

1 **SALES AND USE TAX AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Wayne A. Harper

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Sales and Use Tax Act and related provisions.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ addresses an exemption from certain penalties relating to sales and use taxes;
- 13 ▶ modifies and repeals definitions;
- 14 ▶ provides that amounts paid or charged for prepaid telephone calling cards are not
- 15 subject to state and local sales and use taxes;
- 16 ▶ repeals a sales and use tax exemption for sales of telecommunications service
- 17 charged to a prepaid telephone calling card;
- 18 ▶ provides a requirement that to be eligible for exemption from state and local sales
- 19 and use taxes, certain machinery, equipment, or repair or replacement parts be used
- 20 in an establishment or facility in the state;
- 21 ▶ repeals obsolete language;
- 22 ▶ addresses a state sales and use tax exemption for certain accommodations and
- 23 services taxed by the Navajo Nation;
- 24 ▶ addresses a refund for overpayment of a sales and use tax;
- 25 ▶ addresses a seller's or certified service provider's reliance on State Tax Commission
- 26 information;
- 27 ▶ addresses the transactions that are taxable or exempt under Title 59, Chapter 12,
- 28 Part 2, Local Sales and Use Tax Act;
- 29 ▶ addresses the determination of the location of certain transactions;

- 30 ▶ provides that the motor vehicle rental tax is not subject to certain provisions
- 31 designating the state sales and use tax for particular purposes;
- 32 ▶ conforms terminology in the emergency telephone service charge for 911
- 33 administered by the State Tax Commission to terminology in the Sales and Use Tax
- 34 Act; and
- 35 ▶ makes technical changes.

36 Monies Appropriated in this Bill:

37 None

38 Other Special Clauses:

39 This bill takes effect on July 1, 2009.

40 Utah Code Sections Affected:

41 **AMENDS:**

- 42 **59-1-401**, as last amended by Laws of Utah 2008, Chapter 382
- 43 **59-1-403**, as last amended by Laws of Utah 2008, Chapters 3, 382, and 384
- 44 **59-12-102**, as last amended by Laws of Utah 2008, Chapters 3, 28, 286, 323, 382, and
- 45 384
- 46 **59-12-103**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 5
- 47 **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2
- 48 **59-12-104.2**, as last amended by Laws of Utah 2008, Chapter 286
- 49 **59-12-104.5**, as last amended by Laws of Utah 2008, Chapter 384
- 50 **59-12-105**, as last amended by Laws of Utah 2008, Chapter 384
- 51 **59-12-110**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 52 **59-12-125**, as enacted by Laws of Utah 2008, Chapter 384
- 53 **59-12-204**, as last amended by Laws of Utah 2006, Chapter 253
- 54 **59-12-205**, as last amended by Laws of Utah 2008, Chapter 384
- 55 **59-12-215**, as renumbered and amended by Laws of Utah 2008, Chapter 384
- 56 **59-12-216**, as enacted by Laws of Utah 2008, Chapter 384
- 57 **59-12-304**, as enacted by Laws of Utah 2008, Chapter 384

- 58 **59-12-357**, as enacted by Laws of Utah 2008, Chapter 384
- 59 **59-12-406**, as enacted by Laws of Utah 2008, Chapter 384
- 60 **59-12-506**, as enacted by Laws of Utah 2008, Chapter 384
- 61 **59-12-605**, as enacted by Laws of Utah 2008, Chapter 384
- 62 **59-12-707**, as enacted by Laws of Utah 2008, Chapter 384
- 63 **59-12-808**, as enacted by Laws of Utah 2008, Chapter 384
- 64 **59-12-1004**, as enacted by Laws of Utah 2008, Chapter 384
- 65 **59-12-1104**, as enacted by Laws of Utah 2008, Chapter 384
- 66 **59-12-1201**, as last amended by Laws of Utah 2008, Chapter 384
- 67 **59-12-1202**, as enacted by Laws of Utah 2008, Chapter 384
- 68 **59-12-1304**, as enacted by Laws of Utah 2008, Chapter 384
- 69 **59-12-1405**, as enacted by Laws of Utah 2008, Chapter 384
- 70 **59-12-1505**, as enacted by Laws of Utah 2008, Chapter 384
- 71 **59-12-1706**, as enacted by Laws of Utah 2008, Chapter 384
- 72 **59-12-1804**, as enacted by Laws of Utah 2008, Chapter 384
- 73 **59-12-1904**, as enacted by Laws of Utah 2008, Chapter 286
- 74 **59-12-2005**, as enacted by Laws of Utah 2008, Chapter 286
- 75 **59-12-2104**, as enacted by Laws of Utah 2008, Chapter 323
- 76 **69-2-5**, as last amended by Laws of Utah 2008, Chapters 360 and 384



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

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

80 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
 81 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
 82 **interest.**

83 (1) As used in this section:

84 (a) (i) "Nonqualifying obligation" means a charge, fee, payment, or tax administered
 85 by the commission.

- 86 (ii) "Nonqualifying obligation" does not include:
- 87 (A) beginning on the phase I activation date, a phase I obligation; or
- 88 (B) beginning on the phase II activation date, a phase II obligation.
- 89 (b) "Phase I activation date" means the earlier of:
- 90 (i) the day on which the commission's GenTax system is activated to administer all
- 91 phase I obligations; or
- 92 (ii) May 1, 2008.
- 93 (c) "Phase I obligation" means:
- 94 (i) a fee under Section 19-6-808;
- 95 (ii) a tax under Chapter 10, Part 1, Determination and Reporting of Tax Liability and
- 96 Information;
- 97 (iii) a tax under Chapter 10, Part 2, Trusts and Estates;
- 98 (iv) a tax under Chapter 10, Part 12, Single Rate Individual Income Tax Act; or
- 99 (v) a tax under Chapter 12, Sales and Use Tax Act.
- 100 (d) "Phase II activation date" means the earlier of:
- 101 (i) the day on which the commission's GenTax system is activated to administer all
- 102 phase II obligations; or
- 103 (ii) May 4, 2009.
- 104 (e) (i) "Phase II obligation" means:
- 105 (A) a payment under Chapter 6, Mineral Production Tax Withholding;
- 106 (B) a tax under Chapter 7, Corporate Franchise and Income Taxes;
- 107 (C) a payment under Chapter 10, Part 4, Withholding of Tax; or
- 108 (D) a tax paid on a return filed in accordance with Section 59-10-507.
- 109 (ii) "Phase II obligation" does not include a payment of estimated tax under Section
- 110 59-7-504.
- 111 (2) (a) The due date for filing a return is:
- 112 (i) if the person filing the return is not allowed by law an extension of time for filing
- 113 the return, the day on which the return is due as provided by law; or

114 (ii) if the person filing the return is allowed by law an extension of time for filing the
115 return, the last day of that extension of time.

116 (b) (i) A penalty in the amount described in Subsection (2)(b)(ii) is imposed if:

117 (A) a person is required to file a return with respect to a nonqualifying obligation; and

118 (B) the person described in Subsection (2)(b)(i)(A) files the return after the due date
119 described in Subsection (2)(a).

120 (ii) For purposes of Subsection (2)(b)(i), the penalty is an amount equal to the greater
121 of:

122 (A) \$20; or

123 (B) 10% of the unpaid nonqualifying obligation due on the return.

124 (c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a
125 person:

126 (A) (I) is required to file a return:

127 (Aa) on or after the phase I activation date; and

128 (Bb) with respect to a phase I obligation; and

129 (II) files the return after the due date described in Subsection (2)(a); or

130 (B) (I) is required to file a return:

131 (Aa) on or after the phase II activation date; and

132 (Bb) with respect to a phase II obligation; and

133 (II) files the return after the due date described in Subsection (2)(a).

134 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater
135 of:

136 (A) \$20; or

137 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
138 the return is filed no later than five days after the due date described in Subsection (2)(a);

139 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
140 return is filed more than five days after the due date but no later than 15 days after the due
141 date described in Subsection (2)(a); or

142 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if
143 the return is filed more than 15 days after the due date described in Subsection (2)(a).

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

145 (i) an amended return; or

146 (ii) a return with no tax due.

147 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a
148 penalty as provided in this Subsection (3).

149 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:

150 (A) a person files a return with respect to a nonqualifying obligation on or before the
151 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
152 obligation due on the return on or before that due date;

153 (B) a person:

154 (I) is subject to a penalty under Subsection (2)(b); and

155 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
156 the due date for filing a return described in Subsection (2)(a);

157 (C) a person:

158 (I) is mailed a notice of deficiency; and

159 (II) within a 30-day period after the day on which the notice of deficiency described in
160 Subsection (3)(b)(i)(C)(I) is mailed:

161 (Aa) does not file a petition for redetermination or a request for agency action; and

162 (Bb) fails to pay a nonqualifying obligation due on a return;

163 (D) (I) the commission:

164 (Aa) issues an order constituting final agency action resulting from a timely filed
165 petition for redetermination or a timely filed request for agency action; or

166 (Bb) is considered to have denied a request for reconsideration under Subsection
167 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
168 request for agency action; and

169 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day

170 period after the date the commission:

171 (Aa) issues the order constituting final agency action described in Subsection
172 (3)(b)(i)(D)(I)(Aa); or

173 (Bb) is considered to have denied the request for reconsideration described in
174 Subsection (3)(b)(i)(D)(I)(Bb); or

175 (E) a person fails to pay a nonqualifying obligation within a 30-day period after the
176 date of a final judicial decision resulting from a timely filed petition for judicial review.

177 (ii) For purposes of Subsection (3)(b)(i), the penalty is an amount equal to the greater
178 of:

179 (A) \$20; or

180 (B) 10% of the unpaid nonqualifying obligation due on the return.

181 (c) (i) This Subsection (3)(c) applies to a penalty:

182 (A) imposed on or after the phase I activation date with respect to a phase I obligation;

183 or

184 (B) imposed on or after the phase II activation date with respect to a phase II
185 obligation.

186 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:

187 (I) with respect to a phase I obligation:

188 (Aa) files a return on or before the due date for filing a return described in Subsection
189 (2)(a); and

190 (Bb) fails to pay the phase I obligation due on the return on or before the due date
191 described in Subsection (2)(a); or

192 (II) with respect to a phase II obligation:

193 (Aa) files a return on or before the due date for filing a return described in Subsection
194 (2)(a); and

195 (Bb) fails to pay the phase II obligation due on the return on or before the due date
196 described in Subsection (2)(a).

197 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the

198 greater of:

199 (I) \$20; or

200 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
201 the phase I obligation or phase II obligation due on the return is paid no later than five days
202 after the due date for filing a return described in Subsection (2)(a);

203 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
204 phase I obligation or phase II obligation due on the return is paid more than five days after the
205 due date for filing a return described in Subsection (2)(a) but no later than 15 days after that
206 due date; or

207 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
208 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
209 the due date for filing a return described in Subsection (2)(a).

210 (iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the
211 person:

212 (I) is subject to a penalty under Subsection (2)(c); and

213 (II) fails to pay a phase I obligation or phase II obligation due on a return within a
214 90-day period after the due date for filing a return described in Subsection (2)(a).

215 (B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the
216 greater of:

217 (I) \$20; or

218 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
219 the phase I obligation or phase II obligation due on the return is paid no later than five days
220 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);

221 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
222 phase I obligation or phase II obligation due on the return is paid more than five days after the
223 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15
224 days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or

225 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if

226 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
227 the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).

