined units or dollars that decline:  
943 (i) by a known amount; and  
944 (ii) with use.  
945 (75) (a) "Prepared food" means:  
946 (i) food:  
947 (A) sold in a heated state; or  
948 (B) heated by a seller;  
949 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
950 item; or  
951 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil provided  
952 by the seller, including a:  
953 (A) plate;  
954 (B) knife;  
955 (C) fork;  
956 (D) spoon;  
957 (E) glass;

- 958 (F) cup;
- 959 (G) napkin; or
- 960 (H) straw.
- 961 (b) "Prepared food" does not include:
- 962 (i) food that a seller only:
- 963 (A) cuts;
- 964 (B) repackages; or
- 965 (C) pasteurizes; or
- 966 (ii) (A) the following:
- 967 (I) raw egg;
- 968 (II) raw fish;
- 969 (III) raw meat;
- 970 (IV) raw poultry; or
- 971 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);
- 972 and
- 973 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 974 Food and Drug Administration's Food Code that a consumer cook the items described in
- 975 Subsection (75)(b)(ii)(A) to prevent food borne illness; or
- 976 (iii) the following if sold without eating utensils provided by the seller:
- 977 (A) food and food ingredients sold by a seller if the seller's proper primary
- 978 classification under the 2002 North American Industry Classification System of the federal
- 979 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 980 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 981 Manufacturing;
- 982 (B) food and food ingredients sold in an unheated state:
- 983 (I) by weight or volume; and
- 984 (II) as a single item; or
- 985 (C) a bakery item, including:
- 986 (I) a bagel;
- 987 (II) a bar;
- 988 (III) a biscuit;

- 989 (IV) bread;
- 990 (V) a bun;
- 991 (VI) a cake;
- 992 (VII) a cookie;
- 993 (VIII) a croissant;
- 994 (IX) a danish;
- 995 (X) a donut;
- 996 (XI) a muffin;
- 997 (XII) a pastry;
- 998 (XIII) a pie;
- 999 (XIV) a roll;
- 1000 (XV) a tart;
- 1001 (XVI) a torte; or
- 1002 (XVII) a tortilla.
- 1003 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller
- 1004 does not include the following used to transport the food:
  - 1005 (i) a container; or
  - 1006 (ii) packaging.
- 1007 (76) "Prescription" means an order, formula, or recipe that is issued:
  - 1008 (a) (i) orally;
  - 1009 (ii) in writing;
  - 1010 (iii) electronically; or
  - 1011 (iv) by any other manner of transmission; and
  - 1012 (b) by a licensed practitioner authorized by the laws of a state.
- 1013 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer
- 1014 software" means computer software that is not designed and developed:
  - 1015 (i) by the author or other creator of the computer software; and
  - 1016 (ii) to the specifications of a specific purchaser.
  - 1017 (b) "Prewritten computer software" includes:
    - 1018 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
    - 1019 software is not designed and developed:

- 1020 (A) by the author or other creator of the computer software; and
- 1021 (B) to the specifications of a specific purchaser;
- 1022 (ii) notwithstanding Subsection (77)(a), computer software designed and developed by
- 1023 the author or other creator of the computer software to the specifications of a specific purchaser
- 1024 if the computer software is sold to a person other than the purchaser; or
- 1025 (iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c),
- 1026 prewritten computer software or a prewritten portion of prewritten computer software:
- 1027 (A) that is modified or enhanced to any degree; and
- 1028 (B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is
- 1029 designed and developed to the specifications of a specific purchaser.
- 1030 (c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not
- 1031 include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for
- 1032 the modification or enhancement are:
- 1033 (i) reasonable; and
- 1034 (ii) separately stated on the invoice or other statement of price provided to the
- 1035 purchaser.
- 1036 (78) (a) "Private communication service" means a telecommunications service:
- 1037 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1038 channels between or among termination points; and
- 1039 (ii) regardless of the manner in which the one or more communications channels are
- 1040 connected.
- 1041 (b) "Private communications service" includes the following provided in connection
- 1042 with the use of one or more communications channels:
- 1043 (i) an extension line;
- 1044 (ii) a station; or
- 1045 (iii) switching capacity.
- 1046 (79) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1047 (i) artificially replace a missing portion of the body;
- 1048 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1049 (iii) support a weak or deformed portion of the body.
- 1050 (b) "Prosthetic device" includes:

- 1051 (i) parts used in the repairs or renovation of a prosthetic device;
- 1052 (ii) replacement parts for a prosthetic device;
- 1053 (iii) a dental prosthesis; or
- 1054 (iv) a hearing aid.
- 1055 (c) "Prosthetic device" does not include:
- 1056 (i) corrective eyeglasses; or
- 1057 (ii) contact lenses.
- 1058 (80) (a) "Protective equipment" means an item:
- 1059 (i) for human wear; and
- 1060 (ii) that is:
- 1061 (A) designed as protection:
- 1062 (I) to the wearer against injury or disease; or
- 1063 (II) against damage or injury of other persons or property; and
- 1064 (B) not suitable for general use.
- 1065 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1066 commission shall make rules:
- 1067 (i) listing the items that constitute "protective equipment"; and
- 1068 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1069 under the agreement.
- 1070 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1071 printed matter, other than a photocopy:
- 1072 (i) regardless of:
- 1073 (A) characteristics;
- 1074 (B) copyright;
- 1075 (C) form;
- 1076 (D) format;
- 1077 (E) method of reproduction; or
- 1078 (F) source; and
- 1079 (ii) made available in printed or electronic format.
- 1080 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1081 commission may by rule define the term "photocopy."

1082 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:  
1083 (i) valued in money; and  
1084 (ii) for which tangible personal property, a product transferred electronically, or  
1085 services are:  
1086 (A) sold;  
1087 (B) leased; or  
1088 (C) rented.  
1089 (b) "Purchase price" and "sales price" include:  
1090 (i) the seller's cost of the tangible personal property, a product transferred  
1091 electronically, or services sold;  
1092 (ii) expenses of the seller, including:  
1093 (A) the cost of materials used;  
1094 (B) a labor cost;  
1095 (C) a service cost;  
1096 (D) interest;  
1097 (E) a loss;  
1098 (F) the cost of transportation to the seller; or  
1099 (G) a tax imposed on the seller;  
1100 (iii) a charge by the seller for any service necessary to complete the sale; or  
1101 (iv) consideration a seller receives from a person other than the purchaser if:  
1102 (A) (I) the seller actually receives consideration from a person other than the purchaser;  
1103 and  
1104 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a  
1105 price reduction or discount on the sale;  
1106 (B) the seller has an obligation to pass the price reduction or discount through to the  
1107 purchaser;  
1108 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1109 the seller at the time of the sale to the purchaser; and  
1110 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1111 seller to claim a price reduction or discount; and  
1112 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1113 coupon, or other documentation with the understanding that the person other than the seller  
1114 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1115 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1116 organization allowed a price reduction or discount, except that a preferred customer card that is  
1117 available to any patron of a seller does not constitute membership in a group or organization  
1118 allowed a price reduction or discount; or

1119 (III) the price reduction or discount is identified as a third party price reduction or  
1120 discount on the:

1121 (Aa) invoice the purchaser receives; or

1122 (Bb) certificate, coupon, or other documentation the purchaser presents.

1123 (c) "Purchase price" and "sales price" do not include:

1124 (i) a discount:

1125 (A) in a form including:

1126 (I) cash;

1127 (II) term; or

1128 (III) coupon;

1129 (B) that is allowed by a seller;

1130 (C) taken by a purchaser on a sale; and

1131 (D) that is not reimbursed by a third party; or

1132 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1133 provided to the purchaser:

1134 (A) the following from credit extended on the sale of tangible personal property or  
1135 services:

1136 (I) a carrying charge;

1137 (II) a financing charge; or

1138 (III) an interest charge;

1139 (B) a delivery charge;

1140 (C) an installation charge;

1141 (D) a manufacturer rebate on a motor vehicle; or

1142 (E) a tax or fee legally imposed directly on the consumer.

1143 (83) "Purchaser" means a person to whom:

- 1144 (a) a sale of tangible personal property is made;
- 1145 (b) a product is transferred electronically; or
- 1146 (c) a service is furnished.
- 1147 (84) "Regularly rented" means:
- 1148 (a) rented to a guest for value three or more times during a calendar year; or
- 1149 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1150 value.
- 1151 (85) "Renewable energy" means:
- 1152 (a) biomass energy;
- 1153 (b) hydroelectric energy;
- 1154 (c) geothermal energy;
- 1155 (d) solar energy; or
- 1156 (e) wind energy.
- 1157 (86) (a) "Renewable energy production facility" means a facility that:
- 1158 (i) uses renewable energy to produce electricity; and
- 1159 (ii) has a production capacity of 20 kilowatts or greater.
- 1160 (b) A facility is a renewable energy production facility regardless of whether the
- 1161 facility is:
- 1162 (i) connected to an electric grid; or
- 1163 (ii) located on the premises of an electricity consumer.
- 1164 (87) "Rental" is as defined in Subsection (48).
- 1165 (88) "Repairs or renovations of tangible personal property" means:
- 1166 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1167 to real property; or
- 1168 (b) attaching tangible personal property or a product that is transferred electronically to
- 1169 other tangible personal property if the other tangible personal property to which the tangible
- 1170 personal property or product that is transferred electronically is attached is not permanently
- 1171 attached to real property.
- 1172 (89) "Research and development" means the process of inquiry or experimentation
- 1173 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1174 preparing those devices, technologies, or applications for marketing.

1175 (90) (a) "Residential telecommunications services" means a telecommunications  
1176 service or an ancillary service that is provided to an individual for personal use:

1177 (i) at a residential address; or

1178 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1179 service or ancillary service is provided to and paid for by the individual residing at the  
1180 institution rather than the institution.

1181 (b) For purposes of Subsection (90)(a), a residential address includes an:

1182 (i) apartment; or

1183 (ii) other individual dwelling unit.

1184 (91) "Residential use" means the use in or around a home, apartment building, sleeping  
1185 quarters, and similar facilities or accommodations.

1186 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1187 than:

1188 (a) resale;

1189 (b) sublease; or

1190 (c) subrent.

1191 (93) (a) "Retailer" means any person engaged in a regularly organized business in  
1192 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1193 who is selling to the user or consumer and not for resale.

1194 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1195 engaged in the business of selling to users or consumers within the state.

1196 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1197 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1198 Subsection 59-12-103(1), for consideration.

1199 (b) "Sale" includes:

1200 (i) installment and credit sales;

1201 (ii) any closed transaction constituting a sale;

1202 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1203 chapter;

1204 (iv) any transaction if the possession of property is transferred but the seller retains the  
1205 title as security for the payment of the price; and

1206 (v) any transaction under which right to possession, operation, or use of any article of  
1207 tangible personal property is granted under a lease or contract and the transfer of possession  
1208 would be taxable if an outright sale were made.

1209 (95) "Sale at retail" is as defined in Subsection (92).

1210 (96) "Sale-leaseback transaction" means a transaction by which title to tangible  
1211 personal property or a product transferred electronically that is subject to a tax under this  
1212 chapter is transferred:

1213 (a) by a purchaser-lessee;

1214 (b) to a lessor;

1215 (c) for consideration; and

1216 (d) if:

1217 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1218 of the tangible personal property or product transferred electronically;

1219 (ii) the sale of the tangible personal property or product transferred electronically to the  
1220 lessor is intended as a form of financing:

1221 (A) for the tangible personal property or product transferred electronically; and

1222 (B) to the purchaser-lessee; and

1223 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1224 is required to:

1225 (A) capitalize the tangible personal property or product transferred electronically for  
1226 financial reporting purposes; and

1227 (B) account for the lease payments as payments made under a financing arrangement.

1228 (97) "Sales price" is as defined in Subsection (82).

1229 (98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1230 amounts charged by a school:

1231 (i) sales that are directly related to the school's educational functions or activities

1232 including:

1233 (A) the sale of:

1234 (I) textbooks;

1235 (II) textbook fees;

1236 (III) laboratory fees;

- 1237 (IV) laboratory supplies; or
- 1238 (V) safety equipment;
- 1239 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1240 that:
- 1241 (I) a student is specifically required to wear as a condition of participation in a
- 1242 school-related event or school-related activity; and
- 1243 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1244 place of ordinary clothing;
- 1245 (C) sales of the following if the net or gross revenues generated by the sales are
- 1246 deposited into a school district fund or school fund dedicated to school meals:
- 1247 (I) food and food ingredients; or
- 1248 (II) prepared food; or
- 1249 (D) transportation charges for official school activities; or
- 1250 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1251 event or school-related activity.
- 1252 (b) "Sales relating to schools" does not include:
- 1253 (i) bookstore sales of items that are not educational materials or supplies;
- 1254 (ii) except as provided in Subsection (98)(a)(i)(B):
- 1255 (A) clothing;
- 1256 (B) clothing accessories or equipment;
- 1257 (C) protective equipment; or
- 1258 (D) sports or recreational equipment; or
- 1259 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1260 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1261 (A) other than a:
- 1262 (I) school;
- 1263 (II) nonprofit organization authorized by a school board or a governing body of a
- 1264 private school to organize and direct a competitive secondary school activity; or
- 1265 (III) nonprofit association authorized by a school board or a governing body of a
- 1266 private school to organize and direct a competitive secondary school activity; and
- 1267 (B) that is required to collect sales and use taxes under this chapter.

1268 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1269 commission may make rules defining the term "passed through."

1270 (99) For purposes of this section and Section 59-12-104, "school":

1271 (a) means:

1272 (i) an elementary school or a secondary school that:

1273 (A) is a:

1274 (I) public school; or

1275 (II) private school; and

1276 (B) provides instruction for one or more grades kindergarten through 12; or

1277 (ii) a public school district; and

1278 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1279 (100) "Seller" means a person that makes a sale, lease, or rental of:

1280 (a) tangible personal property;

1281 (b) a product transferred electronically; or

1282 (c) a service.