228 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if the
229 person:

230 (I) is mailed a notice of deficiency; and

231 (II) within a 30-day period after the day on which the notice of deficiency described in
232 Subsection (3)(c)(iv)(A)(I) is mailed:

233 (Aa) does not file a petition for redetermination or a request for agency action; and

234 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.

235 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
236 greater of:

237 (I) \$20; or

238 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
239 the phase I obligation or phase II obligation due on the return is paid no later than five days
240 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II);

241 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
242 phase I obligation or phase II obligation due on the return is paid more than five days after the
243 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II) but no later than 15 days
244 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II); or

245 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
246 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
247 the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II).

248 (v) (A) A person is subject to a penalty as provided in Subsection (3)(c)(v)(B) if:

249 (I) the commission:

250 (Aa) issues an order constituting final agency action resulting from a timely filed
251 petition for redetermination or a timely filed request for agency action; or

252 (Bb) is considered to have denied a request for reconsideration under Subsection
253 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed

254 request for agency action; and

255 (II) the person fails to pay a phase I obligation or phase II obligation due on a return
256 within a 30-day period after the date the commission:

257 (Aa) issues the order constituting final agency action described in Subsection
258 (3)(c)(v)(A)(I)(Aa); or

259 (Bb) is considered to have denied the request for reconsideration described in
260 Subsection (3)(c)(v)(A)(I)(Bb).

261 (B) For purposes of Subsection (3)(c)(v)(A), the penalty is an amount equal to the
262 greater of:

263 (I) \$20; or

264 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
265 the phase I obligation or phase II obligation due on the return is paid no later than five days
266 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II);

267 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
268 phase I obligation or phase II obligation due on the return is paid more than five days after the
269 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II) but no later than 15 days
270 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II); or

271 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
272 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
273 the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II).

274 (vi) (A) A person is subject to a penalty as provided in Subsection (3)(c)(vi)(B) if
275 within a 30-day period after the date of a final judicial decision resulting from a timely filed
276 petition for judicial review, the person fails to pay a phase I obligation or phase II obligation.

277 (B) For purposes of Subsection (3)(c)(vi)(A), the penalty is an amount equal to the
278 greater of:

279 (I) \$20; or

280 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
281 the phase I obligation or phase II obligation due on the return is paid no later than five days

282 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A);

283 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
284 phase I obligation or phase II obligation due on the return is paid more than five days after the
285 last day of the 30-day period described in Subsection (3)(c)(vi)(A) but no later than 15 days
286 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A); or

287 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
288 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
289 the last day of the 30-day period described in Subsection (3)(c)(vi)(A).

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

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

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

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

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

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

306 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
307 person allowed by law an extension of time for filing a corporate franchise or income tax
308 return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax
309 return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount

310 described in Subsection (5)(b) if, on or before the day on which the return is due as provided
311 by law, not including the extension of time, the person fails to pay:

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

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

317 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
318 extension of time for filing the return is an amount equal to 2% of the unpaid tax due on the
319 return.

320 (6) If a person does not file a return within an extension of time allowed by Section
321 59-7-505 or 59-10-516, the person:

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

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

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

325 (A) \$20; or

326 (B) 10% of the unpaid tax due on the return; and

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

328 (A) \$20; or

329 (B) 10% of the unpaid tax due on the return.

330 (7) (a) Additional penalties for underpayments of tax are as provided in this
331 Subsection (7)(a).

332 (i) Except as provided in Subsection (7)(c), if any underpayment of tax is due to
333 negligence, the penalty is 10% of the underpayment.

334 (ii) Except as provided in Subsection (7)(d), if any underpayment of tax is due to
335 intentional disregard of law or rule, the penalty is 15% of the underpayment.

336 (iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of
337 the tax due.

338 (iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the
339 greater of \$500 per period or 100% of the underpayment.

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

343 (i) The notice of proposed penalty shall:

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

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

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

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

349 or

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

351 (iii) Any person against whom a penalty has been proposed in accordance with this
352 Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative
353 proceeding with the commission.

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

357 (B) The notice and demand for payment described in Subsection (7)(b)(iv)(A) shall be
358 mailed by certified mail, postage prepaid, to the person's last-known address.

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

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

363 (A) the seller meets one or more of the criteria described in Subsection
364 59-12-107(1)(a); and

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

366 under ~~[Subsection]~~ Subsections 59-12-103(2)(a) ~~[or (b)]~~ through (d); or

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

368 (A) the seller meets one or more of the criteria described in Subsection

369 59-12-107(1)(a); and

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

371 under ~~[Subsection]~~ Subsections 59-12-103(2)(a) ~~[or (b)]~~ through (d).

372 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not

373 subject to the penalty under Subsection (7)(a)(ii) if:

374 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order

375 determining that:

376 (I) the seller meets one or more of the criteria described in Subsection

377 59-12-107(1)(a); and

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

379 under ~~[Subsection]~~ Subsections 59-12-103(2)(a) ~~[or (b)]~~ through (d); or

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

381 (I) the seller meets one or more of the criteria described in Subsection

382 59-12-107(1)(a); and

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

384 under ~~[Subsection]~~ Subsections 59-12-103(2)(a) ~~[or (b)]~~ through (d); and

385 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

386 nonfrivolous argument for the extension, modification, or reversal of existing law or the

387 establishment of new law.

388 (8) Except as provided in Section 59-12-105, the penalty for failure to file an

389 information return, information report, or a complete supporting schedule is \$50 for each

390 information return, information report, or supporting schedule up to a maximum of \$1,000.

391 (9) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to

392 delay or impede administration of the tax law and files a purported return that fails to contain

393 information from which the correctness of reported tax liability can be determined or that

394 clearly indicates that the tax liability shown must be substantially incorrect, the penalty is
395 \$500.

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

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

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

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

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

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

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

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

410 (A) a return;

411 (B) an affidavit;

412 (C) a claim; or

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

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

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

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

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

- 422 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
- 423 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
- 424 (iv) advising in the preparation or presentation of any portion of a document described
- 425 in Subsection (11)(a)(i);
- 426 (v) aiding in the preparation or presentation of any portion of a document described in
- 427 Subsection (11)(a)(i);
- 428 (vi) assisting in the preparation or presentation of any portion of a document described
- 429 in Subsection (11)(a)(i); or
- 430 (vii) counseling in the preparation or presentation of any portion of a document
- 431 described in Subsection (11)(a)(i).
- 432 (c) For purposes of Subsection (11)(a), the penalty:
- 433 (i) shall be imposed by the commission;
- 434 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
- 435 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
- 436 (iii) is in addition to any other penalty provided by law.
- 437 (d) The commission may seek a court order to enjoin a person from engaging in
- 438 conduct that is subject to a penalty under this Subsection (11).
- 439 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 440 commission may make rules prescribing the documents that are similar to Subsections
- 441 (11)(a)(i)(A) through (C).
- 442 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
- 443 provided in Subsections (12)(b) through (e).
- 444 (b) (i) Any person who is required by this title or any laws the commission administers
- 445 or regulates to register with or obtain a license or permit from the commission, who operates
- 446 without having registered or secured a license or permit, or who operates when the registration,
- 447 license, or permit is expired or not current, is guilty of a class B misdemeanor.
- 448 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
- 449 penalty may not:

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

451 (B) exceed \$1,000.

452 (c) (i) Any person who, with intent to evade any tax or requirement of this title or any
453 lawful requirement of the commission, fails to make, render, sign, or verify any return or to
454 supply any information within the time required by law, or who makes, renders, signs, or
455 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
456 information, is guilty of a third degree felony.

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

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

460 (B) exceed \$5,000.

461 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax or
462 the payment of a tax is, in addition to other penalties provided by law, guilty of a second
463 degree felony.

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

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

467 (B) exceed \$25,000.

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

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

471 (I) a return;

472 (II) an affidavit;

473 (III) a claim; or

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

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

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

478 (II) could be used in connection with any material matter administered by the
479 commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

501 (B) exceed \$25,000.

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

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

506 (12)(e)(i)(A)(I) through (III).

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

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

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

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

514 Section 2. Section **59-1-403** is amended to read:

515 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

516 (1) (a) Any of the following may not divulge or make known in any manner any
517 information gained by that person from any return filed with the commission:

518 (i) a tax commissioner;

519 (ii) an agent, clerk, or other officer or employee of the commission; or

520 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
521 town.

522 (b) An official charged with the custody of a return filed with the commission is not
523 required to produce the return or evidence of anything contained in the return in any action or
524 proceeding in any court, except:

525 (i) in accordance with judicial order;

526 (ii) on behalf of the commission in any action or proceeding under:

527 (A) this title; or

528 (B) other law under which persons are required to file returns with the commission;

529 (iii) on behalf of the commission in any action or proceeding to which the commission
530 is a party; or

531 (iv) on behalf of any party to any action or proceeding under this title if the report or
532 facts shown by the return are directly involved in the action or proceeding.

533 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may

534 admit in evidence, any portion of a return or of the facts shown by the return, as are
535 specifically pertinent to the action or proceeding.

536 (2) This section does not prohibit:

537 (a) a person or that person's duly authorized representative from receiving a copy of
538 any return or report filed in connection with that person's own tax;

539 (b) the publication of statistics as long as the statistics are classified to prevent the
540 identification of particular reports or returns; and

541 (c) the inspection by the attorney general or other legal representative of the state of
542 the report or return of any taxpayer:

543 (i) who brings action to set aside or review a tax based on the report or return;

544 (ii) against whom an action or proceeding is contemplated or has been instituted under
545 this title; or

546 (iii) against whom the state has an unsatisfied money judgment.

547 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
548 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
549 Rulemaking Act, provide for a reciprocal exchange of information with:

550 (i) the United States Internal Revenue Service; or

551 (ii) the revenue service of any other state.

552 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
553 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
554 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
555 other written statements with the federal government, any other state, any of the political
556 subdivisions of another state, or any political subdivision of this state, except as limited by
557 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
558 government grant substantially similar privileges to this state.

559 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
560 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
561 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the

562 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
563 due.

564 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
565 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
566 requested by the executive secretary, any records, returns, or other information filed with the
567 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
568 regarding the environmental assurance program participation fee.

569 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
570 provide that person sales and purchase volume data reported to the commission on a report,
571 return, or other information filed with the commission under:

572 (i) Chapter 13, Part 2, Motor Fuel; or

573 (ii) Chapter 13, Part 4, Aviation Fuel.

574 (f) Notwithstanding Subsection (1), upon request from a tobacco product
575 manufacturer, as defined in Section 59-22-202, the commission shall report to the
576 manufacturer:

577 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
578 manufacturer and reported to the commission for the previous calendar year under Section
579 59-14-407; and

580 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
581 manufacturer for which a tax refund was granted during the previous calendar year under
582 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

583 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
584 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is
585 prohibited from selling cigarettes to consumers within the state under Subsection
586 59-14-210(2).

587 (h) Notwithstanding Subsection (1), the commission may:

588 (i) provide to the Division of Consumer Protection within the Department of
589 Commerce and the attorney general data:

590 (A) reported to the commission under Section 59-14-212; or

591 (B) related to a violation under Section 59-14-211; and

592 (ii) upon request provide to any person data reported to the commission under
593 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

594 (i) Notwithstanding Subsection (1), the commission shall, at the request of a
595 committee of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of
596 Planning and Budget, provide to the committee or office the total amount of revenues
597 collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the
598 time period specified by the committee or office.

599 (j) Notwithstanding Subsection (1), the commission shall at the request of the
600 Legislature provide to the Legislature the total amount of sales or uses exempt under
601 Subsection 59-12-104[~~(46)~~](44) reported to the commission in accordance with Section
602 59-12-105.

603 (k) Notwithstanding Subsection (1), the commission shall make the directory required
604 by Section 59-14-603 available for public inspection.

605 (l) Notwithstanding Subsection (1), the commission may share information with
606 federal, state, or local agencies as provided in Subsection 59-14-606(3).

607 (m) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
608 Recovery Services within the Department of Human Services any relevant information
609 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a
610 taxpayer who has become obligated to the Office of Recovery Services.

611 (ii) The information described in Subsection (3)(m)(i) may be provided by the Office
612 of Recovery Services to any other state's child support collection agency involved in enforcing
613 that support obligation.

614 (n) (i) Notwithstanding Subsection (1), upon request from the state court
615 administrator, the commission shall provide to the state court administrator, the name,
616 address, telephone number, county of residence, and Social Security number on resident
617 returns filed under Chapter 10, Individual Income Tax Act.

618 (ii) The state court administrator may use the information described in Subsection
619 (3)(n)(i) only as a source list for the master jury list described in Section 78B-1-106.

620 (o) Notwithstanding Subsection (1), the commission shall at the request of a
621 committee, commission, or task force of the Legislature provide to the committee,
622 commission, or task force of the Legislature any information relating to a tax imposed under
623 Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

624 (p) (i) As used in this Subsection (3)(p), "office" means the:

625 (A) Office of the Legislative Fiscal Analyst; or

626 (B) Office of Legislative Research and General Counsel.

627 (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(p)(iii),
628 the commission shall at the request of an office provide to the office all information:

629 (A) gained by the commission; and

630 (B) required to be attached to or included in returns filed with the commission.

631 (iii) (A) An office may not request and the commission may not provide to an office a
632 person's:

633 (I) address;

634 (II) name;

635 (III) Social Security number; or

636 (IV) taxpayer identification number.

637 (B) The commission shall in all instances protect the privacy of a person as required
638 by Subsection (3)(p)(iii)(A).

639 (iv) An office may provide information received from the commission in accordance
640 with this Subsection (3)(p) only:

641 (A) as:

642 (I) a fiscal estimate;

643 (II) fiscal note information; or

644 (III) statistical information; and

645 (B) if the information is classified to prevent the identification of a particular return.

646 (v) (A) A person may not request information from an office under Title 63G, Chapter
647 2, Government Records Access and Management Act, or this section, if that office received
648 the information from the commission in accordance with this Subsection (3)(p).

649 (B) An office may not provide to a person that requests information in accordance
650 with Subsection (3)(p)(v)(A) any information other than the information the office provides in
651 accordance with Subsection (3)(p)(iv).

652 (q) Notwithstanding Subsection (1), the commission may provide to the governing
653 board of the agreement or a taxing official of another state, the District of Columbia, the
654 United States, or a territory of the United States:

655 (i) the following relating to an agreement sales and use tax:

656 (A) information contained in a return filed with the commission;

657 (B) information contained in a report filed with the commission;

658 (C) a schedule related to Subsection (3)(q)(i)(A) or (B); or

659 (D) a document filed with the commission; or

660 (ii) a report of an audit or investigation made with respect to an agreement sales and
661 use tax.

662 (4) (a) Reports and returns shall be preserved for at least three years.

663 (b) After the three-year period provided in Subsection (4)(a) the commission may
664 destroy a report or return.

665 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

666 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
667 the person shall be dismissed from office and be disqualified from holding public office in this
668 state for a period of five years thereafter.

669 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
670 accordance with Subsection (3)(p)(iii) or a person that requests information in accordance
671 with Subsection (3)(p)(v):

672 (i) is not guilty of a class A misdemeanor; and

673 (ii) is not subject to:

- 674 (A) dismissal from office in accordance with Subsection (5)(b); or
- 675 (B) disqualification from holding public office in accordance with Subsection (5)(b).
- 676 (6) Except as provided in Section 59-1-404, this part does not apply to the property
- 677 tax.

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

679 **59-12-102. Definitions.**

680 As used in this chapter:

- 681 (1) "800 service" means a telecommunications service that:
 - 682 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
 - 683 (b) is typically marketed:
 - 684 (i) under the name 800 toll-free calling;
 - 685 (ii) under the name 855 toll-free calling;
 - 686 (iii) under the name 866 toll-free calling;
 - 687 (iv) under the name 877 toll-free calling;
 - 688 (v) under the name 888 toll-free calling; or
 - 689 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
 - 690 Federal Communications Commission.

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

- 692 (i) a subscriber purchases;
- 693 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 694 the subscriber's:

695 (A) prerecorded announcement; or

696 (B) live service; and

697 (iii) is typically marketed:

698 (A) under the name 900 service; or

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

700 Communications Commission.

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

- 702 (i) a collection service a seller of a telecommunications service provides to a
703 subscriber; or
- 704 (ii) the following a subscriber sells to the subscriber's customer:
- 705 (A) a product; or
- 706 (B) a service.
- 707 (3) (a) "Admission or user fees" includes season passes.
- 708 (b) "Admission or user fees" does not include annual membership dues to private
709 organizations.
- 710 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
711 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
712 Agreement after November 12, 2002.
- 713 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 714 (a) listed under Subsection (6); and
- 715 (b) that are imposed within a local taxing jurisdiction.
- 716 (6) "Agreement sales and use tax" means a tax imposed under:
- 717 (a) Subsection 59-12-103(2)(a)(i)(A);
- 718 (b) Subsection 59-12-103(2)(b)(i);
- 719 (c) Subsection 59-12-103(2)(c)(i);
- 720 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 721 (e) Section 59-12-204;
- 722 (f) Section 59-12-401;
- 723 (g) Section 59-12-402;
- 724 (h) Section 59-12-501;
- 725 (i) Section 59-12-502;
- 726 (j) Section 59-12-703;
- 727 (k) Section 59-12-802;
- 728 (l) Section 59-12-804;
- 729 (m) Section 59-12-1001;

- 730 (n) Section 59-12-1102;
- 731 (o) Section 59-12-1302;
- 732 (p) Section 59-12-1402;
- 733 (q) Section 59-12-1503;
- 734 (r) Section 59-12-1703;
- 735 (s) Section 59-12-1802;
- 736 (t) Section 59-12-1903;
- 737 (u) Section 59-12-2003; or
- 738 (v) Section 59-12-2103.
- 739 (7) "Aircraft" is as defined in Section 72-10-102.
- 740 (8) "Alcoholic beverage" means a beverage that:
- 741 (a) is suitable for human consumption; and
- 742 (b) contains .5% or more alcohol by volume.
- 743 (9) (a) "Ancillary service" means a service associated with, or incidental to, the
- 744 provision of telecommunications service.
- 745 (b) "Ancillary service" includes:
- 746 (i) a conference bridging service;
- 747 (ii) a detailed communications billing service;
- 748 (iii) directory assistance;
- 749 (iv) a vertical service; or
- 750 (v) a voice mail service.
- 751 (10) "Area agency on aging" is as defined in Section 62A-3-101.
- 752 (11) "Assisted amusement device" means an amusement device, skill device, or ride
- 753 device that is started and stopped by an individual:
- 754 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 755 device, skill device, or ride device; and
- 756 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 757 or ride device.

758 (12) "Assisted cleaning or washing of tangible personal property" means cleaning or
759 washing of tangible personal property if the cleaning or washing labor is primarily performed
760 by an individual:

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

763 (b) at the direction of the seller of the cleaning or washing of the tangible personal
764 property.

765 (13) "Authorized carrier" means:

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

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

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

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

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

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

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

778 (B) animal waste;

779 (C) methane produced:

780 (I) at landfills; or

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

782 (D) aquatic plants; and

783 (E) agricultural products.

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

785 (i) black liquor;

- 786 (ii) treated woods; or
- 787 (iii) biomass from municipal solid waste other than methane produced:
- 788 (A) at landfills; or
- 789 (B) as a byproduct of the treatment of wastewater residuals.
- 790 (15) (a) "Bundled transaction" means the sale of two or more items of tangible
- 791 personal property, products, or services if the tangible personal property, products, or services
- 792 are:
- 793 (i) distinct and identifiable; and
- 794 (ii) sold for one nonitemized price.
- 795 (b) "Bundled transaction" does not include:
- 796 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 797 the basis of the selection by the purchaser of the items of tangible personal property included
- 798 in the transaction;
- 799 (ii) the sale of real property;
- 800 (iii) the sale of services to real property;
- 801 (iv) the retail sale of tangible personal property and a service if:
- 802 (A) the tangible personal property:
- 803 (I) is essential to the use of the service; and
- 804 (II) is provided exclusively in connection with the service; and
- 805 (B) the service is the true object of the transaction;
- 806 (v) the retail sale of two services if:
- 807 (A) one service is provided that is essential to the use or receipt of a second service;
- 808 (B) the first service is provided exclusively in connection with the second service; and
- 809 (C) the second service is the true object of the transaction;
- 810 (vi) a transaction that includes tangible personal property or a product subject to
- 811 taxation under this chapter and tangible personal property or a product that is not subject to
- 812 taxation under this chapter if the:
- 813 (A) seller's purchase price of the tangible personal property or product subject to

814 taxation under this chapter is de minimis; or

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

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

819 (A) that retail sale includes:

820 (I) food and food ingredients;

821 (II) a drug;

822 (III) durable medical equipment;

823 (IV) mobility enhancing equipment;

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

825 (VI) a prosthetic device; or

826 (VII) a medical supply; and

827 (B) subject to Subsection (15)(f):

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

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

832 (c) (i) For purposes of Subsection (15)(a)(i), tangible personal property, a product, or a
833 service that is distinct and identifiable does not include:

834 (A) packaging that:

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

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

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

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

842 (ii) For purposes of Subsection (15)(c)(i)(B), an item of tangible personal property, a
843 product, or a service is provided free of charge with the purchase of another item of tangible
844 personal property, a product, or a service if the sales price of the purchased item of tangible
845 personal property, product, or service does not vary depending on the inclusion of the tangible
846 personal property, product, or service provided free of charge.

847 (d) (i) For purposes of Subsection (15)(a)(ii), property sold for one nonitemized price
848 does not include a price that is separately identified by product on the following, regardless of
849 whether the following is in paper format or electronic format:

850 (A) a binding sales document; or

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

852 (ii) For purposes of Subsection (15)(d)(i), a binding sales document or another
853 supporting sales-related document that is available to a purchaser includes:

854 (A) a bill of sale;

855 (B) a contract;

856 (C) an invoice;

857 (D) a lease agreement;

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

859 (F) a price list;

860 (G) a rate card;

861 (H) a receipt; or

862 (I) a service agreement.

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

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

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

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

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

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

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

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

883 (16) "Certified automated system" means software certified by the governing board of
884 the agreement [~~in accordance with Section 59-12-102.1~~] that:

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

887 (i) on a transaction; and

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

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

891 (c) maintains a record of the transaction described in Subsection (16)(a)(i).

892 (17) "Certified service provider" means an agent certified:

893 (a) by the governing board of the agreement [~~in accordance with Section~~
894 ~~59-12-102.1~~]; and

895 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
896 use tax other than the seller's obligation under Section [~~59-12-107.4~~] 59-12-124 to remit a tax
897 on the seller's own purchases.

898 (18) (a) Subject to Subsection (18)(b), "clothing" means all human wearing apparel
899 suitable for general use.

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

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

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

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

906 (20) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
907 fuels that does not constitute industrial use under Subsection (46) or residential use under
908 Subsection (91).