1283 (101) (a) "Semiconductor fabricating, processing, research, or development materials"  
1284 means tangible personal property or a product transferred electronically if the tangible personal  
1285 property or product transferred electronically is:

1286 (i) used primarily in the process of:

1287 (A) (I) manufacturing a semiconductor;

1288 (II) fabricating a semiconductor; or

1289 (III) research or development of a:

1290 (Aa) semiconductor; or

1291 (Bb) semiconductor manufacturing process; or

1292 (B) maintaining an environment suitable for a semiconductor; or

1293 (ii) consumed primarily in the process of:

1294 (A) (I) manufacturing a semiconductor;

1295 (II) fabricating a semiconductor; or

1296 (III) research or development of a:

1297 (Aa) semiconductor; or

1298 (Bb) semiconductor manufacturing process; or

- 1299 (B) maintaining an environment suitable for a semiconductor.
- 1300 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1301 includes:
- 1302 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1303 transferred electronically described in Subsection (101)(a); or
- 1304 (ii) a chemical, catalyst, or other material used to:
- 1305 (A) produce or induce in a semiconductor a:
- 1306 (I) chemical change; or
- 1307 (II) physical change;
- 1308 (B) remove impurities from a semiconductor; or
- 1309 (C) improve the marketable condition of a semiconductor.
- 1310 (102) "Senior citizen center" means a facility having the primary purpose of providing
- 1311 services to the aged as defined in Section 62A-3-101.
- 1312 (103) "Simplified electronic return" means the electronic return:
- 1313 (a) described in Section 318(C) of the agreement; and
- 1314 (b) approved by the governing board of the agreement.
- 1315 (104) "Solar energy" means the sun used as the sole source of energy for producing
- 1316 electricity.
- 1317 (105) (a) "Sports or recreational equipment" means an item:
- 1318 (i) designed for human use; and
- 1319 (ii) that is:
- 1320 (A) worn in conjunction with:
- 1321 (I) an athletic activity; or
- 1322 (II) a recreational activity; and
- 1323 (B) not suitable for general use.
- 1324 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1325 commission shall make rules:
- 1326 (i) listing the items that constitute "sports or recreational equipment"; and
- 1327 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1328 equipment" under the agreement.
- 1329 (106) "State" means the state of Utah, its departments, and agencies.

1330 (107) "Storage" means any keeping or retention of tangible personal property or any  
1331 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1332 sale in the regular course of business.

1333 (108) (a) Except as provided in Subsection (108)(c), "tangible personal property"  
1334 means personal property that:

1335 (i) may be:

1336 (A) seen;

1337 (B) weighed;

1338 (C) measured;

1339 (D) felt; or

1340 (E) touched; or

1341 (ii) is in any manner perceptible to the senses.

1342 (b) "Tangible personal property" includes:

1343 (i) electricity;

1344 (ii) water;

1345 (iii) gas;

1346 (iv) steam; or

1347 (v) prewritten computer software.

1348 (c) "Tangible personal property" does not include a product that is transferred  
1349 electronically.

1350 (d) "Tangible personal property" does not include the following if attached to real  
1351 property, regardless of whether the attachment to real property is only through a line that  
1352 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1353 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1354 Rulemaking Act:

1355 (i) a hot water heater;

1356 (ii) a water softener system; or

1357 (iii) a water filtration system.

1358 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
1359 and require further processing other than mechanical blending before becoming finished  
1360 petroleum products.

1361 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1362 software" means an item listed in Subsection (110)(b) if that item is purchased or leased  
1363 primarily to enable or facilitate one or more of the following to function:

1364 (i) telecommunications switching or routing equipment, machinery, or software; or

1365 (ii) telecommunications transmission equipment, machinery, or software.

1366 (b) The following apply to Subsection (110)(a):

1367 (i) a pole;

1368 (ii) software;

1369 (iii) a supplementary power supply;

1370 (iv) temperature or environmental equipment or machinery;

1371 (v) test equipment;

1372 (vi) a tower; or

1373 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1374 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in  
1375 accordance with Subsection (110)(c).

1376 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1377 commission may by rule define what constitutes equipment, machinery, or software that  
1378 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1379 (111) "Telecommunications equipment, machinery, or software required for 911  
1380 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1381 Sec. 20.18.

1382 (112) "Telecommunications maintenance or repair equipment, machinery, or software"  
1383 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1384 one or more of the following, regardless of whether the equipment, machinery, or software is  
1385 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1386 following:

1387 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1388 (b) telecommunications switching or routing equipment, machinery, or software; or

1389 (c) telecommunications transmission equipment, machinery, or software.

1390 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1391 transmission of audio, data, video, voice, or any other information or signal to a point, or

1392 among or between points.

1393 (b) "Telecommunications service" includes:

1394 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1395 processing application is used to act:

1396 (A) on the code, form, or protocol of the content;

1397 (B) for the purpose of electronic conveyance, routing, or transmission; and

1398 (C) regardless of whether the service:

1399 (I) is referred to as voice over Internet protocol service; or

1400 (II) is classified by the Federal Communications Commission as enhanced or value  
1401 added;

1402 (ii) an 800 service;

1403 (iii) a 900 service;

1404 (iv) a fixed wireless service;

1405 (v) a mobile wireless service;

1406 (vi) a postpaid calling service;

1407 (vii) a prepaid calling service;

1408 (viii) a prepaid wireless calling service; or

1409 (ix) a private communications service.

1410 (c) "Telecommunications service" does not include:

1411 (i) advertising, including directory advertising;

1412 (ii) an ancillary service;

1413 (iii) a billing and collection service provided to a third party;

1414 (iv) a data processing and information service if:

1415 (A) the data processing and information service allows data to be:

1416 (I) (Aa) acquired;

1417 (Bb) generated;

1418 (Cc) processed;

1419 (Dd) retrieved; or

1420 (Ee) stored; and

1421 (II) delivered by an electronic transmission to a purchaser; and

1422 (B) the purchaser's primary purpose for the underlying transaction is the processed data

1423 or information;

1424 (v) installation or maintenance of the following on a customer's premises:

1425 (A) equipment; or

1426 (B) wiring;

1427 (vi) Internet access service;

1428 (vii) a paging service;

1429 (viii) a product transferred electronically, including:

1430 (A) music;

1431 (B) reading material;

1432 (C) a ring tone;

1433 (D) software; or

1434 (E) video;

1435 (ix) a radio and television audio and video programming service:

1436 (A) regardless of the medium; and

1437 (B) including:

1438 (I) furnishing conveyance, routing, or transmission of a television audio and video

1439 programming service by a programming service provider;

1440 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1441 (III) audio and video programming services delivered by a commercial mobile radio

1442 service provider as defined in 47 C.F.R. Sec. 20.3;

1443 (x) a value-added nonvoice data service; or

1444 (xi) tangible personal property.

1445 (114) (a) " Telecommunications service provider" means a person that:

1446 (i) owns, controls, operates, or manages a telecommunications service; and

1447 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with or

1448 resale to any person of the telecommunications service.

1449 (b) A person described in Subsection (114)(a) is a telecommunications service provider

1450 whether or not the Public Service Commission of Utah regulates:

1451 (i) that person; or

1452 (ii) the telecommunications service that the person owns, controls, operates, or

1453 manages.

1454 (115) (a) "Telecommunications switching or routing equipment, machinery, or  
1455 software" means an item listed in Subsection (115)(b) if that item is purchased or leased  
1456 primarily for switching or routing:

- 1457 (i) an ancillary service;
- 1458 (ii) data communications;
- 1459 (iii) voice communications; or
- 1460 (iv) telecommunications service.

1461 (b) The following apply to Subsection (115)(a):

- 1462 (i) a bridge;
- 1463 (ii) a computer;
- 1464 (iii) a cross connect;
- 1465 (iv) a modem;
- 1466 (v) a multiplexer;
- 1467 (vi) plug in circuitry;
- 1468 (vii) a router;
- 1469 (viii) software;
- 1470 (ix) a switch; or
- 1471 (x) equipment, machinery, or software that functions similarly to an item listed in  
1472 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in  
1473 accordance with Subsection (115)(c).

1474 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1475 commission may by rule define what constitutes equipment, machinery, or software that  
1476 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1477 (116) (a) "Telecommunications transmission equipment, machinery, or software"  
1478 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for  
1479 sending, receiving, or transporting:

- 1480 (i) an ancillary service;
- 1481 (ii) data communications;
- 1482 (iii) voice communications; or
- 1483 (iv) telecommunications service.

1484 (b) The following apply to Subsection (116)(a):

- 1485 (i) an amplifier;
- 1486 (ii) a cable;
- 1487 (iii) a closure;
- 1488 (iv) a conduit;
- 1489 (v) a controller;
- 1490 (vi) a duplexer;
- 1491 (vii) a filter;
- 1492 (viii) an input device;
- 1493 (ix) an input/output device;
- 1494 (x) an insulator;
- 1495 (xi) microwave machinery or equipment;
- 1496 (xii) an oscillator;
- 1497 (xiii) an output device;
- 1498 (xiv) a pedestal;
- 1499 (xv) a power converter;
- 1500 (xvi) a power supply;
- 1501 (xvii) a radio channel;
- 1502 (xviii) a radio receiver;
- 1503 (xix) a radio transmitter;
- 1504 (xx) a repeater;
- 1505 (xxi) software;
- 1506 (xxii) a terminal;
- 1507 (xxiii) a timing unit;
- 1508 (xxiv) a transformer;
- 1509 (xxv) a wire; or
- 1510 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1511 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in
- 1512 accordance with Subsection (116)(c).

1513 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1514 commission may by rule define what constitutes equipment, machinery, or software that  
1515 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).

1516 (117) "Tobacco" means:

1517 (a) a cigarette;

1518 (b) a cigar;

1519 (c) chewing tobacco;

1520 (d) pipe tobacco; or

1521 (e) any other item that contains tobacco.

1522 (118) "Unassisted amusement device" means an amusement device, skill device, or  
1523 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1524 the amusement device, skill device, or ride device.

1525 (119) (a) "Use" means the exercise of any right or power over tangible personal  
1526 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1527 incident to the ownership or the leasing of that tangible personal property, product transferred  
1528 electronically, or service.

1529 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1530 property, a product transferred electronically, or a service in the regular course of business and  
1531 held for resale.

1532 (120) "Value-added nonvoice data service" means a service:

1533 (a) that otherwise meets the definition of a telecommunications service except that a  
1534 computer processing application is used to act primarily for a purpose other than conveyance,  
1535 routing, or transmission; and

1536 (b) with respect to which a computer processing application is used to act on data or  
1537 information:

1538 (i) code;

1539 (ii) content;

1540 (iii) form; or

1541 (iv) protocol.

1542 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are  
1543 required to be titled, registered, or titled and registered:

1544 (i) an aircraft as defined in Section 72-10-102;

1545 (ii) a vehicle as defined in Section 41-1a-102;

1546 (iii) an off-highway vehicle as defined in Section 41-22-2; or

- 1547 (iv) a vessel as defined in Section 41-1a-102.
- 1548 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1549 (i) a vehicle described in Subsection (121)(a); or
- 1550 (ii) (A) a locomotive;
- 1551 (B) a freight car;
- 1552 (C) railroad work equipment; or
- 1553 (D) other railroad rolling stock.
- 1554 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1555 exchanging a vehicle as defined in Subsection (121).
- 1556 (123) (a) "Vertical service" means an ancillary service that:
- 1557 (i) is offered in connection with one or more telecommunications services; and
- 1558 (ii) offers an advanced calling feature that allows a customer to:
- 1559 (A) identify a caller; and
- 1560 (B) manage multiple calls and call connections.
- 1561 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1562 conference bridging service.
- 1563 (124) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1564 receive, send, or store a recorded message.
- 1565 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1566 to have in order to utilize a voice mail service.
- 1567 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a
- 1568 facility that generates electricity:
- 1569 (i) using as the primary source of energy waste materials that would be placed in a
- 1570 landfill or refuse pit if it were not used to generate electricity, including:
- 1571 (A) tires;
- 1572 (B) waste coal; or
- 1573 (C) oil shale; and
- 1574 (ii) in amounts greater than actually required for the operation of the facility.
- 1575 (b) "Waste energy facility" does not include a facility that incinerates:
- 1576 (i) municipal solid waste;
- 1577 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1578 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1579 (126) "Watercraft" means a vessel as defined in Section 73-18-2.

1580 (127) "Wind energy" means wind used as the sole source of energy to produce  
1581 electricity.

1582 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1583 location by the United States Postal Service.

1584 Section 6. Section **59-12-103** is amended to read:

1585 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
1586 **tax revenues.**

1587 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1588 charged for the following transactions:

1589 (a) retail sales of tangible personal property made within the state;

1590 (b) amounts paid for:

1591 (i) telecommunications service, other than mobile telecommunications service, that  
1592 originates and terminates within the boundaries of this state;

1593 (ii) mobile telecommunications service that originates and terminates within the  
1594 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
1595 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1596 (iii) an ancillary service associated with a:

1597 (A) telecommunications service described in Subsection (1)(b)(i); or

1598 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1599 (c) sales of the following for commercial use:

1600 (i) gas;

1601 (ii) electricity;

1602 (iii) heat;

1603 (iv) coal;

1604 (v) fuel oil; or

1605 (vi) other fuels;

1606 (d) sales of the following for residential use:

1607 (i) gas;

1608 (ii) electricity;

- 1609 (iii) heat;
- 1610 (iv) coal;
- 1611 (v) fuel oil; or
- 1612 (vi) other fuels;
- 1613 (e) sales of prepared food;
- 1614 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1615 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1616 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1617 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1618 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1619 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1620 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1621 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1622 exhibition, cultural, or athletic activity;
- 1623 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1624 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1625 (i) the tangible personal property; and
- 1626 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1627 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 1628 of that tangible personal property;
- 1629 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1630 assisted cleaning or washing of tangible personal property;
- 1631 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1632 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1633 (j) amounts paid or charged for laundry or dry cleaning services;
- 1634 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 1635 this state the tangible personal property is:
- 1636 (i) stored;
- 1637 (ii) used; or
- 1638 (iii) otherwise consumed;
- 1639 (l) amounts paid or charged for tangible personal property if within this state the

1640 tangible personal property is:

1641 (i) stored;

1642 (ii) used; or

1643 (iii) consumed;

1644 (m) amounts paid or charged for prepaid telephone calling cards; and

1645 (n) amounts paid or charged for a sale:

1646 (i) (A) of a product that:

1647 (I) is transferred electronically; and

1648 (II) would be subject to a tax under this chapter if the product was transferred in a

1649 manner other than electronically; or

1650 (B) of a repair or renovation of a product that:

1651 (I) is transferred electronically; and

1652 (II) would be subject to a tax under this chapter if the product was transferred in a

1653 manner other than electronically; and

1654 (ii) regardless of whether the sale provides:

1655 (A) a right of permanent use of the product; or

1656 (B) a right to use the product that is less than a permanent use, including a right:

1657 (I) for a definite or specified length of time; and

1658 (II) that terminates upon the occurrence of a condition.

1659 (2) (a) Except as provided in [~~Subsections~~] Subsection (2)(b) [~~through (e)~~] and subject

1660 to Subsection (2)(c), a state tax and a local tax is imposed on a transaction described in

1661 Subsection (1) equal to the sum of:

1662 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1663 (A) 4.70%; and

1664 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

1665 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1666 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

1667 State Sales and Use Tax Act; and

1668 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

1669 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

1670 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

1671 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1672 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1673 transaction under this chapter other than this part.

1674 (b) Except as provided in Subsection (2)(d) [~~or (e)~~], a state tax and a local tax is  
1675 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1676 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1677 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1678 transaction under this chapter other than this part.