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

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

914 (ii) For purposes of Subsection (21)(b)(i), in accordance with Title 63G, Chapter 3,
915 Utah Administrative Rulemaking Act, the commission may make rules defining what
916 constitutes a person's place of employment.

917 (22) "Component part" includes:

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

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

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

923 (d) feed, seeds, and seedlings.

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

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

- 926 (ii) in a form similar to digital form; and
- 927 (b) manipulates that information for a result based on a sequence of instructions.
- 928 (24) "Computer software" means a set of coded instructions designed to cause:
- 929 (a) a computer to perform a task; or
- 930 (b) automatic data processing equipment to perform a task.
- 931 (25) (a) "Conference bridging service" means an ancillary service that links two or
- 932 more participants of an audio conference call or video conference call.
- 933 (b) "Conference bridging service" includes providing a telephone number as part of
- 934 the ancillary service described in Subsection (25)(a).
- 935 (c) "Conference bridging service" does not include a telecommunications service used
- 936 to reach the ancillary service described in Subsection (25)(a).
- 937 (26) "Construction materials" means any tangible personal property that will be
- 938 converted into real property.
- 939 (27) "Delivered electronically" means delivered to a purchaser by means other than
- 940 tangible storage media.
- 941 (28) (a) "Delivery charge" means a charge:
- 942 (i) by a seller of:
- 943 (A) tangible personal property;
- 944 (B) a product transferred electronically; or
- 945 (C) services; and
- 946 (ii) for preparation and delivery of the tangible personal property, product transferred
- 947 electronically, or services described in Subsection (28)(a)(i) to a location designated by the
- 948 purchaser.
- 949 (b) "Delivery charge" includes a charge for the following:
- 950 (i) transportation;
- 951 (ii) shipping;
- 952 (iii) postage;
- 953 (iv) handling;

- 954 (v) crating; or
- 955 (vi) packing.
- 956 (29) "Detailed telecommunications billing service" means an ancillary service of
- 957 separately stating information pertaining to individual calls on a customer's billing statement.
- 958 (30) "Dietary supplement" means a product, other than tobacco, that:
- 959 (a) is intended to supplement the diet;
- 960 (b) contains one or more of the following dietary ingredients:
- 961 (i) a vitamin;
- 962 (ii) a mineral;
- 963 (iii) an herb or other botanical;
- 964 (iv) an amino acid;
- 965 (v) a dietary substance for use by humans to supplement the diet by increasing the
- 966 total dietary intake; or
- 967 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 968 described in Subsections (30)(b)(i) through (v);
- 969 (c) (i) except as provided in Subsection (30)(c)(ii), is intended for ingestion in:
- 970 (A) tablet form;
- 971 (B) capsule form;
- 972 (C) powder form;
- 973 (D) softgel form;
- 974 (E) gelcap form; or
- 975 (F) liquid form; or
- 976 (ii) notwithstanding Subsection (30)(c)(i), if the product is not intended for ingestion
- 977 in a form described in Subsections (30)(c)(i)(A) through (F), is not represented:
- 978 (A) as conventional food; and
- 979 (B) for use as a sole item of:
- 980 (I) a meal; or
- 981 (II) the diet; and

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

983 (i) identifiable by the "Supplemental Facts" box found on the label; and

984 (ii) as required by 21 C.F.R. Sec. 101.36.

985 (31) (a) "Direct mail" means printed material delivered or distributed by United States
986 mail or other delivery service:

987 (i) to:

988 (A) a mass audience; or

989 (B) addressees on a mailing list provided;

990 (I) by a purchaser of the mailing list; or

991 (II) at the discretion of the purchaser of the mailing list; and

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

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

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

997 (32) "Directory assistance" means an ancillary service of providing:

998 (a) address information; or

999 (b) telephone number information.

1000 (33) (a) "Disposable home medical equipment or supplies" means medical equipment
1001 or supplies that:

1002 (i) cannot withstand repeated use; and

1003 (ii) are purchased by, for, or on behalf of a person other than:

1004 (A) a health care facility as defined in Section 26-21-2;

1005 (B) a health care provider as defined in Section 78B-3-403;

1006 (C) an office of a health care provider described in Subsection (33)(a)(ii)(B); or

1007 (D) a person similar to a person described in Subsections (33)(a)(ii)(A) through (C).

1008 (b) "Disposable home medical equipment or supplies" does not include:

1009 (i) a drug;

- 1010 (ii) durable medical equipment;
- 1011 (iii) a hearing aid;
- 1012 (iv) a hearing aid accessory;
- 1013 (v) mobility enhancing equipment; or
- 1014 (vi) tangible personal property used to correct impaired vision, including:
 - 1015 (A) eyeglasses; or
 - 1016 (B) contact lenses.
- 1017 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1018 commission may by rule define what constitutes medical equipment or supplies.
- 1019 (34) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1020 compound, substance, or preparation that is:
 - 1021 (i) recognized in:
 - 1022 (A) the official United States Pharmacopoeia;
 - 1023 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 1024 (C) the official National Formulary; or
 - 1025 (D) a supplement to a publication listed in Subsections (34)(a)(i)(A) through (C);
 - 1026 (ii) intended for use in the:
 - 1027 (A) diagnosis of disease;
 - 1028 (B) cure of disease;
 - 1029 (C) mitigation of disease;
 - 1030 (D) treatment of disease; or
 - 1031 (E) prevention of disease; or
 - 1032 (iii) intended to affect:
 - 1033 (A) the structure of the body; or
 - 1034 (B) any function of the body.
- 1035 (b) "Drug" does not include:
 - 1036 (i) food and food ingredients;
 - 1037 (ii) a dietary supplement;

- 1038 (iii) an alcoholic beverage; or
1039 (iv) a prosthetic device.
1040 (35) (a) Except as provided in Subsection (35)(c), "durable medical equipment" means
1041 equipment that:
1042 (i) can withstand repeated use;
1043 (ii) is primarily and customarily used to serve a medical purpose;
1044 (iii) generally is not useful to a person in the absence of illness or injury; and
1045 (iv) is not worn in or on the body.
1046 (b) "Durable medical equipment" includes parts used in the repair or replacement of
1047 the equipment described in Subsection (35)(a).
1048 (c) Notwithstanding Subsection (35)(a), "durable medical equipment" does not include
1049 mobility enhancing equipment.
1050 (36) "Electronic" means:
1051 (a) relating to technology; and
1052 (b) having:
1053 (i) electrical capabilities;
1054 (ii) digital capabilities;
1055 (iii) magnetic capabilities;
1056 (iv) wireless capabilities;
1057 (v) optical capabilities;
1058 (vi) electromagnetic capabilities; or
1059 (vii) capabilities similar to Subsections (36)(b)(i) through (vi).
1060 (37) "Employee" is as defined in Section 59-10-401.
1061 (38) "Fixed guideway" means a public transit facility that uses and occupies:
1062 (a) rail for the use of public transit; or
1063 (b) a separate right-of-way for the use of public transit.
1064 (39) "Fixed wireless service" means a telecommunications service that provides radio
1065 communication between fixed points.

- 1066 (40) (a) "Food and food ingredients" means substances:
- 1067 (i) regardless of whether the substances are in:
- 1068 (A) liquid form;
- 1069 (B) concentrated form;
- 1070 (C) solid form;
- 1071 (D) frozen form;
- 1072 (E) dried form; or
- 1073 (F) dehydrated form; and
- 1074 (ii) that are:
- 1075 (A) sold for:
- 1076 (I) ingestion by humans; or
- 1077 (II) chewing by humans; and
- 1078 (B) consumed for the substance's:
- 1079 (I) taste; or
- 1080 (II) nutritional value.
- 1081 (b) "Food and food ingredients" includes an item described in Subsection (75)(b)(iii).
- 1082 (c) "Food and food ingredients" does not include:
- 1083 (i) an alcoholic beverage;
- 1084 (ii) tobacco; or
- 1085 (iii) prepared food.
- 1086 (41) (a) "Fundraising sales" means sales:
- 1087 (i) (A) made by a school; or
- 1088 (B) made by a school student;
- 1089 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1090 materials, or provide transportation; and
- 1091 (iii) that are part of an officially sanctioned school activity.
- 1092 (b) For purposes of Subsection (41)(a)(iii), "officially sanctioned school activity"
- 1093 means a school activity:

1094 (i) that is conducted in accordance with a formal policy adopted by the school or
1095 school district governing the authorization and supervision of fundraising activities;

1096 (ii) that does not directly or indirectly compensate an individual teacher or other
1097 educational personnel by direct payment, commissions, or payment in kind; and

1098 (iii) the net or gross revenues from which are deposited in a dedicated account
1099 controlled by the school or school district.

1100 (42) "Geothermal energy" means energy contained in heat that continuously flows
1101 outward from the earth that is used as the sole source of energy to produce electricity.

1102 (43) "Governing board of the agreement" means the governing board of the agreement
1103 that is:

1104 (a) authorized to administer the agreement; and

1105 (b) established in accordance with the agreement.

1106 (44) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1107 (i) the executive branch of the state, including all departments, institutions, boards,
1108 divisions, bureaus, offices, commissions, and committees;

1109 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1110 Office of the Court Administrator, and similar administrative units in the judicial branch;

1111 (iii) the legislative branch of the state, including the House of Representatives, the
1112 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1113 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1114 Analyst;

1115 (iv) the National Guard;

1116 (v) an independent entity as defined in Section 63E-1-102; or

1117 (vi) a political subdivision as defined in Section 17B-1-102.

1118 (b) "Governmental entity" does not include the state systems of public and higher
1119 education, including:

1120 (i) a college campus of the Utah College of Applied Technology;

1121 (ii) a school;

- 1122 (iii) the State Board of Education;
- 1123 (iv) the State Board of Regents; or
- 1124 (v) a state institution of higher education as defined in Section 53B-3-102.
- 1125 (45) "Hydroelectric energy" means water used as the sole source of energy to produce
- 1126 electricity.
- 1127 (46) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 1128 other fuels:
- 1129 (a) in mining or extraction of minerals;
- 1130 (b) in agricultural operations to produce an agricultural product up to the time of
- 1131 harvest or placing the agricultural product into a storage facility, including:
- 1132 (i) commercial greenhouses;
- 1133 (ii) irrigation pumps;
- 1134 (iii) farm machinery;
- 1135 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 1136 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 1137 (v) other farming activities;
- 1138 (c) in manufacturing tangible personal property at an establishment described in SIC
- 1139 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 1140 Executive Office of the President, Office of Management and Budget;
- 1141 (d) by a scrap recycler if:
- 1142 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1143 one or more of the following items into prepared grades of processed materials for use in new
- 1144 products:
- 1145 (A) iron;
- 1146 (B) steel;
- 1147 (C) nonferrous metal;
- 1148 (D) paper;
- 1149 (E) glass;

- 1150 (F) plastic;
- 1151 (G) textile; or
- 1152 (H) rubber; and
- 1153 (ii) the new products under Subsection (46)(d)(i) would otherwise be made with
- 1154 nonrecycled materials; or
- 1155 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 1156 cogeneration facility as defined in Section 54-2-1.
- 1157 (47) (a) Except as provided in Subsection (47)(b), "installation charge" means a
- 1158 charge for installing:
- 1159 (i) tangible personal property; or
- 1160 (ii) a product transferred electronically.
- 1161 (b) "Installation charge" does not include a charge for repairs or renovations of:
- 1162 (i) tangible personal property; or
- 1163 (ii) a product transferred electronically.
- 1164 (48) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1165 personal property or a product transferred electronically for:
- 1166 (i) (A) a fixed term; or
- 1167 (B) an indeterminate term; and
- 1168 (ii) consideration.
- 1169 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if
- 1170 the amount of consideration may be increased or decreased by reference to the amount realized
- 1171 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 1172 Code.
- 1173 (c) "Lease" or "rental" does not include:
- 1174 (i) a transfer of possession or control of property under a security agreement or
- 1175 deferred payment plan that requires the transfer of title upon completion of the required
- 1176 payments;
- 1177 (ii) a transfer of possession or control of property under an agreement that requires the

1178 transfer of title:

1179 (A) upon completion of required payments; and

1180 (B) if the payment of an option price does not exceed the greater of:

1181 (I) \$100; or

1182 (II) 1% of the total required payments; or

1183 (iii) providing tangible personal property along with an operator for a fixed period of

1184 time or an indeterminate period of time if the operator is necessary for equipment to perform

1185 as designed.

1186 (d) For purposes of Subsection (48)(c)(iii), an operator is necessary for equipment to

1187 perform as designed if the operator's duties exceed the:

1188 (i) set-up of tangible personal property;

1189 (ii) maintenance of tangible personal property; or

1190 (iii) inspection of tangible personal property.

1191 (49) "Load and leave" means delivery to a purchaser by use of a tangible storage

1192 media if the tangible storage media is not physically transferred to the purchaser.

1193 (50) "Local taxing jurisdiction" means a:

1194 (a) county that is authorized to impose an agreement sales and use tax;

1195 (b) city that is authorized to impose an agreement sales and use tax; or

1196 (c) town that is authorized to impose an agreement sales and use tax.

1197 (51) "Manufactured home" is as defined in Section 58-56-3.

1198 (52) For purposes of Section 59-12-104, "manufacturing facility" means:

1199 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

1200 Industrial Classification Manual of the federal Executive Office of the President, Office of

1201 Management and Budget;

1202 (b) a scrap recycler if:

1203 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1204 one or more of the following items into prepared grades of processed materials for use in new

1205 products:

- 1206 (A) iron;
- 1207 (B) steel;
- 1208 (C) nonferrous metal;
- 1209 (D) paper;
- 1210 (E) glass;
- 1211 (F) plastic;
- 1212 (G) textile; or
- 1213 (H) rubber; and
- 1214 (ii) the new products under Subsection (52)(b)(i) would otherwise be made with
- 1215 nonrecycled materials; or
- 1216 (c) a cogeneration facility as defined in Section 54-2-1.
- 1217 (53) "Member of the immediate family of the producer" means a person who is related
- 1218 to a producer described in Subsection 59-12-104(20)(a) as a:
 - 1219 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 1220 (i) an adopted child or adopted stepchild; or
 - 1221 (ii) a foster child or foster stepchild;
 - 1222 (b) grandchild or stepgrandchild;
 - 1223 (c) grandparent or stepgrandparent;
 - 1224 (d) nephew or stepnephew;
 - 1225 (e) niece or stepniece;
 - 1226 (f) parent or stepparent;
 - 1227 (g) sibling or stepsibling;
 - 1228 (h) spouse;
 - 1229 (i) person who is the spouse of a person described in Subsections (53)(a) through (g);
 - 1230 or
 - 1231 (j) person similar to a person described in Subsections (53)(a) through (i) as
 - 1232 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
 - 1233 Administrative Rulemaking Act.

1234 (54) "Mobile home" is as defined in Section 58-56-3.

1235 (55) "Mobile telecommunications service" is as defined in the Mobile
1236 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1237 (56) (a) "Mobile wireless service" means a telecommunications service, regardless of
1238 the technology used, if:

1239 (i) the origination point of the conveyance, routing, or transmission is not fixed;

1240 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

1241 (iii) the origination point described in Subsection (56)(a)(i) and the termination point
1242 described in Subsection (56)(a)(ii) are not fixed.

1243 (b) "Mobile wireless service" includes a telecommunications service that is provided
1244 by a commercial mobile radio service provider.

1245 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1246 commission may by rule define "commercial mobile radio service provider."

1247 (57) (a) Except as provided in Subsection (57)(c), "mobility enhancing equipment"
1248 means equipment that is:

1249 (i) primarily and customarily used to provide or increase the ability to move from one
1250 place to another;

1251 (ii) appropriate for use in a:

1252 (A) home; or

1253 (B) motor vehicle; and

1254 (iii) not generally used by persons with normal mobility.

1255 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement
1256 of the equipment described in Subsection (57)(a).

1257 (c) Notwithstanding Subsection (57)(a), "mobility enhancing equipment" does not
1258 include:

1259 (i) a motor vehicle;

1260 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1261 vehicle manufacturer;

1262 (iii) durable medical equipment; or

1263 (iv) a prosthetic device.

1264 (58) "Model 1 seller" means a seller that has selected a certified service provider as the
1265 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
1266 use taxes other than the seller's obligation under Section [~~59-12-107.4~~] 59-12-124 to remit a
1267 tax on the seller's own purchases.

1268 (59) "Model 2 seller" means a seller that:

1269 (a) except as provided in Subsection (59)(b), has selected a certified automated system
1270 to perform the seller's sales tax functions for agreement sales and use taxes; and

1271 (b) notwithstanding Subsection (59)(a), retains responsibility for remitting all of the
1272 sales tax:

1273 (i) collected by the seller; and

1274 (ii) to the appropriate local taxing jurisdiction.

1275 (60) (a) Subject to Subsection (60)(b), "model 3 seller" means a seller that has:

1276 (i) sales in at least five states that are members of the agreement;

1277 (ii) total annual sales revenues of at least \$500,000,000;

1278 (iii) a proprietary system that calculates the amount of tax:

1279 (A) for an agreement sales and use tax; and

1280 (B) due to each local taxing jurisdiction; and

1281 (iv) entered into a performance agreement with the governing board of the agreement.

1282 (b) For purposes of Subsection (60)(a), "model 3 seller" includes an affiliated group of
1283 sellers using the same proprietary system.

1284 (61) "Modular home" means a modular unit as defined in Section 58-56-3.

1285 (62) "Motor vehicle" is as defined in Section 41-1a-102.

1286 (63) "Oil shale" means a group of fine black to dark brown shales containing
1287 bituminous material that yields petroleum upon distillation.

1288 (64) (a) "Other fuels" means products that burn independently to produce heat or
1289 energy.

1290 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1291 personal property.

1292 (65) (a) "Paging service" means a telecommunications service that provides
1293 transmission of a coded radio signal for the purpose of activating a specific pager.

1294 (b) For purposes of Subsection (65)(a), the transmission of a coded radio signal
1295 includes a transmission by message or sound.

1296 (66) "Pawnbroker" is as defined in Section 13-32a-102.

1297 (67) "Pawn transaction" is as defined in Section 13-32a-102.

1298 (68) (a) "Permanently attached to real property" means that for tangible personal
1299 property attached to real property:

1300 (i) the attachment of the tangible personal property to the real property:

1301 (A) is essential to the use of the tangible personal property; and

1302 (B) suggests that the tangible personal property will remain attached to the real
1303 property in the same place over the useful life of the tangible personal property; or

1304 (ii) if the tangible personal property is detached from the real property, the detachment
1305 would:

1306 (A) cause substantial damage to the tangible personal property; or

1307 (B) require substantial alteration or repair of the real property to which the tangible
1308 personal property is attached.

1309 (b) "Permanently attached to real property" includes:

1310 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1311 (A) essential to the operation of the tangible personal property; and

1312 (B) attached only to facilitate the operation of the tangible personal property;

1313 (ii) a temporary detachment of tangible personal property from real property for a
1314 repair or renovation if the repair or renovation is performed where the tangible personal

1315 property and real property are located; or

1316 (iii) property attached to oil, gas, or water pipelines, other than the property listed in
1317 Subsection (68)(c)(iii).

- 1318 (c) "Permanently attached to real property" does not include:
- 1319 (i) the attachment of portable or movable tangible personal property to real property if
- 1320 that portable or movable tangible personal property is attached to real property only for:
- 1321 (A) convenience;
- 1322 (B) stability; or
- 1323 (C) for an obvious temporary purpose;
- 1324 (ii) the detachment of tangible personal property from real property other than the
- 1325 detachment described in Subsection (68)(b)(ii);
- 1326 (iii) an attachment of the following tangible personal property to real property if the
- 1327 attachment to real property is only through a line that supplies water, electricity, gas,
- 1328 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1329 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1330 (A) a refrigerator;
- 1331 (B) a washer;
- 1332 (C) a dryer;
- 1333 (D) a stove;
- 1334 (E) a television;
- 1335 (F) a computer;
- 1336 (G) a telephone; or
- 1337 (H) tangible personal property similar to Subsections (68)(c)(iii)(A) through (G) as
- 1338 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1339 Administrative Rulemaking Act; or
- 1340 (iv) the following if attached to real property, regardless of whether the attachment to
- 1341 real property is only through a line that supplies water, electricity, gas, telephone, cable, or
- 1342 supplies a similar item as determined by the commission by rule made in accordance with
- 1343 Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1344 (A) a hot water heater;
- 1345 (B) a water softener system; or

1346 (C) a water filtration system.

1347 (69) "Person" includes any individual, firm, partnership, joint venture, association,
1348 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1349 municipality, district, or other local governmental entity of the state, or any group or
1350 combination acting as a unit.

1351 (70) "Place of primary use":

1352 (a) for telecommunications service other than mobile telecommunications service,
1353 means the street address representative of where the ~~[purchaser's]~~ customer's use of the
1354 telecommunications service primarily occurs, which shall be:

1355 (i) the residential street address of the ~~[purchaser]~~ customer; or

1356 (ii) the primary business street address of the ~~[purchaser]~~ customer; or

1357 (b) for mobile telecommunications service, is as defined in the Mobile
1358 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1359 (71) (a) "Postpaid calling service" means a telecommunications service a person
1360 obtains by making a payment on a call-by-call basis:

1361 (i) through the use of a:

1362 (A) bank card;

1363 (B) credit card;

1364 (C) debit card; or

1365 (D) travel card; or

1366 (ii) by a charge made to a telephone number that is not associated with the origination
1367 or termination of the telecommunications service.

1368 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1369 service, that would be a prepaid wireless calling service if the service were exclusively a
1370 telecommunications service.

1371 (72) "Postproduction" means an activity related to the finishing or duplication of a
1372 medium described in Subsection 59-12-104~~(55)~~(54)(a).