1679 [~~(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is  
1680 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

1681 [~~(i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
1682 a tax rate of 1.75%; and]~~

1683 [~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1684 amounts paid or charged for food and food ingredients under this chapter other than this part:]~~

1685 [~~(d)(i) For a bundled transaction that is attributable to food and food ingredients and  
1686 tangible personal property other than food and food ingredients, a state tax and a local tax is  
1687 imposed on the entire bundled transaction equal to the sum of:]~~

1688 [~~(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

1689 [~~(F) the tax rate described in Subsection (2)(a)(i)(A), and]~~

1690 [~~(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
1691 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1692 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
1693 Additional State Sales and Use Tax Act; and]~~

1694 [~~(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
1695 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
1696 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
1697 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

1698 [~~(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
1699 described in Subsection (2)(a)(ii):]~~

1700 [(ii)] (c) (i) Subject to Subsection [~~(2)(d)(iii)] (2)(c)(ii), for a bundled transaction [~~other  
1701 than a bundled transaction described in Subsection (2)(d)(i):~~~~

1702 (A) if the sales price of the bundled transaction is attributable to tangible personal  
1703 property, a product, or a service that is subject to taxation under this chapter and tangible  
1704 personal property, a product, or service that is not subject to taxation under this chapter, the  
1705 entire bundled transaction is subject to taxation under this chapter unless:

1706 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1707 personal property, product, or service that is not subject to taxation under this chapter from the  
1708 books and records the seller keeps in the seller's regular course of business; or

1709 (II) state or federal law provides otherwise; or

1710 (B) if the sales price of a bundled transaction is attributable to two or more items of  
1711 tangible personal property, products, or services that are subject to taxation under this chapter  
1712 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
1713 higher tax rate unless:

1714 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1715 personal property, product, or service that is subject to taxation under this chapter at the lower  
1716 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1717 (II) state or federal law provides otherwise.

1718 ~~[(iii)]~~ (ii) For purposes of Subsection ~~[(2)(d)(ii)]~~ (2)(c)(i), books and records that a  
1719 seller keeps in the seller's regular course of business includes books and records the seller  
1720 keeps in the regular course of business for nontax purposes.

1721 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f)]~~(e) and ~~[(g)]~~ (f), a tax rate repeal or tax rate  
1722 change for a tax rate imposed under the following shall take effect on the first day of a calendar  
1723 quarter:

1724 (i) Subsection (2)(a)(i)(A); or

1725 (ii) Subsection (2)(b)(i)~~;~~.

1726 ~~[(iii) Subsection (2)(c)(i); or]~~

1727 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

1728 ~~[(f)]~~ (e) (i) A tax rate increase shall take effect on the first day of the first billing period  
1729 that begins after the effective date of the tax rate increase if the billing period for the  
1730 transaction begins before the effective date of a tax rate increase imposed under:

1731 (A) Subsection (2)(a)(i)(A); or

1732 (B) Subsection (2)(b)(i)~~;~~.

- 1733 ~~[(C) Subsection (2)(c)(i); or]~~
- 1734 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~
- 1735 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 1736 billing period that began before the effective date of the repeal of the tax or the tax rate
- 1737 decrease if the billing period for the transaction begins before the effective date of the repeal of
- 1738 the tax or the tax rate decrease imposed under:
- 1739 (A) Subsection (2)(a)(i)(A); or
- 1740 (B) Subsection (2)(b)(i)[;].
- 1741 ~~[(C) Subsection (2)(c)(i); or]~~
- 1742 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~
- 1743 ~~[(g) (f) (i) For a tax rate described in Subsection ~~[(2)(g)(ii)]~~ (2)(f)(ii), if a tax due on a~~
- 1744 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
- 1745 tax rate repeal or change in a tax rate takes effect:
- 1746 (A) on the first day of a calendar quarter; and
- 1747 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1748 (ii) Subsection ~~[(2)(g)(i)]~~ (2)(f)(i) applies to the tax rates described in the following:
- 1749 (A) Subsection (2)(a)(i)(A); or
- 1750 (B) Subsection (2)(b)(i)[;].
- 1751 ~~[(C) Subsection (2)(c)(i); or]~~
- 1752 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~
- 1753 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1754 the commission may by rule define the term "catalogue sale."
- 1755 (3) (a) The following state taxes shall be deposited into the General Fund:
- 1756 (i) the tax imposed by Subsection (2)(a)(i)(A); or
- 1757 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 1758 ~~[(iii) the tax imposed by Subsection (2)(c)(i); or]~~
- 1759 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~
- 1760 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 1761 in this chapter:
- 1762 (i) the tax imposed by Subsection (2)(a)(ii); or
- 1763 (ii) the tax imposed by Subsection (2)(b)(ii)[;].

1764            [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~  
1765            [~~(iv) the tax imposed by Subsection (2)(d)(i)(B);~~  
1766            (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1767 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
1768 through (g):  
1769            (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
1770            (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
1771            (B) for the fiscal year; or  
1772            (ii) \$17,500,000.  
1773            (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1774 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
1775 Department of Natural Resources to:  
1776            (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1777 protect sensitive plant and animal species; or  
1778            (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1779 act, to political subdivisions of the state to implement the measures described in Subsections  
1780 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.  
1781            (ii) Money transferred to the Department of Natural Resources under Subsection  
1782 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1783 person to list or attempt to have listed a species as threatened or endangered under the  
1784 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
1785            (iii) At the end of each fiscal year:  
1786            (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1787 Conservation and Development Fund created in Section 73-10-24;  
1788            (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1789 Program Subaccount created in Section 73-10c-5; and  
1790            (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1791 Program Subaccount created in Section 73-10c-5.  
1792            (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1793 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
1794 created in Section 4-18-6.

1795 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
1796 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
1797 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
1798 water rights.

1799 (ii) At the end of each fiscal year:

1800 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1801 Conservation and Development Fund created in Section 73-10-24;

1802 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1803 Program Subaccount created in Section 73-10c-5; and

1804 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1805 Program Subaccount created in Section 73-10c-5.

1806 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1807 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
1808 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1809 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1810 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1811 Development Fund may also be used to:

1812 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1813 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1814 quantifying surface and ground water resources and describing the hydrologic systems of an  
1815 area in sufficient detail so as to enable local and state resource managers to plan for and  
1816 accommodate growth in water use without jeopardizing the resource;

1817 (B) fund state required dam safety improvements; and

1818 (C) protect the state's interest in interstate water compact allocations, including the  
1819 hiring of technical and legal staff.

1820 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1821 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1822 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1823 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1824 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
1825 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1826 (i) provide for the installation and repair of collection, treatment, storage, and  
1827 distribution facilities for any public water system, as defined in Section 19-4-102;  
1828 (ii) develop underground sources of water, including springs and wells; and  
1829 (iii) develop surface water sources.

1830 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1831 2006, the difference between the following amounts shall be expended as provided in this  
1832 Subsection (5), if that difference is greater than \$1:

1833 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1834 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and  
1835 (ii) \$17,500,000.

1836 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1837 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
1838 credits; and  
1839 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1840 restoration.

1841 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1842 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
1843 created in Section 73-10-24.

1844 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1845 remaining difference described in Subsection (5)(a) shall be:

1846 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
1847 credits; and  
1848 (B) expended by the Division of Water Resources for cloud-seeding projects  
1849 authorized by Title 73, Chapter 15, Modification of Weather.

1850 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1851 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
1852 created in Section 73-10-24.

1853 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
1854 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1855 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1856 Division of Water Resources for:

- 1857 (i) preconstruction costs:
- 1858 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
- 1859 26, Bear River Development Act; and
- 1860 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
- 1861 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 1862 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
- 1863 Chapter 26, Bear River Development Act;
- 1864 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
- 1865 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
- 1866 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
- 1867 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
- 1868 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
- 1869 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.
- 1870 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
- 1871 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
- 1872 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
- 1873 incurred for employing additional technical staff for the administration of water rights.
- 1874 (g) At the end of each fiscal year, any unexpended dedicated credits described in
- 1875 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
- 1876 Fund created in Section 73-10-24.
- 1877 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 1878 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
- 1879 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
- 1880 the Transportation Fund created by Section 72-2-102.
- 1881 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
- 1882 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
- 1883 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
- 1884 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
- 1885 transactions under Subsection (1).
- 1886 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
- 1887 have been paid off and the highway projects completed that are intended to be paid from

1888 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
1889 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
1890 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
1891 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
1892 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1893 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
1894 Subsection (7)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after  
1895 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund  
1896 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
1897 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a  
1898 portion of the approximately 17% of sales and use tax revenues generated annually by the sales  
1899 and use tax on vehicles and vehicle-related products:

- 1900 (i) the tax imposed by Subsection (2)(a)(i)(A); or
- 1901 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 1902 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 1903 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).]~~

1904 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
1905 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
1906 highway projects completed that are intended to be paid from revenues deposited in the  
1907 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
1908 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
1909 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
1910 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,  
1911 which represents a portion of the approximately 17% of sales and use tax revenues generated  
1912 annually by the sales and use tax on vehicles and vehicle-related products:

- 1913 (i) the tax imposed by Subsection (2)(a)(i)(A); or
- 1914 (ii) the tax imposed by Subsection (2)(b)(i)[;].
- 1915 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]
- 1916 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).]~~

1917 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the  
1918 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed

1919 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

1920 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
1921 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit  
1922 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
1923 Critical Highway Needs Fund created by Section 72-2-125.

1924 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
1925 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
1926 have been paid off and the highway projects completed that are included in the prioritized  
1927 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
1928 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
1929 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
1930 of 2005 created by Section 72-2-124.

1931 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
1932 2008-09, \$915,000 shall be deposited into the Qualified Emergency Food Agencies Fund  
1933 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

1934 (11) (a) [(†)] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~  
1935 ~~(11)(a)(†);~~] and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of  
1936 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the  
1937 amount of tax revenue generated by a .025% tax rate on the transactions described in  
1938 Subsection (1).

1939 [~~(†) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit~~  
1940 ~~into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged~~  
1941 ~~for food and food ingredients, except for tax revenue generated by a bundled transaction~~  
1942 ~~attributable to food and food ingredients and tangible personal property other than food and~~  
1943 ~~food ingredients described in Subsection (2)(c).]~~

1944 (b) [(†)] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~  
1945 ~~(11)(b)(†);~~] and in addition to any amounts deposited under Subsections (7), (9), and (10),  
1946 when the general obligation bonds authorized by Section 63B-16-101 have been paid off and  
1947 the highway projects completed that are included in the prioritized project list under Subsection  
1948 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance  
1949 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the

1950 amount of tax revenue generated by a .025% tax rate on the transactions described in  
1951 Subsection (1).

1952 ~~[(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit~~  
1953 ~~into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~  
1954 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~  
1955 ~~transaction attributable to food and food ingredients and tangible personal property other than~~  
1956 ~~food and food ingredients described in Subsection (2)(e).]~~

1957 (12) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~  
1958 ~~(12)(b);]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the  
1959 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
1960 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
1961 chokepoints in construction management.

1962 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~  
1963 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~  
1964 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~  
1965 ~~and food ingredients and tangible personal property other than food and food ingredients~~  
1966 ~~described in Subsection (2)(e).]~~

1967 Section 7. Section **59-12-108** is amended to read:

1968 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**  
1969 **Certain amounts allocated to local taxing jurisdictions.**

1970 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this  
1971 chapter of \$50,000 or more for the previous calendar year shall:

1972 (i) file a return with the commission:

1973 (A) monthly on or before the last day of the month immediately following the month  
1974 for which the seller collects a tax under this chapter; and

1975 (B) for the month for which the seller collects a tax under this chapter; and

1976 (ii) except as provided in Subsection (1)(b), remit with the return required by  
1977 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,  
1978 fee, or charge described in Subsection (1)(c):

1979 (A) if that seller's tax liability under this chapter for the previous calendar year is less  
1980 than \$96,000, by any method permitted by the commission; or

1981 (B) if that seller's tax liability under this chapter for the previous calendar year is  
1982 \$96,000 or more, by electronic funds transfer.

1983 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)  
1984 the amount the seller is required to remit to the commission for each tax, fee, or charge  
1985 described in Subsection (1)(c) if that seller:

1986 (i) is required by Section 59-12-107 to file the return electronically; or

1987 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

1988 (B) files a simplified electronic return.

1989 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

1990 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1991 (ii) a fee under Section 19-6-716;

1992 (iii) a fee under Section 19-6-805;

1993 (iv) a charge under Section 69-2-5;

1994 (v) a charge under Section 69-2-5.5;

1995 (vi) a charge under Section 69-2-5.6; or

1996 (vii) a tax under this chapter.

1997 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,  
1998 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method  
1999 for making same-day payments other than by electronic funds transfer if making payments by  
2000 electronic funds transfer fails.

2001 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2002 commission shall establish by rule procedures and requirements for determining the amount a  
2003 seller is required to remit to the commission under this Subsection (1).

2004 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a  
2005 seller described in Subsection (4) may retain each month the amount allowed by this  
2006 Subsection (2).

2007 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain  
2008 each month 1.31% of any amounts the seller is required to remit to the commission:

2009 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax  
2010 and a local tax imposed in accordance with the following, for the month for which the seller is  
2011 filing a return in accordance with Subsection (1):

2012 (A) Subsection 59-12-103(2)(a); and  
2013 (B) Subsection 59-12-103(2)(b); and  
2014 [~~(C) Subsection 59-12-103(2) (d); and~~]  
2015 (ii) for an agreement sales and use tax.  
2016 [~~(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may~~  
2017 ~~retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described~~  
2018 ~~in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in~~  
2019 ~~accordance with Subsection 59-12-103(2)(c).]~~  
2020 [~~(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount~~  
2021 ~~equal to the sum of:]~~  
2022 [~~(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~  
2023 [~~(F) the state tax and the local tax imposed in accordance with Subsection~~  
2024 ~~59-12-103(2)(c);]~~  
2025 [~~(H) the month for which the seller is filing a return in accordance with Subsection (1);~~  
2026 ~~and]~~  
2027 [~~(HH) an agreement sales and use tax; and]~~  
2028 [~~(B) 1.31% of the difference between:]~~  
2029 [~~(I) the amounts the seller would have been required to remit to the commission:]~~  
2030 [~~(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been~~  
2031 ~~subject to the state tax and the local tax imposed in accordance with Subsection~~  
2032 ~~59-12-103(2)(a);]~~  
2033 [~~(Bb) for the month for which the seller is filing a return in accordance with Subsection~~  
2034 ~~(1); and]~~  
2035 [~~(Cc) for an agreement sales and use tax; and]~~  
2036 [~~(H) the amounts the seller is required to remit to the commission for:]~~  
2037 [~~(Aa) the state tax and the local tax imposed in accordance with Subsection~~  
2038 ~~59-12-103(2)(c);]~~  
2039 [~~(Bb) the month for which the seller is filing a return in accordance with Subsection (1);~~  
2040 ~~and]~~  
2041 [~~(Cc) an agreement sales and use tax.]~~  
2042 [~~(d)~~] (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may

2043 retain each month 1% of any amounts the seller is required to remit to the commission:

2044 (i) for the month for which the seller is filing a return in accordance with Subsection

2045 (1); and

2046 (ii) under:

2047 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2048 (B) Subsection 59-12-603(1)(a)(i)(A); or

2049 (C) Subsection 59-12-603(1)(a)(i)(B).