1373 (73) "Prepaid calling service" means a telecommunications service:

- 1374 (a) that allows a purchaser access to telecommunications service that is exclusively
1375 telecommunications service;
- 1376 (b) that:
- 1377 (i) is paid for in advance; and
- 1378 (ii) enables the origination of a call using an:
- 1379 (A) access number; or
- 1380 (B) authorization code;
- 1381 (c) that is dialed:
- 1382 (i) manually; or
- 1383 (ii) electronically; and
- 1384 (d) sold in predetermined units or dollars that decline:
- 1385 (i) by a known amount; and
- 1386 (ii) with use.
- 1387 (74) "Prepaid wireless calling service" means a telecommunications service:
- 1388 (a) that provides the right to utilize:
- 1389 (i) mobile wireless service; and
- 1390 (ii) other service that is not a telecommunications service, including:
- 1391 (A) the download of a product transferred electronically;
- 1392 (B) a content service; or
- 1393 (C) an ancillary service;
- 1394 (b) that:
- 1395 (i) is paid for in advance; and
- 1396 (ii) enables the origination of a call using an:
- 1397 (A) access number; or
- 1398 (B) authorization code;
- 1399 (c) that is dialed:
- 1400 (i) manually; or
- 1401 (ii) electronically; and

- 1402 (d) sold in predetermined units or dollars that decline:
- 1403 (i) by a known amount; and
- 1404 (ii) with use.
- 1405 (75) (a) "Prepared food" means:
- 1406 (i) food:
- 1407 (A) sold in a heated state; or
- 1408 (B) heated by a seller;
- 1409 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1410 item; or
- 1411 (iii) except as provided in Subsection (75)(c), food sold with an eating utensil
- 1412 provided by the seller, including a:
- 1413 (A) plate;
- 1414 (B) knife;
- 1415 (C) fork;
- 1416 (D) spoon;
- 1417 (E) glass;
- 1418 (F) cup;
- 1419 (G) napkin; or
- 1420 (H) straw.
- 1421 (b) "Prepared food" does not include:
- 1422 (i) food that a seller only:
- 1423 (A) cuts;
- 1424 (B) repackages; or
- 1425 (C) pasteurizes; or
- 1426 (ii) (A) the following:
- 1427 (I) raw egg;
- 1428 (II) raw fish;
- 1429 (III) raw meat;

- 1430 (IV) raw poultry; or
- 1431 (V) a food containing an item described in Subsections (75)(b)(ii)(A)(I) through (IV);
- 1432 and
- 1433 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1434 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1435 Subsection (75)(b)(ii)(A) to prevent food borne illness; or
- 1436 (iii) the following if sold without eating utensils provided by the seller:
- 1437 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1438 classification under the 2002 North American Industry Classification System of the federal
- 1439 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1440 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1441 Manufacturing;
- 1442 (B) food and food ingredients sold in an unheated state:
- 1443 (I) by weight or volume; and
- 1444 (II) as a single item; or
- 1445 (C) a bakery item, including:
- 1446 (I) a bagel;
- 1447 (II) a bar;
- 1448 (III) a biscuit;
- 1449 (IV) bread;
- 1450 (V) a bun;
- 1451 (VI) a cake;
- 1452 (VII) a cookie;
- 1453 (VIII) a croissant;
- 1454 (IX) a danish;
- 1455 (X) a donut;
- 1456 (XI) a muffin;
- 1457 (XII) a pastry;

- 1458 (XIII) a pie;
- 1459 (XIV) a roll;
- 1460 (XV) a tart;
- 1461 (XVI) a torte; or
- 1462 (XVII) a tortilla.
- 1463 (c) Notwithstanding Subsection (75)(a)(iii), an eating utensil provided by the seller
- 1464 does not include the following used to transport the food:
 - 1465 (i) a container; or
 - 1466 (ii) packaging.
- 1467 (76) "Prescription" means an order, formula, or recipe that is issued:
 - 1468 (a) (i) orally;
 - 1469 (ii) in writing;
 - 1470 (iii) electronically; or
 - 1471 (iv) by any other manner of transmission; and
 - 1472 (b) by a licensed practitioner authorized by the laws of a state.
- 1473 (77) (a) Except as provided in Subsection (77)(b)(ii) or (iii), "prewritten computer
- 1474 software" means computer software that is not designed and developed:
 - 1475 (i) by the author or other creator of the computer software; and
 - 1476 (ii) to the specifications of a specific purchaser.
- 1477 (b) "Prewritten computer software" includes:
 - 1478 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
 - 1479 computer software is not designed and developed:
 - 1480 (A) by the author or other creator of the computer software; and
 - 1481 (B) to the specifications of a specific purchaser;
 - 1482 (ii) notwithstanding Subsection (77)(a), computer software designed and developed by
 - 1483 the author or other creator of the computer software to the specifications of a specific
 - 1484 purchaser if the computer software is sold to a person other than the purchaser; or
 - 1485 (iii) notwithstanding Subsection (77)(a) and except as provided in Subsection (77)(c),

1486 prewritten computer software or a prewritten portion of prewritten computer software:

1487 (A) that is modified or enhanced to any degree; and

1488 (B) if the modification or enhancement described in Subsection (77)(b)(iii)(A) is
1489 designed and developed to the specifications of a specific purchaser.

1490 (c) Notwithstanding Subsection (77)(b)(iii), "prewritten computer software" does not
1491 include a modification or enhancement described in Subsection (77)(b)(iii) if the charges for
1492 the modification or enhancement are:

1493 (i) reasonable; and

1494 (ii) separately stated on the invoice or other statement of price provided to the
1495 purchaser.

1496 (78) (a) "Private communication service" means a telecommunications service:

1497 (i) that entitles a customer to exclusive or priority use of one or more communications
1498 channels between or among termination points; and

1499 (ii) regardless of the manner in which the one or more communications channels are
1500 connected.

1501 (b) "Private communications service" includes the following provided in connection
1502 with the use of one or more communications channels:

1503 (i) an extension line;

1504 (ii) a station; ~~or~~

1505 (iii) switching capacity; or

1506 (iv) another associated service that is provided in connection with the use of one or
1507 more communications channels as defined in Section 59-12-215.

1508 (79) (a) "Prosthetic device" means a device that is worn on or in the body to:

1509 (i) artificially replace a missing portion of the body;

1510 (ii) prevent or correct a physical deformity or physical malfunction; or

1511 (iii) support a weak or deformed portion of the body.

1512 (b) "Prosthetic device" includes:

1513 (i) parts used in the repairs or renovation of a prosthetic device;

- 1514 (ii) replacement parts for a prosthetic device;
- 1515 (iii) a dental prosthesis; or
- 1516 (iv) a hearing aid.
- 1517 (c) "Prosthetic device" does not include:
- 1518 (i) corrective eyeglasses; or
- 1519 (ii) contact lenses.
- 1520 (80) (a) "Protective equipment" means an item:
- 1521 (i) for human wear; and
- 1522 (ii) that is:
- 1523 (A) designed as protection:
- 1524 (I) to the wearer against injury or disease; or
- 1525 (II) against damage or injury of other persons or property; and
- 1526 (B) not suitable for general use.
- 1527 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1528 the commission shall make rules:
- 1529 (i) listing the items that constitute "protective equipment"; and
- 1530 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1531 under the agreement.
- 1532 (81) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
- 1533 or printed matter, other than a photocopy:
- 1534 (i) regardless of:
- 1535 (A) characteristics;
- 1536 (B) copyright;
- 1537 (C) form;
- 1538 (D) format;
- 1539 (E) method of reproduction; or
- 1540 (F) source; and
- 1541 (ii) made available in printed or electronic format.

1542 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1543 the commission may by rule define the term "photocopy."

1544 (82) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1545 (i) valued in money; and

1546 (ii) for which tangible personal property, a product transferred electronically, or
1547 services are:

1548 (A) sold;

1549 (B) leased; or

1550 (C) rented.

1551 (b) "Purchase price" and "sales price" include:

1552 (i) the seller's cost of the tangible personal property, a product transferred
1553 electronically, or services sold;

1554 (ii) expenses of the seller, including:

1555 (A) the cost of materials used;

1556 (B) a labor cost;

1557 (C) a service cost;

1558 (D) interest;

1559 (E) a loss;

1560 (F) the cost of transportation to the seller; or

1561 (G) a tax imposed on the seller;

1562 (iii) a charge by the seller for any service necessary to complete the sale; or

1563 (iv) consideration a seller receives from a person other than the purchaser if:

1564 (A) (I) the seller actually receives consideration from a person other than the
1565 purchaser; and

1566 (II) the consideration described in Subsection (82)(b)(iv)(A)(I) is directly related to a
1567 price reduction or discount on the sale;

1568 (B) the seller has an obligation to pass the price reduction or discount through to the
1569 purchaser;

1570 (C) the amount of the consideration attributable to the sale is fixed and determinable
1571 by the seller at the time of the sale to the purchaser; and

1572 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1573 seller to claim a price reduction or discount; and

1574 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1575 coupon, or other documentation with the understanding that the person other than the seller
1576 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1577 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1578 organization allowed a price reduction or discount, except that a preferred customer card that
1579 is available to any patron of a seller does not constitute membership in a group or organization
1580 allowed a price reduction or discount; or

1581 (III) the price reduction or discount is identified as a third party price reduction or
1582 discount on the:

1583 (Aa) invoice the purchaser receives; or

1584 (Bb) certificate, coupon, or other documentation the purchaser presents.

1585 (c) "Purchase price" and "sales price" do not include:

1586 (i) a discount:

1587 (A) in a form including:

1588 (I) cash;

1589 (II) term; or

1590 (III) coupon;

1591 (B) that is allowed by a seller;

1592 (C) taken by a purchaser on a sale; and

1593 (D) that is not reimbursed by a third party; or

1594 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1595 provided to the purchaser:

1596 (A) the following from credit extended on the sale of tangible personal property or
1597 services:

- 1598 (I) a carrying charge;
- 1599 (II) a financing charge; or
- 1600 (III) an interest charge;
- 1601 (B) a delivery charge;
- 1602 (C) an installation charge;
- 1603 (D) a manufacturer rebate on a motor vehicle; or
- 1604 (E) a tax or fee legally imposed directly on the consumer.
- 1605 (83) "Purchaser" means a person to whom:
- 1606 (a) a sale of tangible personal property is made;
- 1607 (b) a product is transferred electronically; or
- 1608 (c) a service is furnished.
- 1609 (84) "Regularly rented" means:
- 1610 (a) rented to a guest for value three or more times during a calendar year; or
- 1611 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1612 value.
- 1613 (85) "Renewable energy" means:
- 1614 (a) biomass energy;
- 1615 (b) hydroelectric energy;
- 1616 (c) geothermal energy;
- 1617 (d) solar energy; or
- 1618 (e) wind energy.
- 1619 (86) (a) "Renewable energy production facility" means a facility that:
- 1620 (i) uses renewable energy to produce electricity; and
- 1621 (ii) has a production capacity of 20 kilowatts or greater.
- 1622 (b) A facility is a renewable energy production facility regardless of whether the
- 1623 facility is:
- 1624 (i) connected to an electric grid; or
- 1625 (ii) located on the premises of an electricity consumer.

1626 (87) "Rental" is as defined in Subsection (48).

1627 (88) "Repairs or renovations of tangible personal property" means:

1628 (a) a repair or renovation of tangible personal property that is not permanently
1629 attached to real property; or

1630 (b) attaching tangible personal property or a product that is transferred electronically
1631 to other tangible personal property if the other tangible personal property to which the tangible
1632 personal property or product that is transferred electronically is attached is not permanently
1633 attached to real property.

1634 (89) "Research and development" means the process of inquiry or experimentation
1635 aimed at the discovery of facts, devices, technologies, or applications and the process of
1636 preparing those devices, technologies, or applications for marketing.

1637 (90) (a) "Residential telecommunications services" means a telecommunications
1638 service or an ancillary service that is provided to an individual for personal use:

1639 (i) at a residential address; or

1640 (ii) at an institution, including a nursing home or a school, if the telecommunications
1641 service or ancillary service is provided to and paid for by the individual residing at the
1642 institution rather than the institution.

1643 (b) For purposes of Subsection (90)(a), a residential address includes an:

1644 (i) apartment; or

1645 (ii) other individual dwelling unit.

1646 (91) "Residential use" means the use in or around a home, apartment building,
1647 sleeping quarters, and similar facilities or accommodations.

1648 (92) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1649 than:

1650 (a) resale;

1651 (b) sublease; or

1652 (c) subrent.