2050 (3) A state government entity that is required to remit taxes monthly in accordance

2051 with Subsection (1) may not retain any amount under Subsection (2).

2052 (4) A seller that has a tax liability under this chapter for the previous calendar year of

2053 less than \$50,000 may:

2054 (a) voluntarily meet the requirements of Subsection (1); and

2055 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the

2056 amounts allowed by Subsection (2).

2057 (5) Penalties for late payment shall be as provided in Section 59-1-401.

2058 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted

2059 to the commission under this part, the commission shall each month calculate an amount equal

2060 to the difference between:

2061 (i) the total amount retained for that month by all sellers had the [percentages]

2062 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~] been 1.5%; and

2063 (ii) the total amount retained for that month by all sellers at the [percentages]

2064 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~].

2065 (b) The commission shall each month allocate the amount calculated under Subsection

2066 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use

2067 tax that the commission distributes to each county, city, and town for that month compared to

2068 the total agreement sales and use tax that the commission distributes for that month to all

2069 counties, cities, and towns.

2070 (c) The amount the commission calculates under Subsection (6)(a) may not include an

2071 amount collected from a tax that:

2072 (i) the state imposes within a county, city, or town, including the unincorporated area

2073 of a county; and

2074 (ii) is not imposed within the entire state.

2075 Section 8. Section **59-12-401** is amended to read:

2076 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**

2077 (1) (a) In addition to other sales and use taxes, a city or town in which the transient  
2078 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the  
2079 municipality's permanent census population may impose a sales and use tax of up to 1.1% on  
2080 the transactions described in Subsection 59-12-103(1) located within the city or town.

2081 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this  
2082 section on:

2083 (i) the sale of:

2084 (A) a motor vehicle;

2085 (B) an aircraft;

2086 (C) a watercraft;

2087 (D) a modular home;

2088 (E) a manufactured home; or

2089 (F) a mobile home; or

2090 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2091 are exempt from taxation under Section 59-12-104[; ~~and~~].

2092 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
2093 ~~food ingredients.]~~

2094 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2095 determined in accordance with Sections 59-12-211 through 59-12-215.

2096 [~~(d) A city or town imposing a tax under this section shall impose the tax on amounts~~  
2097 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~  
2098 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~  
2099 ~~property other than food and food ingredients.]~~

2100 (2) (a) An amount equal to the total of any costs incurred by the state in connection  
2101 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
2102 the state from its collection fees received in connection with the implementation of Subsection  
2103 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax  
2104 provided for in Subsection (1).

2105 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
 2106 those cities and towns according to the amount of revenue the respective cities and towns  
 2107 generate in that year through imposition of that tax.

2108 Section 9. Section **59-12-402** is amended to read:

2109 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**  
 2110 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**  
 2111 **Notice requirements -- Ordinance requirements.**

2112 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in  
 2113 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to  
 2114 66% of the municipality's permanent census population may, in addition to the sales tax  
 2115 authorized under Section 59-12-401, impose an additional resort communities sales tax in an  
 2116 amount that is less than or equal to .5% on the transactions described in Subsection  
 2117 59-12-103(1) located within the municipality.

2118 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not  
 2119 impose a tax under this section on:

2120 (i) the sale of:

2121 (A) a motor vehicle;

2122 (B) an aircraft;

2123 (C) a watercraft;

2124 (D) a modular home;

2125 (E) a manufactured home; or

2126 (F) a mobile home; or

2127 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
 2128 are exempt from taxation under Section 59-12-104[~~;~~and].

2129 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
 2130 ~~food ingredients.]~~

2131 (c) For purposes of this Subsection (1), the location of a transaction shall be  
 2132 determined in accordance with Sections 59-12-211 through 59-12-215.

2133 [~~(d) A municipality imposing a tax under this section shall impose the tax on amounts~~  
 2134 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~  
 2135 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~

2136 ~~property other than food and food ingredients.]~~

2137           (2) (a) An amount equal to the total of any costs incurred by the state in connection  
2138 with the implementation of Subsection (1) which exceed, in any year, the revenues received by  
2139 the state from its collection fees received in connection with the implementation of Subsection  
2140 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax  
2141 provided for in Subsection (1).

2142           (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among  
2143 those cities and towns according to the amount of revenue the respective cities and towns  
2144 generate in that year through imposition of that tax.

2145           (3) To impose an additional resort communities sales tax under this section, the  
2146 governing body of the municipality shall:

2147           (a) pass a resolution approving the tax; and

2148           (b) except as provided in Subsection (6), obtain voter approval for the tax as provided  
2149 in Subsection (4).

2150           (4) To obtain voter approval for an additional resort communities sales tax under  
2151 Subsection (3)(b), a municipality shall:

2152           (a) hold the additional resort communities sales tax election during:

2153           (i) a regular general election; or

2154           (ii) a municipal general election; and

2155           (b) publish notice of the election:

2156           (i) 15 days or more before the day on which the election is held; and

2157           (ii) in a newspaper of general circulation in the municipality.

2158           (5) An ordinance approving an additional resort communities sales tax under this  
2159 section shall provide an effective date for the tax as provided in Section 59-12-403.

2160           (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the  
2161 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the  
2162 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to  
2163 Section 10-1-203.

2164           (b) The exception from the voter approval requirements in Subsection (6)(a) does not  
2165 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only  
2166 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2167 Section 10. Section **59-12-501** is amended to read:

2168 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

2169 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town may impose  
2170 a sales and use tax of up to:

2171 (A) for a county, city, or town other than a county, city, or town described in  
2172 Subsection (1)(a)(i)(B), .25% on the transactions described in Subsection 59-12-103(1) located  
2173 within the county, city, or town, to fund a public transportation system; or

2174 (B) beginning on January 1, 2008, for a county, city, or town within which a tax is not  
2175 imposed under Part 15, County Option Sales and Use Tax for Highways, Fixed Guideways, or  
2176 Systems for Public Transit Act, .30% on the transactions described in Subsection 59-12-103(1)  
2177 located within the county, city, or town, to fund a public transportation system.

2178 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax  
2179 under this section on~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the  
2180 sales and uses are exempt from taxation under Section 59-12-104~~[(A)]~~ and~~[(B)]~~.

2181 ~~[(B) except as provided in Subsection (1)(c), amounts paid or charged for food and  
2182 food ingredients.]~~

2183 (b) For purposes of this Subsection (1), the location of a transaction shall be  
2184 determined in accordance with Sections 59-12-211 through 59-12-215.

2185 ~~[(c) A county, city, or town imposing a tax under this section shall impose the tax on  
2186 amounts paid or charged for food and food ingredients if the food and food ingredients are sold  
2187 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
2188 property other than food and food ingredients.]~~

2189 ~~[(d)]~~ (c) Except as provided in Subsection (3) or (4), a county, city, or town may  
2190 impose a tax under this section only if the governing body of the county, city, or town, by  
2191 resolution, submits the proposal to all the qualified voters within the county, city, or town for  
2192 approval at a general or special election conducted in the manner provided by statute.

2193 (2) (a) Notice of any such election shall be given by the county, city, or town governing  
2194 body 15 days in advance in the manner prescribed by statute.

2195 (b) If a majority of the voters voting in such election approve the proposal, it shall  
2196 become effective on the date provided by the county, city, or town governing body.

2197 (3) This section may not be construed to require an election in jurisdictions where

2198 voters have previously approved a public transit sales or use tax.

2199 (4) A county, city, or town is not subject to the voter approval requirements of this  
2200 section if:

2201 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this  
2202 section; and

2203 (b) on or after January 1, 2008, subject to Subsection (1)(a)(i)(B), the county, city, or  
2204 town increases the tax rate under this section to up to .30%.

2205 Section 11. Section **59-12-502** is amended to read:

2206 **59-12-502. Additional public transit tax for expanded public transit system and**  
2207 **fixed guideway and state highway improvements -- Base -- Rate -- Voter approval.**

2208 (1) (a) (i) In addition to other sales and use taxes, including the public transit district  
2209 tax authorized by Section 59-12-501, a county, city, or town may impose a sales and use tax of  
2210 .25% on the transactions described in Subsection 59-12-103(1) located within the county, city,  
2211 or town, to fund a fixed guideway and expanded public transportation system.

2212 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax  
2213 under this section on~~[(A)]~~ the sales and uses described in Section 59-12-104 to the extent the  
2214 sales and uses are exempt from taxation under Section 59-12-104~~[, and].~~

2215 ~~[(B) except as provided in Subsection (1)(c), amounts paid or charged for food and~~  
2216 ~~food ingredients.]~~

2217 (b) For purposes of this Subsection (1), the location of a transaction shall be  
2218 determined in accordance with Sections 59-12-211 through 59-12-215.

2219 ~~[(c) A county, city, or town imposing a tax under this section shall impose the tax on~~  
2220 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
2221 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
2222 ~~property other than food and food ingredients.]~~

2223 ~~[(d)]~~ (c) (i) A county, city, or town may impose the tax under this section only if the  
2224 governing body of the county, city, or town submits, by resolution, the proposal to all the  
2225 qualified voters within the county, city, or town for approval at a general or special election  
2226 conducted in the manner provided by statute.

2227 (ii) Notice of the election under Subsection (1)~~[(d)]~~(c)(i) shall be given by the county,  
2228 city, or town governing body 15 days in advance in the manner prescribed by statute.

2229 (2) If the majority of the voters voting in this election approve the proposal, it shall  
2230 become effective on the date provided by the county, city, or town governing body.

2231 (3) (a) This section may not be construed to require an election in jurisdictions where  
2232 voters have previously approved a public transit sales or use tax.

2233 (b) This section shall be construed to require an election to impose the sales and use  
2234 tax authorized by this section, including jurisdictions where the voters have previously  
2235 approved the sales and use tax authorized by Section 59-12-501, but this section may not be  
2236 construed to affect the sales and use tax authorized by Section 59-12-501.

2237 (4) No public funds shall be spent to promote the required election.

2238 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues  
2239 generated by the tax imposed under this section by any county of the first class:

2240 (a) 80% shall be allocated to fund a fixed guideway and expanded public transportation  
2241 system; and

2242 (b) 20% shall be deposited into the County of the First Class State Highway Projects  
2243 Fund created by Section 72-2-121.

2244 Section 12. Section **59-12-703** is amended to read:

2245 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**  
2246 **tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2247 (1) (a) (i) A county legislative body may submit an opinion question to the residents of  
2248 that county, by majority vote of all members of the legislative body, so that each resident of the  
2249 county, except residents in municipalities that have already imposed a sales and use tax under  
2250 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological  
2251 Organizations or Facilities, has an opportunity to express the resident's opinion on the  
2252 imposition of a local sales and use tax of .1% on the transactions described in Subsection  
2253 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,  
2254 cultural, and zoological organizations, and rural radio stations, in that county.

2255 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
2256 tax under this section on:

2257 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2258 are exempt from taxation under Section 59-12-104; or

2259 (B) sales and uses within municipalities that have already imposed a sales and use tax

2260 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and  
2261 Zoological Organizations or Facilities[~~;~~and].

2262 [~~(C)~~ except as provided in Subsection (1)(c), amounts paid or charged for food and  
2263 food ingredients.]

2264 (b) For purposes of this Subsection (1), the location of a transaction shall be  
2265 determined in accordance with Sections 59-12-211 through 59-12-215.

2266 [~~(c)~~ A county legislative body imposing a tax under this section shall impose the tax on  
2267 amounts paid or charged for food and food ingredients if the food and food ingredients are sold  
2268 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
2269 property other than food and food ingredients.]

2270 [~~(d)~~ (c) The election shall follow the procedures outlined in Title 11, Chapter 14,  
2271 Local Government Bonding Act.

2272 (2) (a) If the county legislative body determines that a majority of the county's  
2273 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
2274 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a  
2275 majority vote of all members of the legislative body on the transactions:

2276 (i) described in Subsection (1); and

2277 (ii) within the county, including the cities and towns located in the county, except those  
2278 cities and towns that have already imposed a sales and use tax under Part 14, City or Town  
2279 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or  
2280 Facilities.

2281 (b) A county legislative body may revise county ordinances to reflect statutory changes  
2282 to the distribution formula or eligible recipients of revenues generated from a tax imposed  
2283 under Subsection (2)(a):

2284 (i) after the county legislative body submits an opinion question to residents of the  
2285 county in accordance with Subsection (1) giving them the opportunity to express their opinion  
2286 on the proposed revisions to county ordinances; and

2287 (ii) if the county legislative body determines that a majority of those voting on the  
2288 opinion question have voted in favor of the revisions.

2289 (3) The monies generated from any tax imposed under Subsection (2) shall be used for  
2290 funding:

2291 (a) recreational and zoological facilities located within the county or a city or town  
2292 located in the county, except a city or town that has already imposed a sales and use tax under  
2293 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological  
2294 Organizations or Facilities; and

2295 (b) ongoing operating expenses of:

2296 (i) recreational facilities described in Subsection (3)(a);

2297 (ii) botanical, cultural, and zoological organizations within the county; and

2298 (iii) rural radio stations within the county.

2299 (4) (a) A tax authorized under this part shall be:

2300 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
2301 accordance with:

2302 (A) the same procedures used to administer, collect, and enforce the tax under:

2303 (I) Part 1, Tax Collection; or

2304 (II) Part 2, Local Sales and Use Tax Act; and

2305 (B) Chapter 1, General Taxation Policies; and

2306 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year  
2307 period in accordance with this section.

2308 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to  
2309 Subsections 59-12-205(2) through (6).

2310 (5) (a) For purposes of this Subsection (5):

2311 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
2312 Annexation to County.

2313 (ii) "Annexing area" means an area that is annexed into a county.

2314 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
2315 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2316 (A) on the first day of a calendar quarter; and

2317 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2318 the requirements of Subsection (5)(b)(ii) from the county.

2319 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

2320 (A) that the county will enact or repeal a tax under this part;

2321 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

2322 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and  
2323 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the  
2324 tax.

2325 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:  
2326 (A) that begins after the effective date of the enactment of the tax; and  
2327 (B) if the billing period for the transaction begins before the effective date of the  
2328 enactment of the tax under this section.