1653 (93) (a) "Retailer" means any person engaged in a regularly organized business in

1654 tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
1655 and who is selling to the user or consumer and not for resale.

1656 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1657 engaged in the business of selling to users or consumers within the state.

1658 (94) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1659 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1660 Subsection 59-12-103(1), for consideration.

1661 (b) "Sale" includes:

1662 (i) installment and credit sales;

1663 (ii) any closed transaction constituting a sale;

1664 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1665 chapter;

1666 (iv) any transaction if the possession of property is transferred but the seller retains the
1667 title as security for the payment of the price; and

1668 (v) any transaction under which right to possession, operation, or use of any article of
1669 tangible personal property is granted under a lease or contract and the transfer of possession
1670 would be taxable if an outright sale were made.

1671 (95) "Sale at retail" is as defined in Subsection (92).

1672 (96) "Sale-leaseback transaction" means a transaction by which title to tangible
1673 personal property or a product transferred electronically that is subject to a tax under this
1674 chapter is transferred:

1675 (a) by a purchaser-lessee;

1676 (b) to a lessor;

1677 (c) for consideration; and

1678 (d) if:

1679 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1680 of the tangible personal property or product transferred electronically;

1681 (ii) the sale of the tangible personal property or product transferred electronically to

1682 the lessor is intended as a form of financing:

1683 (A) for the tangible personal property or product transferred electronically; and

1684 (B) to the purchaser-lessee; and

1685 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

1686 is required to:

1687 (A) capitalize the tangible personal property or product transferred electronically for

1688 financial reporting purposes; and

1689 (B) account for the lease payments as payments made under a financing arrangement.

1690 (97) "Sales price" is as defined in Subsection (82).

1691 (98) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

1692 amounts charged by a school:

1693 (i) sales that are directly related to the school's educational functions or activities

1694 including:

1695 (A) the sale of:

1696 (I) textbooks;

1697 (II) textbook fees;

1698 (III) laboratory fees;

1699 (IV) laboratory supplies; or

1700 (V) safety equipment;

1701 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1702 that:

1703 (I) a student is specifically required to wear as a condition of participation in a

1704 school-related event or school-related activity; and

1705 (II) is not readily adaptable to general or continued usage to the extent that it takes the

1706 place of ordinary clothing;

1707 (C) sales of the following if the net or gross revenues generated by the sales are

1708 deposited into a school district fund or school fund dedicated to school meals:

1709 (I) food and food ingredients; or

- 1710 (II) prepared food; or
- 1711 (D) transportation charges for official school activities; or
- 1712 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1713 event or school-related activity.
- 1714 (b) "Sales relating to schools" does not include:
- 1715 (i) bookstore sales of items that are not educational materials or supplies;
- 1716 (ii) except as provided in Subsection (98)(a)(i)(B):
- 1717 (A) clothing;
- 1718 (B) clothing accessories or equipment;
- 1719 (C) protective equipment; or
- 1720 (D) sports or recreational equipment; or
- 1721 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1722 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1723 (A) other than a:
- 1724 (I) school;
- 1725 (II) nonprofit organization authorized by a school board or a governing body of a
- 1726 private school to organize and direct a competitive secondary school activity; or
- 1727 (III) nonprofit association authorized by a school board or a governing body of a
- 1728 private school to organize and direct a competitive secondary school activity; and
- 1729 (B) that is required to collect sales and use taxes under this chapter.
- 1730 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1731 commission may make rules defining the term "passed through."
- 1732 (99) For purposes of this section and Section 59-12-104, "school":
- 1733 (a) means:
- 1734 (i) an elementary school or a secondary school that:
- 1735 (A) is a:
- 1736 (I) public school; or
- 1737 (II) private school; and

- 1738 (B) provides instruction for one or more grades kindergarten through 12; or
- 1739 (ii) a public school district; and
- 1740 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1741 (100) "Seller" means a person that makes a sale, lease, or rental of:
- 1742 (a) tangible personal property;
- 1743 (b) a product transferred electronically; or
- 1744 (c) a service.
- 1745 (101) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1746 means tangible personal property or a product transferred electronically if the tangible personal
- 1747 property or product transferred electronically is:
- 1748 (i) used primarily in the process of:
- 1749 (A) (I) manufacturing a semiconductor;
- 1750 (II) fabricating a semiconductor; or
- 1751 (III) research or development of a:
- 1752 (Aa) semiconductor; or
- 1753 (Bb) semiconductor manufacturing process; or
- 1754 (B) maintaining an environment suitable for a semiconductor; or
- 1755 (ii) consumed primarily in the process of:
- 1756 (A) (I) manufacturing a semiconductor;
- 1757 (II) fabricating a semiconductor; or
- 1758 (III) research or development of a:
- 1759 (Aa) semiconductor; or
- 1760 (Bb) semiconductor manufacturing process; or
- 1761 (B) maintaining an environment suitable for a semiconductor.
- 1762 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1763 includes:
- 1764 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1765 transferred electronically described in Subsection (101)(a); or

- 1766 (ii) a chemical, catalyst, or other material used to:
- 1767 (A) produce or induce in a semiconductor a:
- 1768 (I) chemical change; or
- 1769 (II) physical change;
- 1770 (B) remove impurities from a semiconductor; or
- 1771 (C) improve the marketable condition of a semiconductor.
- 1772 (102) "Senior citizen center" means a facility having the primary purpose of providing
- 1773 services to the aged as defined in Section 62A-3-101.
- 1774 (103) "Simplified electronic return" means the electronic return:
- 1775 (a) described in Section 318(C) of the agreement; and
- 1776 (b) approved by the governing board of the agreement.
- 1777 (104) "Solar energy" means the sun used as the sole source of energy for producing
- 1778 electricity.
- 1779 (105) (a) "Sports or recreational equipment" means an item:
- 1780 (i) designed for human use; and
- 1781 (ii) that is:
- 1782 (A) worn in conjunction with:
- 1783 (I) an athletic activity; or
- 1784 (II) a recreational activity; and
- 1785 (B) not suitable for general use.
- 1786 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1787 the commission shall make rules:
- 1788 (i) listing the items that constitute "sports or recreational equipment"; and
- 1789 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1790 equipment" under the agreement.
- 1791 (106) "State" means the state of Utah, its departments, and agencies.
- 1792 (107) "Storage" means any keeping or retention of tangible personal property or any
- 1793 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except

1794 sale in the regular course of business.

1795 (108) (a) Except as provided in Subsection (108)(c), " tangible personal property"

1796 means personal property that:

1797 (i) may be:

1798 (A) seen;

1799 (B) weighed;

1800 (C) measured;

1801 (D) felt; or

1802 (E) touched; or

1803 (ii) is in any manner perceptible to the senses.

1804 (b) "Tangible personal property" includes:

1805 (i) electricity;

1806 (ii) water;

1807 (iii) gas;

1808 (iv) steam; or

1809 (v) prewritten computer software.

1810 (c) "Tangible personal property" does not include a product that is transferred

1811 electronically.

1812 (d) "Tangible personal property" does not include the following if attached to real

1813 property, regardless of whether the attachment to real property is only through a line that

1814 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by

1815 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1816 Rulemaking Act:

1817 (i) a hot water heater;

1818 (ii) a water softener system; or

1819 (iii) a water filtration system.

1820 (109) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon

1821 and require further processing other than mechanical blending before becoming finished

1822 petroleum products.

1823 (110) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1824 software" means an item listed in Subsection (110)(b) if that item is purchased or leased
1825 primarily to enable or facilitate one or more of the following to function:

1826 (i) telecommunications switching or routing equipment, machinery, or software; or

1827 (ii) telecommunications transmission equipment, machinery, or software.

1828 (b) The following apply to Subsection (110)(a):

1829 (i) a pole;

1830 (ii) software;

1831 (iii) a supplementary power supply;

1832 (iv) temperature or environmental equipment or machinery;

1833 (v) test equipment;

1834 (vi) a tower; or

1835 (vii) equipment, machinery, or software that functions similarly to an item listed in

1836 Subsections (110)(b)(i) through (vi) as determined by the commission by rule made in

1837 accordance with Subsection (110)(c).

1838 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1839 commission may by rule define what constitutes equipment, machinery, or software that

1840 functions similarly to an item listed in Subsections (110)(b)(i) through (vi).

1841 (111) "Telecommunications equipment, machinery, or software required for 911

1842 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1843 Sec. 20.18.

1844 (112) "Telecommunications maintenance or repair equipment, machinery, or software"

1845 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1846 one or more of the following, regardless of whether the equipment, machinery, or software is

1847 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1848 following:

1849 (a) telecommunications enabling or facilitating equipment, machinery, or software;

- 1850 (b) telecommunications switching or routing equipment, machinery, or software; or
1851 (c) telecommunications transmission equipment, machinery, or software.
- 1852 (113) (a) "Telecommunications service" means the electronic conveyance, routing, or
1853 transmission of audio, data, video, voice, or any other information or signal to a point, or
1854 among or between points.
- 1855 (b) "Telecommunications service" includes:
- 1856 (i) an electronic conveyance, routing, or transmission with respect to which a
1857 computer processing application is used to act:
- 1858 (A) on the code, form, or protocol of the content;
1859 (B) for the purpose of electronic conveyance, routing, or transmission; and
1860 (C) regardless of whether the service:
- 1861 (I) is referred to as voice over Internet protocol service; or
1862 (II) is classified by the Federal Communications Commission as enhanced or value
1863 added;
- 1864 (ii) an 800 service;
1865 (iii) a 900 service;
1866 (iv) a fixed wireless service;
1867 (v) a mobile wireless service;
1868 (vi) a postpaid calling service;
1869 (vii) a prepaid calling service;
1870 (viii) a prepaid wireless calling service; or
1871 (ix) a private communications service.
- 1872 (c) "Telecommunications service" does not include:
- 1873 (i) advertising, including directory advertising;
1874 (ii) an ancillary service;
1875 (iii) a billing and collection service provided to a third party;
1876 (iv) a data processing and information service if:
1877 (A) the data processing and information service allows data to be:

- 1878 (I) (Aa) acquired;
- 1879 (Bb) generated;
- 1880 (Cc) processed;
- 1881 (Dd) retrieved; or
- 1882 (Ee) stored; and
- 1883 (II) delivered by an electronic transmission to a purchaser; and
- 1884 (B) the purchaser's primary purpose for the underlying transaction is the processed
- 1885 data or information;
- 1886 (v) installation or maintenance of the following on a customer's premises:
- 1887 (A) equipment; or
- 1888 (B) wiring;
- 1889 (vi) Internet access service;
- 1890 (vii) a paging service;
- 1891 (viii) a product transferred electronically, including:
- 1892 (A) music;
- 1893 (B) reading material;
- 1894 (C) a ring tone;
- 1895 (D) software; or
- 1896 (E) video;
- 1897 (ix) a radio and television audio and video programming service:
- 1898 (A) regardless of the medium; and
- 1899 (B) including:
- 1900 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1901 programming service by a programming service provider;
- 1902 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1903 (III) audio and video programming services delivered by a commercial mobile radio
- 1904 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1905 (x) a value-added nonvoice data service; or

- 1906 (xi) tangible personal property.
- 1907 (114) (a) " Telecommunications service provider" means a person that:
- 1908 (i) owns, controls, operates, or manages a telecommunications service; and
- 1909 (ii) engages in an activity described in Subsection (114)(a)(i) for the shared use with
- 1910 or resale to any person of the telecommunications service.
- 1911 (b) A person described in Subsection (114)(a) is a telecommunications service
- 1912 provider whether or not the Public Service Commission of Utah regulates:
- 1913 (i) that person; or
- 1914 (ii) the telecommunications service that the person owns, controls, operates, or
- 1915 manages.
- 1916 (115) (a) "Telecommunications switching or routing equipment, machinery, or
- 1917 software" means an item listed in Subsection (115)(b) if that item is purchased or leased
- 1918 primarily for switching or routing:
- 1919 (i) an ancillary service;
- 1920 (ii) data communications;
- 1921 (iii) voice communications; or
- 1922 (iv) telecommunications service.
- 1923 (b) The following apply to Subsection (115)(a):
- 1924 (i) a bridge;
- 1925 (ii) a computer;
- 1926 (iii) a cross connect;
- 1927 (iv) a modem;
- 1928 (v) a multiplexer;
- 1929 (vi) plug in circuitry;
- 1930 (vii) a router;
- 1931 (viii) software;
- 1932 (ix) a switch; or
- 1933 (x) equipment, machinery, or software that functions similarly to an item listed in

1934 Subsections (115)(b)(i) through (ix) as determined by the commission by rule made in
1935 accordance with Subsection (115)(c).