2329 (ii) The repeal of a tax shall take effect on the first day of the last billing period:  
2330 (A) that began before the effective date of the repeal of the tax; and  
2331 (B) if the billing period for the transaction begins before the effective date of the repeal  
2332 of the tax imposed under this section.

2333 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2334 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
2335 Subsection (5)(b)(i) takes effect:  
2336 (A) on the first day of a calendar quarter; and  
2337 (B) beginning 60 days after the effective date of the enactment or repeal under  
2338 Subsection (5)(b)(i).

2339 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2340 commission may by rule define the term "catalogue sale."

2341 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
2342 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
2343 part for an annexing area, the enactment or repeal shall take effect:  
2344 (A) on the first day of a calendar quarter; and  
2345 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2346 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

2347 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:  
2348 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
2349 repeal of a tax under this part for the annexing area;  
2350 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);  
2351 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and  
2352 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

2353 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

2354 (A) that begins after the effective date of the enactment of the tax; and

2355 (B) if the billing period for the transaction begins before the effective date of the  
2356 enactment of the tax under this section.

2357 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

2358 (A) that began before the effective date of the repeal of the tax; and

2359 (B) if the billing period for the transaction begins before the effective date of the repeal  
2360 of the tax imposed under this section.

2361 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2362 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
2363 Subsection (5)(e)(i) takes effect:

2364 (A) on the first day of a calendar quarter; and

2365 (B) beginning 60 days after the effective date of the enactment or repeal under  
2366 Subsection (5)(e)(i).

2367 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2368 commission may by rule define the term "catalogue sale."

2369 Section 13. Section **59-12-802** is amended to read:

2370 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**  
2371 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

2372 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class  
2373 may impose a sales and use tax of up to 1%:

2374 (i) on the transactions described in Subsection 59-12-103(1) located within the county;  
2375 and

2376 (ii) subject to Subsection (3), to fund:

2377 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in  
2378 that county; or

2379 (B) for a county of the sixth class:

2380 (I) emergency medical services in that county;

2381 (II) federally qualified health centers in that county;

2382 (III) freestanding urgent care centers in that county;

2383 (IV) rural county health care facilities in that county;

2384 (V) rural health clinics in that county; or  
2385 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).  
2386 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
2387 tax under this section on:  
2388 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
2389 are exempt from taxation under Section 59-12-104; or  
2390 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in  
2391 a city that imposes a tax under Section 59-12-804[~~;~~and].  
2392 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
2393 ~~food ingredients.]~~  
2394 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2395 determined in accordance with Sections 59-12-211 through 59-12-215.  
2396 [~~(d) A county legislative body imposing a tax under this section shall impose the tax on~~  
2397 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
2398 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
2399 ~~property other than food and food ingredients.]~~  
2400 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall  
2401 obtain approval to impose the tax from a majority of the:  
2402 (i) members of the county's legislative body; and  
2403 (ii) county's registered voters voting on the imposition of the tax.  
2404 (b) The county legislative body shall conduct the election according to the procedures  
2405 and requirements of Title 11, Chapter 14, Local Government Bonding Act.  
2406 (3) (a) The monies generated by a tax imposed under Subsection (1) by a county  
2407 legislative body of a county of the third, fourth, or fifth class may only be used for the  
2408 financing of:  
2409 (i) ongoing operating expenses of a rural county health care facility within that county;  
2410 (ii) the acquisition of land for a rural county health care facility within that county; or  
2411 (iii) the design, construction, equipping, or furnishing of a rural county health care  
2412 facility within that county.  
2413 (b) The monies generated by a tax imposed under Subsection (1) by a county of the  
2414 sixth class may only be used for the financing of:

2415 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection  
2416 (1)(a)(ii)(B) within that county;

2417 (ii) the acquisition of land for a center, clinic, or facility described in Subsection  
2418 (1)(a)(ii)(B) within that county;

2419 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility  
2420 described in Subsection (1)(a)(ii)(B) within that county; or

2421 (iv) the provision of rural emergency medical services within that county.

2422 (4) (a) A tax under this section shall be:

2423 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
2424 accordance with:

2425 (A) the same procedures used to administer, collect, and enforce the tax under:

2426 (I) Part 1, Tax Collection; or

2427 (II) Part 2, Local Sales and Use Tax Act; and

2428 (B) Chapter 1, General Taxation Policies; and

2429 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year  
2430 period by the county legislative body as provided in Subsection (1).

2431 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
2432 Subsections 59-12-205(2) through (6).

2433 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected  
2434 under this section for the cost of administering this tax.

2435 Section 14. Section **59-12-804** is amended to read:

2436 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**  
2437 **collection, and enforcement of tax.**

2438 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

2439 (i) on the transactions described in Subsection 59-12-103(1) located within the city;  
2440 and

2441 (ii) to fund rural city hospitals in that city.

2442 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax  
2443 under this section on~~[-(i)]~~ the sales and uses described in Section 59-12-104 to the extent the  
2444 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

2445 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~

2446 ~~food ingredients.]~~

2447 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2448 determined in accordance with Sections 59-12-211 through 59-12-215.

2449 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on  
2450 amounts paid or charged for food and food ingredients if the food and food ingredients are sold  
2451 as part of a bundled transaction attributable to food and food ingredients and tangible personal  
2452 property other than food and food ingredients.]~~

2453 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall  
2454 obtain approval to impose the tax from a majority of the:

- 2455 (i) members of the city legislative body; and
- 2456 (ii) city's registered voters voting on the imposition of the tax.

2457 (b) The city legislative body shall conduct the election according to the procedures and  
2458 requirements of Title 11, Chapter 14, Local Government Bonding Act.

2459 (3) The monies generated by a tax imposed under Subsection (1) may only be used for  
2460 the financing of:

- 2461 (a) ongoing operating expenses of a rural city hospital;
- 2462 (b) the acquisition of land for a rural city hospital; or
- 2463 (c) the design, construction, equipping, or furnishing of a rural city hospital.

2464 (4) (a) A tax under this section shall be:

2465 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
2466 accordance with:

2467 (A) the same procedures used to administer, collect, and enforce the tax under:

- 2468 (I) Part 1, Tax Collection; or
- 2469 (II) Part 2, Local Sales and Use Tax Act; and
- 2470 (B) Chapter 1, General Taxation Policies; and

2471 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year  
2472 period by the city legislative body as provided in Subsection (1).

2473 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
2474 Subsections 59-12-205(2) through (6).

2475 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected  
2476 under this section for the cost of administering the tax.

2477 Section 15. Section **59-12-1001** is amended to read:

2478 **59-12-1001. Authority to impose tax for highways or to fund a system for public**  
 2479 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**  
 2480 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**  
 2481 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2482 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)  
 2483 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part  
 2484 impose a sales and use tax of:

2485 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the  
 2486 transactions described in Subsection 59-12-103(1) located within the city or town; or

2487 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection  
 2488 59-12-103(1) located within the city or town.

2489 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this  
 2490 section on~~[(+)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and  
 2491 uses are exempt from taxation under Section 59-12-104~~[;and]~~.

2492 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
 2493 ~~food ingredients.]~~

2494 (c) For purposes of this Subsection (1), the location of a transaction shall be  
 2495 determined in accordance with Sections 59-12-211 through 59-12-215.

2496 ~~[(d) A city or town imposing a tax under this section shall impose the tax on amounts~~  
 2497 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~  
 2498 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~  
 2499 ~~property other than food and food ingredients.]~~

2500 (2) (a) A city or town imposing a tax under this part may use the revenues generated by  
 2501 the tax:

2502 (i) for the construction and maintenance of highways under the jurisdiction of the city  
 2503 or town imposing the tax;

2504 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

2505 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

2506 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection  
 2507 (2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.

2508 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed  
2509 guideway system.

2510 (3) To impose a tax under this part, the governing body of the city or town shall:

2511 (a) pass an ordinance approving the tax; and

2512 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as  
2513 provided in Subsection (4).

2514 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

2515 (a) hold an election during:

2516 (i) a regular general election; or

2517 (ii) a municipal general election; and

2518 (b) publish notice of the election:

2519 (i) 15 days or more before the day on which the election is held; and

2520 (ii) in a newspaper of general circulation in the city or town.

2521 (5) An ordinance approving a tax under this part shall provide an effective date for the  
2522 tax as provided in Subsection (6).

2523 (6) (a) For purposes of this Subsection (6):

2524 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
2525 4, Annexation.

2526 (ii) "Annexing area" means an area that is annexed into a city or town.

2527 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after April 1, 2008, a city  
2528 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2529 (A) on the first day of a calendar quarter; and

2530 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2531 the requirements of Subsection (6)(b)(ii) from the city or town.

2532 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

2533 (A) that the city or town will enact or repeal a tax under this part;

2534 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

2535 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

2536 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of  
2537 the tax.

2538 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

2539 (A) that begins after the effective date of the enactment of the tax; and  
2540 (B) if the billing period for the transaction begins before the effective date of the  
2541 enactment of the tax under Subsection (1).

2542 (ii) The repeal of a tax shall take effect on the first day of the last billing period:  
2543 (A) that began before the effective date of the repeal of the tax; and  
2544 (B) if the billing period for the transaction begins before the effective date of the repeal  
2545 of the tax imposed under Subsection (1).

2546 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2547 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
2548 Subsection (6)(b)(i) takes effect:  
2549 (A) on the first day of a calendar quarter; and  
2550 (B) beginning 60 days after the effective date of the enactment or repeal under  
2551 Subsection (6)(b)(i).

2552 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2553 commission may by rule define the term "catalogue sale."

2554 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs  
2555 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
2556 part for an annexing area, the enactment or repeal shall take effect:  
2557 (A) on the first day of a calendar quarter; and  
2558 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2559 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

2560 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:  
2561 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or  
2562 repeal of a tax under this part for the annexing area;  
2563 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);  
2564 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and  
2565 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

2566 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:  
2567 (A) that begins after the effective date of the enactment of the tax; and  
2568 (B) if the billing period for the transaction begins before the effective date of the  
2569 enactment of the tax under Subsection (1).

2570 (ii) The repeal of a tax shall take effect on the first day of the last billing period:  
2571 (A) that began before the effective date of the repeal of the tax; and  
2572 (B) if the billing period for the transaction begins before the effective date of the repeal  
2573 of the tax imposed under Subsection (1).

2574 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2575 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
2576 Subsection (6)(e)(i) takes effect:

2577 (A) on the first day of a calendar quarter; and

2578 (B) beginning 60 days after the effective date of the enactment or repeal under  
2579 Subsection (6)(e)(i).

2580 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2581 commission may by rule define the term "catalogue sale."

2582 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the  
2583 voter approval requirements of Subsection (3)(b) if:

2584 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on  
2585 businesses based on gross receipts pursuant to Section 10-1-203; or

2586 (ii) the city or town:

2587 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection  
2588 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and

2589 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a  
2590 purpose described in Subsection (2)(a).

2591 (b) The exception from the voter approval requirements in Subsection (7)(a)(i) does not  
2592 apply to a city or town that, on or before January 1, 1996, imposed a license fee or tax on only  
2593 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2594 (8) A city or town is not subject to the voter approval requirements of Subsection  
2595 (3)(b) if:

2596 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;  
2597 and

2598 (b) on or after January 1, 2008, the city or town increases the tax rate under this section  
2599 to .30%.

2600 Section 16. Section **59-12-1302** is amended to read:

2601           **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**  
 2602 **rate change -- Effective date -- Notice requirements.**

2603           (1) Beginning on or after January 1, 1998, the governing body of a town may impose a  
 2604 tax as provided in this part in an amount that does not exceed 1%.

2605           (2) A town may impose a tax as provided in this part if the town imposed a license fee  
 2606 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,  
 2607 1996.

2608           (3) A town imposing a tax under this section shall:

2609           (a) except as provided in Subsection (4), impose the tax on the transactions described  
 2610 in Subsection 59-12-103(1) located within the town; and

2611           (b) provide an effective date for the tax as provided in Subsection (5).

2612           (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this  
 2613 section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and  
 2614 uses are exempt from taxation under Section 59-12-104~~[-and].~~

2615           ~~[(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and~~  
 2616 ~~food ingredients.]~~

2617           (b) For purposes of this Subsection (4), the location of a transaction shall be  
 2618 determined in accordance with Sections 59-12-211 through 59-12-215.

2619           ~~[(c) A town imposing a tax under this section shall impose the tax on amounts paid or~~  
 2620 ~~charged for food and food ingredients if the food and food ingredients are sold as part of a~~  
 2621 ~~bundled transaction attributable to food and food ingredients and tangible personal property~~  
 2622 ~~other than food and food ingredients.]~~

2623           (5) (a) For purposes of this Subsection (5):

2624           (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,  
 2625 Annexation.

2626           (ii) "Annexing area" means an area that is annexed into a town.

2627           (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a  
 2628 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,  
 2629 or change shall take effect:

2630           (A) on the first day of a calendar quarter; and

2631           (B) after a 90-day period beginning on the date the commission receives notice meeting

2632 the requirements of Subsection (5)(b)(ii) from the town.

2633 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

2634 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

2635 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

2636 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

2637 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

2638 (5)(b)(ii)(A), the rate of the tax.

2639 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of

2640 the first billing period:

2641 (A) that begins after the effective date of the enactment of the tax or the tax rate

2642 increase; and

2643 (B) if the billing period for the transaction begins before the effective date of the

2644 enactment of the tax or the tax rate increase imposed under Subsection (1).

2645 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last

2646 billing period:

2647 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

2648 and

2649 (B) if the billing period for the transaction begins before the effective date of the repeal

2650 of the tax or the tax rate decrease imposed under Subsection (1).

2651 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

2652 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of

2653 a tax described in Subsection (5)(b)(i) takes effect:

2654 (A) on the first day of a calendar quarter; and

2655 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

2656 rate of the tax under Subsection (5)(b)(i).

2657 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2658 commission may by rule define the term "catalogue sale."

2659 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs

2660 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the

2661 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take

2662 effect:

- 2663 (A) on the first day of a calendar quarter; and
- 2664 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2665 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.
- 2666 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 2667 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,  
2668 repeal, or change in the rate of a tax under this part for the annexing area;
- 2669 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 2670 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 2671 (D) if the town enacts the tax or changes the rate of the tax described in Subsection  
2672 (5)(e)(ii)(A), the rate of the tax.
- 2673 (f) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of  
2674 the first billing period:
- 2675 (A) that begins after the effective date of the enactment of the tax or the tax rate  
2676 increase; and
- 2677 (B) if the billing period for the transaction begins before the effective date of the  
2678 enactment of the tax or the tax rate increase imposed under Subsection (1).
- 2679 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
2680 billing period:
- 2681 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
2682 and
- 2683 (B) if the billing period for the transaction begins before the effective date of the repeal  
2684 of the tax or the tax rate decrease imposed under Subsection (1).
- 2685 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2686 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of  
2687 a tax described in Subsection (5)(e)(i) takes effect:
- 2688 (A) on the first day of a calendar quarter; and
- 2689 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
2690 rate of the tax under Subsection (5)(e)(i).
- 2691 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2692 commission may by rule define the term "catalogue sale."
- 2693 (6) The commission shall:

2694 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax  
2695 under this section to the town imposing the tax;

2696 (b) except as provided in Subsection (7), administer, collect, and enforce the tax  
2697 authorized under this section in accordance with:

2698 (i) the same procedures used to administer, collect, and enforce the tax under:

2699 (A) Part 1, Tax Collection; or

2700 (B) Part 2, Local Sales and Use Tax Act; and

2701 (ii) Chapter 1, General Taxation Policies; and

2702 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for  
2703 collecting the tax as provided in Section 59-12-206.

2704 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to  
2705 Subsections 59-12-205(2) through (6).

2706 Section 17. Section **59-12-1402** is amended to read:

2707 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**  
2708 **of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2709 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town  
2710 legislative body subject to this part may submit an opinion question to the residents of that city  
2711 or town, by majority vote of all members of the legislative body, so that each resident of the  
2712 city or town has an opportunity to express the resident's opinion on the imposition of a local  
2713 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located  
2714 within the city or town, to fund recreational and zoological facilities and botanical, cultural,  
2715 and zoological organizations in that city or town.

2716 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not  
2717 impose a tax under this section:

2718 (A) if the county in which the city or town is located imposes a tax under Part 7,  
2719 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or  
2720 Facilities; or

2721 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and  
2722 uses are exempt from taxation under Section 59-12-104[~~;~~and].

2723 [~~(C) except as provided in Subsection (1)(c), on amounts paid or charged for food and~~  
2724 ~~food ingredients.~~]

2725 (b) For purposes of this Subsection (1), the location of a transaction shall be  
2726 determined in accordance with Sections 59-12-211 through 59-12-215.

2727 ~~[(c) A city or town legislative body imposing a tax under this section shall impose the~~  
2728 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~  
2729 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~  
2730 ~~personal property other than food and food ingredients.]~~

2731 ~~[(d)]~~ (c) The election shall be held at a regular general election or a municipal general  
2732 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures  
2733 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in  
2734 Subsection (6).

2735 (2) If the city or town legislative body determines that a majority of the city's or town's  
2736 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
2737 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax  
2738 by a majority vote of all members of the legislative body.

2739 (3) The monies generated from any tax imposed under Subsection (2) shall be used for  
2740 financing:

2741 (a) recreational and zoological facilities within the city or town or within the  
2742 geographic area of entities that are parties to an interlocal agreement, to which the city or town  
2743 is a party, providing for recreational or zoological facilities; and

2744 (b) ongoing operating expenses of botanical, cultural, and zoological organizations  
2745 within the city or town or within the geographic area of entities that are parties to an interlocal  
2746 agreement, to which the city or town is a party, providing for the support of botanical, cultural,  
2747 or zoological organizations.

2748 (4) (a) A tax authorized under this part shall be:

2749 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
2750 accordance with:

2751 (A) the same procedures used to administer, collect, and enforce the tax under:

2752 (I) Part 1, Tax Collection; or

2753 (II) Part 2, Local Sales and Use Tax Act; and

2754 (B) Chapter 1, General Taxation Policies; and

2755 (ii) (A) levied for a period of eight years; and

2756 (B) may be reauthorized at the end of the eight-year period in accordance with this  
2757 section.

2758 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
2759 Subsections 59-12-205(2) through (6).

2760 (5) (a) For purposes of this Subsection (5):

2761 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
2762 4, Annexation.

2763 (ii) "Annexing area" means an area that is annexed into a city or town.

2764 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city  
2765 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2766 (A) on the first day of a calendar quarter; and

2767 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2768 the requirements of Subsection (5)(b)(ii) from the city or town.

2769 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

2770 (A) that the city or town will enact or repeal a tax under this part;

2771 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

2772 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

2773 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of  
2774 the tax.

2775 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

2776 (A) that begins after the effective date of the enactment of the tax; and

2777 (B) if the billing period for the transaction begins before the effective date of the  
2778 enactment of the tax under this section.

2779 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

2780 (A) that began before the effective date of the repeal of the tax; and

2781 (B) if the billing period for the transaction begins before the effective date of the repeal  
2782 of the tax imposed under this section.

2783 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2784 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
2785 Subsection (5)(b)(i) takes effect:

2786 (A) on the first day of a calendar quarter; and

- 2787 (B) beginning 60 days after the effective date of the enactment or repeal under  
2788 Subsection (5)(b)(i).
- 2789 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2790 commission may by rule define the term "catalogue sale."
- 2791 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs  
2792 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this  
2793 part for an annexing area, the enactment or repeal shall take effect:
- 2794 (A) on the first day of a calendar quarter; and
- 2795 (B) after a 90-day period beginning on the date the commission receives notice meeting  
2796 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
- 2797 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 2798 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
2799 repeal a tax under this part for the annexing area;
- 2800 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 2801 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 2802 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 2803 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:
- 2804 (A) that begins after the effective date of the enactment of the tax; and
- 2805 (B) if the billing period for the transaction begins before the effective date of the  
2806 enactment of the tax under this section.
- 2807 (ii) The repeal of a tax shall take effect on the first day of the last billing period:
- 2808 (A) that began before the effective date of the repeal of the tax; and
- 2809 (B) if the billing period for the transaction begins before the effective date of the repeal  
2810 of the tax imposed under this section.
- 2811 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
2812 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
2813 Subsection (5)(e)(i) takes effect:
- 2814 (A) on the first day of a calendar quarter; and
- 2815 (B) beginning 60 days after the effective date of the enactment or repeal under  
2816 Subsection (5)(e)(i).
- 2817 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2818 commission may by rule define the term "catalogue sale."

2819 (6) (a) Before a city or town legislative body submits an opinion question to the  
2820 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

2821 (i) submit to the county legislative body in which the city or town is located a written  
2822 notice of the intent to submit the opinion question to the residents of the city or town; and

2823 (ii) receive from the county legislative body:

2824 (A) a written resolution passed by the county legislative body stating that the county  
2825 legislative body is not seeking to impose a tax under Part 7, County Option Funding for

2826 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

2827 (B) a written statement that in accordance with Subsection (6)(b) the results of a county

2828 opinion question submitted to the residents of the county under Part 7, County Option Funding

2829 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city

2830 or town legislative body to submit the opinion question to the residents of the city or town in

2831 accordance with this part.

2832 (b) (i) Within 60 days after the day the county legislative body receives from a city or

2833 town legislative body described in Subsection (6)(a) the notice of the intent to submit an

2834 opinion question to the residents of the city or town, the county legislative body shall provide

2835 the city or town legislative body:

2836 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

2837 (B) written notice that the county legislative body will submit an opinion question to

2838 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,

2839 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under

2840 that part.

2841 (ii) If the county legislative body provides the city or town legislative body the written

2842 notice that the county legislative body will submit an opinion question as provided in

2843 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no

2844 later than, from the date the county legislative body sends the written notice, the later of:

2845 (A) a 12-month period;

2846 (B) the next regular primary election; or

2847 (C) the next regular general election.

2848 (iii) Within 30 days of the date of the canvass of the election at which the opinion

2849 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the  
2850 city or town legislative body described in Subsection (6)(a) written results of the opinion  
2851 question submitted by the county legislative body under Part 7, County Option Funding for  
2852 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

2853 (A) (I) the city or town legislative body may not impose a tax under this part because a  
2854 majority of the county's registered voters voted in favor of the county imposing the tax and the  
2855 county legislative body by a majority vote approved the imposition of the tax; or

2856 (II) for at least 12 months from the date the written results are submitted to the city or  
2857 town legislative body, the city or town legislative body may not submit to the county legislative  
2858 body a written notice of the intent to submit an opinion question under this part because a  
2859 majority of the county's registered voters voted against the county imposing the tax and the  
2860 majority of the registered voters who are residents of the city or town described in Subsection  
2861 (6)(a) voted against the imposition of the county tax; or

2862 (B) the city or town legislative body may submit the opinion question to the residents  
2863 of the city or town in accordance with this part because although a majority of the county's  
2864 registered voters voted against the county imposing the tax, the majority of the registered voters  
2865 who are residents of the city or town voted for the imposition of the county tax.

2866 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may  
2867 provide a city or town legislative body described in Subsection (6)(a) a written resolution  
2868 passed by the county legislative body stating that the county legislative body is not seeking to  
2869 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and  
2870 Zoological Organizations or Facilities, which permits the city or town legislative body to  
2871 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

2872 Section 18. Section **59-12-1503** is amended to read:

2873 **59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**  
2874 **tax revenues -- Administration, collection, and enforcement of tax by commission --**  
2875 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

2876 (1) (a) Subject to the other provisions of this part, the county legislative body of a  
2877 qualifying county may impose a sales and use tax of:

2878 (i) beginning on April 1, 2004, and ending on December 31, 2007, .25%:

2879 (A) on the transactions:

2880 (I) described in Subsection 59-12-103(1); and  
2881 (II) within the county, including the cities and towns within the county;  
2882 (B) for the purposes determined by the county legislative body in accordance with  
2883 Subsection (2); and  
2884 (C) in addition to any other sales and use tax authorized under this chapter; or  
2885 (ii) beginning on January 1, 2008, up to .30%:  
2886 (A) on the transactions:  
2887 (I) described in Subsection 59-12-103(1); and  
2888 (II) within the county, including the cities and towns within the county;  
2889 (B) for the purposes determined by the county legislative body in accordance with  
2890 Subsection (2); and  
2891 (C) in addition to any other sales and use tax authorized under this chapter.  
2892 (b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax  
2893 under this section on~~[(t)]~~ the sales and uses described in Section 59-12-104 to the extent the  
2894 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.  
2895 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
2896 ~~food ingredients.]~~  
2897 (c) For purposes of this Subsection (1), the location of a transaction shall be  
2898 determined in accordance with Sections 59-12-211 through 59-12-215.  
2899 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~  
2900 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
2901 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
2902 ~~property other than food and food ingredients.]~~  
2903 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by  
2904 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of  
2905 revenues the county will receive from the tax under this part that will be allocated to fund one  
2906 or more of the following:  
2907 (i) a project or service relating to a fixed guideway system for the portion of the project  
2908 or service that is performed within the county;  
2909 (ii) a project or service relating to a system for public transit for the portion of the  
2910 project or service that is performed within the county; or

2911 (iii) the following relating to a state highway or a local highway of regional  
2912 significance within the county:

2913 (A) a project beginning on or after the day on which a county legislative body imposes  
2914 a tax under this part only within the county involving:

2915 (I) new construction;

2916 (II) a renovation;

2917 (III) an improvement; or

2918 (IV) an environmental study;

2919 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

2920 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)  
2921 through (IV).

2922 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)  
2923 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the  
2924 tax under this part.

2925 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the  
2926 tax under this part do not include amounts retained by the commission in accordance with  
2927 Subsection (8).

2928 (3) (a) Except as provided in Subsection (3)(d), before imposing a tax under this part, a  
2929 county legislative body shall:

2930 (i) obtain approval from a majority of the members of the county legislative body to:

2931 (A) impose the tax; and

2932 (B) allocate the revenues the county will receive from the tax in accordance with the  
2933 resolution adopted in accordance with Subsection (2); and

2934 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered  
2935 voters voting on the imposition of the tax so that each registered voter has the opportunity to  
2936 express the registered voter's opinion on whether a tax should be imposed under this part.

2937 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations  
2938 specified in the resolution:

2939 (i) adopted in accordance with Subsection (2); and

2940 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

2941 (c) The election required by this Subsection (3) shall be held:

2942 (i) (A) at a regular general election; and  
2943 (B) in accordance with the procedures and requirements of Title 20A, Election Code,  
2944 governing regular general elections; or

2945 (ii) (A) at a special election called by the county legislative body;  
2946 (B) only on the date of a municipal general election provided in Subsection  
2947 20A-1-202(1); and

2948 (C) in accordance with the procedures and requirements of Section 20A-1-203.

2949 (d) A county is not subject to the voter approval requirements of this section if:

2950 (i) on December 31, 2007, the county imposes a tax of .25% under this section; and

2951 (ii) on or after January 1, 2008, the county increases the tax rate under this section to  
2952 up to .30%.

2953 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority  
2954 of the county's registered voters voting on the imposition of the tax have voted in favor of the  
2955 imposition of the tax in accordance with Subsection (3), the county legislative body may  
2956 impose the tax by a majority vote of all of the members of the county legislative body.

2957 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues  
2958 generated by the tax shall be:

2959 (i) allocated in accordance with the allocations specified in the resolution under  
2960 Subsection (2); and

2961 (ii) expended as provided in this part.

2962 (5) If a county legislative body allocates revenues generated by the tax for a project  
2963 described in Subsection (2)(a)(iii)(A), before beginning the state highway project within the  
2964 county, the county legislative body shall:

2965 (a) obtain approval from the Transportation Commission to complete the project; and

2966 (b) enter into an interlocal agreement:

2967 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

2968 (ii) with the Department of Transportation; and

2969 (iii) to complete the project.

2970 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county  
2971 legislative body seeks to change the allocation of the tax specified in the resolution under  
2972 Subsection (2), the county legislative body may change the allocation of the tax by:

2973 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of  
2974 revenues the county will receive from the tax under this part that will be allocated to fund one  
2975 or more of the systems or projects described in Subsection (2);

2976 (ii) obtaining approval to change the allocation of the tax from a majority of the  
2977 members of the county legislative body; and

2978 (iii) (A) submitting an opinion question to the county's registered voters voting on  
2979 changing the allocation of the tax so that each registered voter has the opportunity to express  
2980 the registered voter's opinion on whether the allocation of the tax should be changed; and

2981 (B) obtaining approval to change the allocation of the tax from a majority of the  
2982 county's registered voters voting on changing the allocation of the tax.

2983 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations  
2984 specified in the resolution:

2985 (A) adopted in accordance with Subsection (6)(a)(i); and

2986 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

2987 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and  
2988 requirements of Title 11, Chapter 14, Local Government Bonding Act.

2989 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax  
2990 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be  
2991 transmitted:

2992 (A) by the commission;

2993 (B) to the county;

2994 (C) monthly; and

2995 (D) by electronic funds transfer.

2996 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission  
2997 transfer the revenues described in Subsection (7)(a)(i):

2998 (A) directly to a public transit district:

2999 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and

3000 (II) designated by the county; and

3001 (B) by providing written notice to the commission:

3002 (I) requesting the revenues to be transferred directly to a public transit district as

3003 provided in Subsection (7)(a)(ii)(A); and

3004 (II) designating the public transit district to which the revenues are requested to be  
3005 transferred.

3006 (b) Revenues generated by a tax under this part that are allocated for a purpose  
3007 described in Subsection (2)(a)(iii) shall be:

3008 (i) deposited into the [State] Highway Projects Within Counties Fund created by  
3009 Section 72-2-121.1; and

3010 (ii) expended as provided in Section 72-2-121.1.

3011 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part  
3012 shall be administered, collected, and enforced in accordance with:

3013 (A) the same procedures used to administer, collect, and enforce the tax under:

3014 (I) Part 1, Tax Collection; or

3015 (II) Part 2, Local Sales and Use Tax Act; and

3016 (B) Chapter 1, General Taxation Policies.

3017 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to  
3018 Subsections 59-12-205(2) through (6).

3019 (b) (i) The commission may retain an amount of tax collected under this part of not to  
3020 exceed the lesser of:

3021 (A) 1.5%; or

3022 (B) an amount equal to the cost to the commission of administering this part.

3023 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

3024 (A) placed in the Sales and Use Tax Administrative Fees Account; and

3025 (B) used as provided in Subsection 59-12-206(2).

3026 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2008, a  
3027 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3028 (A) on the first day of a calendar quarter; and

3029 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3030 the requirements of Subsection (9)(a)(ii) from the county.

3031 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

3032 (A) that the county will enact or repeal a tax under this part;

3033 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

3034 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

- 3035 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
- 3036 (b) (i) The enactment of a tax shall take effect on the first day of the first billing period:
- 3037 (A) that begins after the effective date of the enactment of the tax; and
- 3038 (B) if the billing period for the transaction begins before the effective date of the
- 3039 enactment of the tax under Subsection (1).
- 3040 (ii) The repeal of a tax shall take effect on the first day of the last billing period:
- 3041 (A) that began before the effective date of the repeal of the tax; and
- 3042 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3043 of the tax imposed under Subsection (1).
- 3044 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 3045 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 3046 Subsection (9)(a)(i) takes effect:
- 3047 (A) on the first day of a calendar quarter; and
- 3048 (B) beginning 60 days after the effective date of the enactment or repeal under
- 3049 Subsection (9)(a)(i).
- 3050 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3051 commission may by rule define the term "catalogue sale."
- 3052 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
- 3053 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 3054 part for an annexing area, the enactment or repeal shall take effect:
- 3055 (A) on the first day of a calendar quarter; and
- 3056 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3057 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- 3058 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
- 3059 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
- 3060 or repeal of a tax under this part for the annexing area;
- 3061 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
- 3062 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
- 3063 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).
- 3064 (e) (i) The enactment of a tax shall take effect on the first day of the first billing period:
- 3065 (A) that begins after the effective date of the enactment of the tax; and

3066 (B) if the billing period for the transaction begins before the effective date of the  
3067 enactment of the tax under Subsection (1).

3068 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3069 (A) that began before the effective date of the repeal of the tax; and

3070 (B) if the billing period for the transaction begins before the effective date of the repeal  
3071 of the tax imposed under Subsection (1).

3072 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
3073 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
3074 Subsection (9)(d)(i) takes effect:

3075 (A) on the first day of a calendar quarter; and

3076 (B) beginning 60 days after the effective date of the enactment or repeal under  
3077 Subsection (9)(d)(i).

3078 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3079 commission may by rule define the term "catalogue sale."

3080 (10) A county that imposed a sales and use tax under this section prior to July 1, 2007,  
3081 may expend revenues allocated in the resolution for the purpose described in Subsection  
3082 (2)(a)(iii) on local highway of regional significance projects in addition to or in substitution of  
3083 state highway projects within the county.

3084 Section 19. Section **59-12-1703** is amended to read:

3085 **59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**  
3086 **tax revenues -- Administration, collection, and enforcement of tax by commission --**  
3087 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

3088 (1) (a) Subject to the other provisions of this part, a county legislative body may  
3089 impose a sales and use tax of up to .25%:

3090 (i) on the transactions:

3091 (A) described in Subsection 59-12-103(1); and

3092 (B) within the county, including the cities and towns within the county;

3093 (ii) for the purposes described in Subsection (4); and

3094 (iii) in addition to any other sales and use tax authorized under this chapter.

3095 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
3096 tax under this section on~~[-(†)]~~ the sales and uses described in Section 59-12-104 to the extent

3097 the sales and uses are exempt from taxation under Section 59-12-104[~~;~~ and].

3098 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~  
3099 ~~food ingredients.]~~

3100 (c) For purposes of this Subsection (1), the location of a transaction shall be  
3101 determined in accordance with Sections 59-12-211 through 59-12-215.

3102 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~  
3103 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
3104 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
3105 ~~property other than food and food ingredients.]~~

3106 (2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a  
3107 county legislative body shall:

3108 (i) obtain approval from a majority of the members of the county legislative body to  
3109 impose the tax; and

3110 (ii) submit an opinion question to the county's registered voters voting on the  
3111 imposition of the tax so that each registered voter has the opportunity to express the registered  
3112 voter's opinion on whether a tax should be imposed under this part.

3113 (b) (i) In a county of the first or second class, the opinion question required by  
3114 Subsection (2)(a)(ii) shall state the following:

3115 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the  
3116 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,  
3117 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

3118 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by  
3119 Subsection (2)(a)(ii) shall state the following:

3120 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the  
3121 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,  
3122 corridor preservation, congestion mitigation, or to expand capacity for regionally significant  
3123 transportation facilities?"

3124 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)  
3125 shall be held:

3126 (i) at a regular general election conducted in accordance with the procedures and  
3127 requirements of Title 20A, Election Code, governing regular elections; or

3128 (ii) at a special election called by the county legislative body that is:  
3129 (A) held only on the date of a municipal general election as provided in Subsection  
3130 20A-1-202(1); and  
3131 (B) authorized in accordance with the procedures and requirements of Section  
3132 20A-1-203.  
3133 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under  
3134 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative  
3135 body shall:  
3136 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of  
3137 September 20, 2006;  
3138 (ii) direct the county clerk to submit the opinion question required by Subsection  
3139 (2)(a)(ii) during the November 7, 2006 general election; and  
3140 (iii) hold the election required by this section on November 7, 2006.  
3141 (3) If a county legislative body determines that a majority of the county's registered  
3142 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in  
3143 accordance with Subsection (2), the county legislative body shall impose the tax in accordance  
3144 with this section.  
3145 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this  
3146 part may only be expended for:  
3147 (i) a project or service:  
3148 (A) relating to a regionally significant transportation facility;  
3149 (B) for the portion of the project or service that is performed within the county;  
3150 (C) for new capacity or congestion mitigation if the project or service is performed  
3151 within a county:  
3152 (I) of the first class;  
3153 (II) of the second class; or  
3154 (III) that is part of an area metropolitan planning organization;  
3155 (D) (I) if the project or service is a principal arterial highway or a minor arterial  
3156 highway in a county of the first or second class, that is part of the county and municipal master  
3157 plan and part of:  
3158 (Aa) the statewide long-range plan; or

3159 (Bb) the regional transportation plan of the area metropolitan planning organization if a  
3160 metropolitan planning organization exists for the area; or

3161 (II) if the project or service is for a fixed guideway or an airport, that is part of the  
3162 regional transportation plan of the area metropolitan planning organization if a metropolitan  
3163 planning organization exists for the area; and

3164 (E) that is on a priority list:

3165 (I) created by the county's council of governments in accordance with Subsection (5);  
3166 and

3167 (II) approved by the county legislative body in accordance with Subsection (6);

3168 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in  
3169 Subsection (7)(b); or

3170 (iii) any debt service and bond issuance costs related to a project described in  
3171 Subsection (4)(a)(i) or (ii).

3172 (b) In a county of the first or second class, a regionally significant transportation  
3173 facility project or service described in Subsection (4)(a)(i)(A) must have a funded year priority  
3174 designation on a Statewide Transportation Improvement Program and Transportation  
3175 Improvement Program if the project or service described in Subsection (4)(a)(i) is:

3176 (i) a principal arterial highway as defined in Section 72-4-102.5;

3177 (ii) a minor arterial highway as defined in Section 72-4-102.5; or

3178 (iii) a major collector highway:

3179 (A) as defined in Section 72-4-102.5; and

3180 (B) in a rural area.

3181 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the  
3182 revenues generated by the tax imposed under this section by any county of the first or second  
3183 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

3184 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax  
3185 under this part do not include amounts retained by the commission in accordance with  
3186 Subsection (8).

3187 (5) (a) The county's council of governments shall create a priority list of regionally  
3188 significant transportation facility projects described in Subsection (4)(a) using the process  
3189 described in Subsection (5)(b) and present the priority list to the county's legislative body for

3190 approval as described in Subsection (6).

3191 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall  
3192 establish a council of governments' endorsement process which includes prioritization and  
3193 application procedures for use of the revenues a county will receive from a tax under this part.

3194 (6) (a) The council of governments shall submit the priority list described in  
3195 Subsection (5) to the county's legislative body and obtain approval of the list from a majority of  
3196 the members of the county legislative body.

3197 (b) A county's council of governments may only submit one priority list per calendar  
3198 year.

3199 (c) A county legislative body may only consider and approve one priority list per  
3200 calendar year.

3201 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in  
3202 Subsection (4) shall be transmitted:

- 3203 (A) by the commission;
- 3204 (B) to the county;
- 3205 (C) monthly; and
- 3206 (D) by electronic funds transfer.

3207 (ii) A county may request that the commission transfer a portion of the revenues  
3208 described in Subsection (4):

- 3209 (A) directly to a public transit district:
  - 3210 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and
  - 3211 (II) designated by the county; and

3212 (B) by providing written notice to the commission:

- 3213 (I) requesting the revenues to be transferred directly to a public transit district as  
3214 provided in Subsection (7)(a)(ii)(A); and

3215 (II) designating the public transit district to which the revenues are requested to be  
3216 transferred.

3217 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under  
3218 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

3219 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund  
3220 created by Section 72-2-117.5; and

- 3221 (B) expended as provided in Section 72-2-117.5.
- 3222 (ii) In a county of the first class, revenues generated by a tax under this part that are  
3223 allocated for a purpose described in Subsection (4)(a)(ii) shall be:
- 3224 (A) deposited in or transferred to the County of the First Class State Highway Projects  
3225 Fund created by Section 72-2-121; and
- 3226 (B) expended as provided in Section 72-2-121.
- 3227 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part  
3228 shall be administered, collected, and enforced in accordance with:
- 3229 (A) the same procedures used to administer, collect, and enforce the tax under:
- 3230 (I) Part 1, Tax Collection; or
- 3231 (II) Part 2, Local Sales and Use Tax Act; and
- 3232 (B) Chapter 1, General Taxation Policies.
- 3233 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
- 3234 (b) (i) The commission may retain an amount of tax collected under this part of not to  
3235 exceed the lesser of:
- 3236 (A) 1.5%; or
- 3237 (B) an amount equal to the cost to the commission of administering this part.
- 3238 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 3239 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 3240 (B) used as provided in Subsection 59-12-206(2).
- 3241 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a  
3242 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,  
3243 or change shall take effect:
- 3244 (A) on the first day of a calendar quarter; and
- 3245 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3246 the requirements of Subsection (9)(a)(ii) from the county.
- 3247 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
- 3248 (A) that the county will enact, repeal, or change the rate of a tax under this part;
- 3249 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
- 3250 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
- 3251 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

3252 (9)(a)(ii)(A), the rate of the tax.

3253 (b) (i) If the billing period for a transaction begins before the effective date of the  
3254 enactment of the tax or tax rate increase under Subsection (1), the enactment of a tax or a tax  
3255 rate increase shall take effect on the first day of the first billing period that begins after the  
3256 effective date of the enactment of the tax or the tax rate increase.

3257 (ii) If the billing period for a transaction begins before the effective date of the repeal of  
3258 the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
3259 decrease shall take effect on the first day of the last billing period that began before the  
3260 effective date of the repeal of the tax or the tax rate decrease.

3261 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
3262 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of  
3263 a tax described in Subsection (9)(a)(i) takes effect:

3264 (A) on the first day of a calendar quarter; and

3265 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3266 rate of the tax under Subsection (9)(a)(i).

3267 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3268 commission may by rule define the term "catalogue sale."

3269 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs  
3270 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the  
3271 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
3272 effect:

3273 (A) on the first day of a calendar quarter; and

3274 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3275 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

3276 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

3277 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,  
3278 repeal, or change in the rate of a tax under this part for the annexing area;

3279 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

3280 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

3281 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
3282 (9)(d)(ii)(A), the rate of the tax.

3283 (e) (i) If the billing period for a transaction begins before the effective date of the  
3284 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax  
3285 rate increase shall take effect on the first day of the first billing period that begins after the  
3286 effective date of the enactment of the tax or the tax rate increase.

3287 (ii) If the billing period for a transaction begins before the effective date of the repeal of  
3288 the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
3289 decrease shall take effect on the first day of the last billing period that began before the  
3290 effective date of the repeal of the tax or the tax rate decrease.

3291 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
3292 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of  
3293 a tax described in Subsection (9)(d)(i) takes effect:

3294 (A) on the first day of a calendar quarter; and

3295 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3296 rate under Subsection (9)(d)(i).

3297 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3298 commission may by rule define the term "catalogue sale."

3299 Section 20. Section **59-12-1903** is amended to read:

3300 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**  
3301 **from the tax -- Administration, collection, and enforcement of tax by commission --**  
3302 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

3303 (1) (a) Subject to the other provisions of this section and except as provided in  
3304 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the  
3305 second class may impose a sales and use tax on the transactions:

3306 (i) described in Subsection 59-12-103(1); and

3307 (ii) within the county, including the cities and towns within the county.

3308 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a  
3309 rate of:

3310 (i) .10%, to be:

3311 (A) as determined by the county legislative body, deposited as provided in Subsection  
3312 (4)(c)(i) into the County of the Second Class State Highway Projects Fund created by Section  
3313 72-2-121.2 and expended as provided in Section 72-2-121.2;

3314 (B) as determined by the county legislative body, expended for a project or service  
3315 relating to an airport facility:

3316 (I) if that airport facility is part of the regional transportation plan of the area  
3317 metropolitan planning organization if a metropolitan planning organization exists for the area;  
3318 and

3319 (II) for the portion of the project or service that is performed within the county; or

3320 (C) as determined by the county legislative body, deposited or expended for a  
3321 combination of Subsections (1)(b)(i)(A) and (B); or

3322 (ii) .25%, to be expended as follows:

3323 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the  
3324 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as  
3325 provided in Section 72-2-121.2;

3326 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local  
3327 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and  
3328 distributed in accordance with Section 72-2-117.5; and

3329 (C) as determined by the county legislative body, .10% to be:

3330 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class  
3331 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in  
3332 Section 72-2-121.2;

3333 (II) expended for:

3334 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, [~~Designation of~~  
3335 State Highways ~~Act~~];

3336 (Bb) a local highway of regional significance; or

3337 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

3338 (III) expended for a project or service relating to a system for public transit for the  
3339 portion of the project or service that is performed within the county;

3340 (IV) expended for a project or service relating to a fixed guideway for the portion of  
3341 the project or service that is performed within the county;

3342 (V) expended for a project or service relating to an airport facility:

3343 (Aa) if that airport facility is part of the regional transportation plan of the area  
3344 metropolitan planning organization if a metropolitan planning organization exists for the area;

3345 and

3346 (Bb) for the portion of the project or service that is performed within the county; or  
3347 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through  
3348 (V).

3349 (c) If a county legislative body imposes a tax under this part, the county legislative  
3350 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation  
3351 Act.

3352 (d) For purposes of this Subsection (1), the location of a transaction shall be  
3353 determined in accordance with Sections 59-12-211 through 59-12-215.

3354 (2) ~~[(a)]~~ A county legislative body may not impose a tax under this part on~~[(i)]~~ the  
3355 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from  
3356 taxation under Section 59-12-104~~[-or]~~.

3357 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~  
3358 ~~food ingredients.]~~

3359 ~~[(b) A county legislative body imposing a tax under this part shall impose the tax on~~  
3360 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~  
3361 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~  
3362 ~~property other than food and food ingredients.]~~

3363 (3) To impose a tax under this part, a county legislative body shall obtain approval  
3364 from a majority of the members of the county legislative body.

3365 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall  
3366 transmit revenues collected within a county from a tax under this part that are required to be  
3367 expended for a purpose described in Subsection (1)(b)(ii)(C):

3368 (i) to the county legislative body;

3369 (ii) monthly; and

3370 (iii) by electronic funds transfer.

3371 (b) Except as provided in Subsection (6), the commission shall transfer the revenues  
3372 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,  
3373 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

3374 (i) provides written notice to the commission requesting the transfer; and

3375 (ii) designates the public transit district to which the county legislative body requests

3376 the commission to transfer the revenues described in Subsection (4)(a).

3377 (c) Except as provided in Subsection (6), the commission shall deposit revenues  
3378 collected within a county from a tax under this part that:

3379 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into  
3380 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

3381 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into  
3382 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

3383 (iii) a county legislative body determines to expend for a purpose described in  
3384 Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class State Highway  
3385 Projects Fund created by Section 72-2-121.2 if the county legislative body provides written  
3386 notice to the commission requesting the deposit.

3387 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
3388 collect, and enforce a tax under this part in accordance with:

3389 (i) the same procedures used to administer, collect, and enforce the tax under:

3390 (A) Part 1, Tax Collection; or

3391 (B) Part 2, Local Sales and Use Tax Act; and

3392 (ii) Chapter 1, General Taxation Policies.

3393 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

3394 (6) (a) The commission may retain an amount of tax collected under this part of not to  
3395 exceed the lesser of:

3396 (i) 1.50%; or

3397 (ii) an amount equal to the cost to the commission of administering this part.

3398 (b) Any amount the commission retains under Subsection (6)(a) shall be:

3399 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

3400 (ii) used as provided in Subsection 59-12-206(2).

3401 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
3402 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
3403 repeal, or change shall take effect:

3404 (A) on the first day of a calendar quarter; and

3405 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3406 the requirements of Subsection (7)(a)(ii) from the county.

- 3407 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
- 3408 (A) that the county will enact, repeal, or change the rate of a tax under this part;
- 3409 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
- 3410 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
- 3411 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 3412 (7)(a)(ii)(A), the rate of the tax.
- 3413 (b) (i) If the billing period for a transaction begins before the effective date of the
- 3414 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a
- 3415 tax rate increase shall take effect on the first day of the first billing period that begins after the
- 3416 effective date of the enactment of the tax or the tax rate increase.
- 3417 (ii) If the billing period for a transaction begins before the effective date of the repeal
- 3418 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
- 3419 decrease shall take effect on the first day of the last billing period that began before the
- 3420 effective date of the repeal of the tax or the tax rate decrease.
- 3421 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
- 3422 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
- 3423 described in Subsection (7)(a)(i) takes effect:
- 3424 (A) on the first day of a calendar quarter; and
- 3425 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 3426 rate of the tax under Subsection (7)(a)(i).
- 3427 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3428 commission may by rule define the term "catalogue sale."
- 3429 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
- 3430 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
- 3431 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
- 3432 effect:
- 3433 (A) on the first day of a calendar quarter; and
- 3434 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3435 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.
- 3436 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:
- 3437 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,

3438 repeal, or change in the rate of a tax under this part for the annexing area;

3439 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3440 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3441 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

3442 (7)(d)(ii)(A), the rate of the tax.

3443 (e) (i) If the billing period for a transaction begins before the effective date of the  
3444 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax  
3445 rate increase shall take effect on the first day of the first billing period that begins after the  
3446 effective date of the enactment of the tax or the tax rate increase.

3447 (ii) If the billing period for a transaction begins before the effective date of the repeal  
3448 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
3449 decrease shall take effect on the first day of the last billing period that began before the  
3450 effective date of the repeal of the tax or the tax rate decrease.

3451 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
3452 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
3453 described in Subsection (7)(d)(i) takes effect:

3454 (A) on the first day of a calendar quarter; and

3455 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3456 rate under Subsection (7)(d)(i).

3457 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3458 commission may by rule define the term "catalogue sale".

3459 Section 21. Section **59-12-2003** is amended to read:

3460 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
3461 **transit districts.**

3462 (1) Subject to the other provisions of this section and except as provided in Subsection  
3463 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part within a city,  
3464 town, or the unincorporated area of a county of the first or second class if, on January 1, 2008,  
3465 there is a public transit district within any portion of that county of the first or second class.

3466 (2) The state may not impose a tax under this part within a county of the first or second  
3467 class if within all of the cities, towns, and the unincorporated area of the county of the first or  
3468 second class there is imposed a sales and use tax of:

- 3469 (a) .30% under Section 59-12-501;
- 3470 (b) .30% under Section 59-12-1001; or
- 3471 (c) .30% under Section 59-12-1503.
- 3472 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
- 3473 rate imposed within a city, town, or the unincorporated area of a county of the first or second
- 3474 class is a percentage equal to the difference between:
- 3475 (i) .30%; and
- 3476 (ii) (A) for a city within the county of the first or second class, the highest tax rate
- 3477 imposed within that city under:
- 3478 (I) Section 59-12-501;
- 3479 (II) Section 59-12-1001; or
- 3480 (III) Section 59-12-1503;
- 3481 (B) for a town within the county of the first or second class, the highest tax rate
- 3482 imposed within that town under:
- 3483 (I) Section 59-12-501;
- 3484 (II) Section 59-12-1001; or
- 3485 (III) Section 59-12-1503; or
- 3486 (C) for the unincorporated area of the county of the first or second class, the highest tax
- 3487 rate imposed within that unincorporated area under:
- 3488 (I) Section 59-12-501;
- 3489 (II) Section 59-12-1001; or
- 3490 (III) Section 59-12-1503.
- 3491 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
- 3492 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,
- 3493 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the
- 3494 first or second class is .30%, the state may not impose a tax under this part within that city,
- 3495 town, or unincorporated area.
- 3496 (4) ~~(a)~~ The state may not impose a tax under this part on:
- 3497 ~~(i)~~ (a) a transaction described in Subsection 59-12-103(1)(d); or
- 3498 ~~(ii) except as provided in Subsection (4)(b), a transaction described in Subsection~~
- 3499 ~~59-12-103(2)(c); or]~~

3500 [(iii)] (b) the sales and uses described in Section 59-12-104 to the extent the sales and  
3501 uses are exempt from taxation under Section 59-12-104.

3502 [~~(b) The state shall impose a tax under this part on amounts paid or charged for food  
3503 and food ingredients if the food and food ingredients are sold as part of a bundled transaction  
3504 attributable to food and ingredients and tangible personal property other than food and food  
3505 ingredients.~~]

3506 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
3507 accordance with Sections 59-12-211 through 59-12-215.

3508 (6) The commission shall distribute the revenues the state collects from the sales and  
3509 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
3510 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3511 (a) within which the state imposes a tax under this part; and

3512 (b) in proportion to the revenues collected from the sales and use tax under this part  
3513 within each city, town, and unincorporated area within which the state imposes a tax under this  
3514 part.

3515 Section 22. Section **59-12-2103** is amended to read:

3516 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**  
3517 **from the tax -- Administration, collection, and enforcement of tax by commission --**  
3518 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

3519 (1) (a) Subject to the other provisions of this section and except as provided in  
3520 Subsection (2), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town  
3521 receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or  
3522 town would have received a tax revenue distribution of less than .75% of the taxable sales  
3523 within the boundaries of the city or town but for Subsection 59-12-205(3)(a), the city or town  
3524 legislative body may impose a sales and use tax of up to .20% on the transactions:

3525 (i) described in Subsection 59-12-103(1); and

3526 (ii) within the city or town.

3527 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall  
3528 expend the revenues collected from the tax for the same purposes for which the city or town  
3529 may expend the city's or town's general fund revenues.

3530 (c) For purposes of this Subsection (1), the location of a transaction shall be

3531 determined in accordance with Sections 59-12-211 through 59-12-215.

3532 (2) ~~[(a)]~~ A city or town legislative body may not impose a tax under this section on[:  
3533 ~~(†)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are  
3534 exempt from taxation under Section 59-12-104~~[-and].~~

3535 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~  
3536 ~~food ingredients.]~~

3537 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the~~  
3538 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~  
3539 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~  
3540 ~~personal property other than food and food ingredients.]~~

3541 (3) To impose a tax under this part, a city or town legislative body shall obtain  
3542 approval from a majority of the members of the city or town legislative body.

3543 (4) The commission shall transmit revenues collected within a city or town from a tax  
3544 under this part:

3545 (a) to the city or town legislative body;

3546 (b) monthly; and

3547 (c) by electronic funds transfer.

3548 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,  
3549 collect, and enforce a tax under this part in accordance with:

3550 (i) the same procedures used to administer, collect, and enforce the tax under:

3551 (A) Part 1, Tax Collection; or

3552 (B) Part 2, Local Sales and Use Tax Act; and

3553 (ii) Chapter 1, General Taxation Policies.

3554 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

3555 (6) (a) The commission may retain an amount of tax collected under this part of not to  
3556 exceed the lesser of:

3557 (i) 1.5%; or

3558 (ii) an amount equal to the cost to the commission of administering this part.

3559 (b) Any amount the commission retains under Subsection (6)(a) shall be:

3560 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

3561 (ii) used as provided in Subsection 59-12-206(2).

3562 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,  
3563 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,  
3564 repeal, or change shall take effect:

3565 (A) on the first day of a calendar quarter; and

3566 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3567 the requirements of Subsection (7)(a)(i) from the city or town.

3568 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

3569 (A) that the city or town will enact or repeal a tax or change the rate of the tax under  
3570 this part;

3571 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

3572 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

3573 (D) if the city or town enacts the tax or changes the rate of the tax described in  
3574 Subsection (7)(a)(ii)(A), the rate of the tax.

3575 (b) (i) If the billing period for a transaction begins before the enactment of the tax or  
3576 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall  
3577 take effect on the first day of the first billing period that begins after the effective date of the  
3578 enactment of the tax or the tax rate increase.

3579 (ii) If the billing period for a transaction begins before the effective date of the repeal  
3580 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
3581 decrease shall take effect on the first day of the last billing period that began before the  
3582 effective date of the repeal of the tax or the tax rate decrease.

3583 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
3584 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
3585 described in Subsection (7)(a)(i) takes effect:

3586 (A) on the first day of a calendar quarter; and

3587 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the  
3588 rate of the tax under Subsection (7)(a)(i).

3589 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3590 commission may by rule define the term "catalogue sale."

3591 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs  
3592 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the

3593 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take  
3594 effect:

3595 (A) on the first day of a calendar quarter; and

3596 (B) after a 90-day period beginning on the date the commission receives notice meeting  
3597 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3598 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3599 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the  
3600 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3601 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3602 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3603 (D) if the city or town enacts the tax or changes the rate of the tax described in  
3604 Subsection (7)(d)(ii)(A), the rate of the tax.

3605 (e) (i) If the billing period for a transaction begins before the effective date of the  
3606 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax  
3607 rate increase shall take effect on the first day of the first billing period that begins after the  
3608 effective date of the enactment of the tax or the tax rate increase.

3609 (ii) If the billing period for a transaction begins before the effective date of the repeal  
3610 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate  
3611 decrease shall take effect on the first day of the last billing period that began before the  
3612 effective date of the repeal of the tax or the tax rate decrease.

3613 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales  
3614 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax  
3615 described in Subsection (7)(d)(i) takes effect:

3616 (A) on the first day of a calendar quarter; and

3617 (B) beginning 60 days after the effective date of the enactment, repeal, or change under  
3618 Subsection (7)(d)(i).

3619 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3620 commission may by rule define the term "catalogue sale".

3621 Section 23. **Effective date -- Retrospective operation.**

3622 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2009.

3623 (2) The amendments to Sections 59-10-1102.1 and 59-10-1108 have retrospective

3624 operation for a taxable year beginning on or after January 1, 2009.

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**Legislative Review Note**  
as of **2-24-09 10:19 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 403 - Sales and Use Tax and Income Tax Amendments**

**Fiscal Note**

2009 General Session  
State of Utah

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**State Impact**

Enactment of this bill restores the sales tax on food to the state rate. This increases revenue to the General Fund by \$145,358,600 in FY 2010 and by \$150,402,500 in FY 2011. Restricted revenues will also increase by \$16,478,400 in FY 2010 and by \$17,048,300 in FY 2011. Total funding increases resulting from the food tax provisions will be \$161,837,000 in FY 2010 and \$167,450,800 in FY 2011. The bill also provides for a refundable income tax credit equal to 6 percent of the federal earned income tax credit. This will result in a revenue loss of \$19,400,000 in FY 2010 and by \$20,176,000 in FY 2011. An appropriation from the General Fund will be made to the Education Fund to hold education harmless.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$19,400,000	\$20,176,000	\$0	\$145,358,600	\$150,402,500
Education Fund	\$0	\$0	\$0	\$0	(\$19,400,000)	(\$20,176,000)
Restricted Funds	\$0	\$0	\$0	\$0	\$16,478,400	\$17,048,300
<b>Total</b>	<b>\$0</b>	<b>\$19,400,000</b>	<b>\$20,176,000</b>	<b>\$0</b>	<b>\$142,437,000</b>	<b>\$147,274,800</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill could increase costs to individuals and businesses for food purchases. Low income individuals could receive a benefit from the income tax credit authorized in the bill. Local governments could see increases in restricted revenues of \$48,643,500 in FY 2010 and by \$50,331,000 in FY 2011.