1936 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1937 commission may by rule define what constitutes equipment, machinery, or software that
1938 functions similarly to an item listed in Subsections (115)(b)(i) through (ix).

1939 (116) (a) "Telecommunications transmission equipment, machinery, or software"
1940 means an item listed in Subsection (116)(b) if that item is purchased or leased primarily for
1941 sending, receiving, or transporting:

- 1942 (i) an ancillary service;
 - 1943 (ii) data communications;
 - 1944 (iii) voice communications; or
 - 1945 (iv) telecommunications service.
- 1946 (b) The following apply to Subsection (116)(a):
- 1947 (i) an amplifier;
 - 1948 (ii) a cable;
 - 1949 (iii) a closure;
 - 1950 (iv) a conduit;
 - 1951 (v) a controller;
 - 1952 (vi) a duplexer;
 - 1953 (vii) a filter;
 - 1954 (viii) an input device;
 - 1955 (ix) an input/output device;
 - 1956 (x) an insulator;
 - 1957 (xi) microwave machinery or equipment;
 - 1958 (xii) an oscillator;
 - 1959 (xiii) an output device;
 - 1960 (xiv) a pedestal;
 - 1961 (xv) a power converter;

- 1962 (xvi) a power supply;
- 1963 (xvii) a radio channel;
- 1964 (xviii) a radio receiver;
- 1965 (xix) a radio transmitter;
- 1966 (xx) a repeater;
- 1967 (xxi) software;
- 1968 (xxii) a terminal;
- 1969 (xxiii) a timing unit;
- 1970 (xxiv) a transformer;
- 1971 (xxv) a wire; or
- 1972 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1973 Subsections (116)(b)(i) through (xxv) as determined by the commission by rule made in
- 1974 accordance with Subsection (116)(c).
- 1975 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1976 commission may by rule define what constitutes equipment, machinery, or software that
- 1977 functions similarly to an item listed in Subsections (116)(b)(i) through (xxv).
- 1978 (117) "Tobacco" means:
- 1979 (a) a cigarette;
- 1980 (b) a cigar;
- 1981 (c) chewing tobacco;
- 1982 (d) pipe tobacco; or
- 1983 (e) any other item that contains tobacco.
- 1984 (118) "Unassisted amusement device" means an amusement device, skill device, or
- 1985 ride device that is started and stopped by the purchaser or renter of the right to use or operate
- 1986 the amusement device, skill device, or ride device.
- 1987 (119) (a) "Use" means the exercise of any right or power over tangible personal
- 1988 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
- 1989 incident to the ownership or the leasing of that tangible personal property, product transferred

1990 electronically, or service.

1991 (b) "Use" does not include the sale, display, demonstration, or trial of tangible
1992 personal property, a product transferred electronically, or a service in the regular course of
1993 business and held for resale.

1994 (120) "Value-added nonvoice data service" means a service:

1995 (a) that otherwise meets the definition of a telecommunications service except that a
1996 computer processing application is used to act primarily for a purpose other than conveyance,
1997 routing, or transmission; and

1998 (b) with respect to which a computer processing application is used to act on data or
1999 information:

- 2000 (i) code;
- 2001 (ii) content;
- 2002 (iii) form; or
- 2003 (iv) protocol.

2004 (121) (a) Subject to Subsection (121)(b), "vehicle" means the following that are
2005 required to be titled, registered, or titled and registered:

- 2006 (i) an aircraft as defined in Section 72-10-102;
- 2007 (ii) a vehicle as defined in Section 41-1a-102;
- 2008 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2009 (iv) a vessel as defined in Section 41-1a-102.

2010 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2011 (i) a vehicle described in Subsection (121)(a); or
- 2012 (ii) (A) a locomotive;
- 2013 (B) a freight car;
- 2014 (C) railroad work equipment; or
- 2015 (D) other railroad rolling stock.

2016 (122) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2017 exchanging a vehicle as defined in Subsection (121).

2018 (123) (a) "Vertical service" means an ancillary service that:
2019 (i) is offered in connection with one or more telecommunications services; and
2020 (ii) offers an advanced calling feature that allows a customer to:
2021 (A) identify a caller; and
2022 (B) manage multiple calls and call connections.
2023 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2024 conference bridging service.

2025 (124) (a) "Voice mail service" means an ancillary service that enables a customer to
2026 receive, send, or store a recorded message.

2027 (b) "Voice mail service" does not include a vertical service that a customer is required
2028 to have in order to utilize a voice mail service.

2029 (125) (a) Except as provided in Subsection (125)(b), "waste energy facility" means a
2030 facility that generates electricity:

2031 (i) using as the primary source of energy waste materials that would be placed in a
2032 landfill or refuse pit if it were not used to generate electricity, including:

2033 (A) tires;
2034 (B) waste coal; or
2035 (C) oil shale; and
2036 (ii) in amounts greater than actually required for the operation of the facility.

2037 (b) "Waste energy facility" does not include a facility that incinerates:
2038 (i) municipal solid waste;
2039 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
2040 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2041 (126) "Watercraft" means a vessel as defined in Section 73-18-2.

2042 (127) "Wind energy" means wind used as the sole source of energy to produce
2043 electricity.

2044 (128) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2045 location by the United States Postal Service.

2046 Section 4. Section **59-12-103** is amended to read:

2047 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and**
2048 **use tax revenues.**

2049 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2050 charged for the following transactions:

2051 (a) retail sales of tangible personal property made within the state;

2052 (b) amounts paid for:

2053 (i) telecommunications service, other than mobile telecommunications service, that
2054 originates and terminates within the boundaries of this state;

2055 (ii) mobile telecommunications service that originates and terminates within the
2056 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2057 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2058 (iii) an ancillary service associated with a:

2059 (A) telecommunications service described in Subsection (1)(b)(i); or

2060 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2061 (c) sales of the following for commercial use:

2062 (i) gas;

2063 (ii) electricity;

2064 (iii) heat;

2065 (iv) coal;

2066 (v) fuel oil; or

2067 (vi) other fuels;

2068 (d) sales of the following for residential use:

2069 (i) gas;

2070 (ii) electricity;

2071 (iii) heat;

2072 (iv) coal;

2073 (v) fuel oil; or

- 2074 (vi) other fuels;
- 2075 (e) sales of prepared food;
- 2076 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2077 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2078 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2079 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed
- 2080 circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf,
- 2081 golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2082 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2083 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2084 exhibition, cultural, or athletic activity;
- 2085 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2086 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2087 (i) the tangible personal property; and
- 2088 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2089 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 2090 of that tangible personal property;
- 2091 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2092 assisted cleaning or washing of tangible personal property;
- 2093 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2094 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2095 (j) amounts paid or charged for laundry or dry cleaning services;
- 2096 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2097 this state the tangible personal property is:
- 2098 (i) stored;
- 2099 (ii) used; or
- 2100 (iii) otherwise consumed;
- 2101 (l) amounts paid or charged for tangible personal property if within this state the

2102 tangible personal property is:

2103 (i) stored;

2104 (ii) used; or

2105 (iii) consumed; and

2106 [~~(m) amounts paid or charged for prepaid telephone calling cards; and~~]

2107 [~~(n)~~] (m) amounts paid or charged for a sale:

2108 (i) (A) of a product that:

2109 (I) is transferred electronically; and

2110 (II) would be subject to a tax under this chapter if the product was transferred in a

2111 manner other than electronically; or

2112 (B) of a repair or renovation of a product that:

2113 (I) is transferred electronically; and

2114 (II) would be subject to a tax under this chapter if the product was transferred in a

2115 manner other than electronically; and

2116 (ii) regardless of whether the sale provides:

2117 (A) a right of permanent use of the product; or

2118 (B) a right to use the product that is less than a permanent use, including a right:

2119 (I) for a definite or specified length of time; and

2120 (II) that terminates upon the occurrence of a condition.

2121 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

2122 is imposed on a transaction described in Subsection (1) equal to the sum of:

2123 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2124 (A) 4.70%; and

2125 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

2126 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2127 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

2128 State Sales and Use Tax Act; and

2129 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

2130 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2131 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2132 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2133 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2134 transaction under this chapter other than this part.

2135 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
2136 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2137 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2138 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2139 transaction under this chapter other than this part.

2140 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
2141 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2142 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2143 a tax rate of 1.75%; and

2144 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2145 amounts paid or charged for food and food ingredients under this chapter other than this part.

2146 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
2147 tangible personal property other than food and food ingredients, a state tax and a local tax is
2148 imposed on the entire bundled transaction equal to the sum of:

2149 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2150 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2151 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2152 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2153 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2154 Additional State Sales and Use Tax Act; and

2155 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2156 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2157 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in

2158 which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2159 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2160 described in Subsection (2)(a)(ii).

2161 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled
2162 transaction described in Subsection (2)(d)(i):

2163 (A) if the sales price of the bundled transaction is attributable to tangible personal
2164 property, a product, or a service that is subject to taxation under this chapter and tangible
2165 personal property, a product, or service that is not subject to taxation under this chapter, the
2166 entire bundled transaction is subject to taxation under this chapter unless:

2167 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2168 personal property, product, or service that is not subject to taxation under this chapter from the
2169 books and records the seller keeps in the seller's regular course of business; or

2170 (II) state or federal law provides otherwise; or

2171 (B) if the sales price of a bundled transaction is attributable to two or more items of
2172 tangible personal property, products, or services that are subject to taxation under this chapter
2173 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2174 higher tax rate unless:

2175 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2176 personal property, product, or service that is subject to taxation under this chapter at the lower
2177 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2178 (II) state or federal law provides otherwise.

2179 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the
2180 seller's regular course of business includes books and records the seller keeps in the regular
2181 course of business for nontax purposes.

2182 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
2183 rate imposed under the following shall take effect on the first day of a calendar quarter:

2184 (i) Subsection (2)(a)(i)(A);

2185 (ii) Subsection (2)(b)(i);

2186 (iii) Subsection (2)(c)(i); or
2187 (iv) Subsection (2)(d)(i)(A)(I).
2188 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that
2189 begins after the effective date of the tax rate increase if the billing period for the transaction
2190 begins before the effective date of a tax rate increase imposed under:
2191 (A) Subsection (2)(a)(i)(A);
2192 (B) Subsection (2)(b)(i);
2193 (C) Subsection (2)(c)(i); or
2194 (D) Subsection (2)(d)(i)(A)(I).
2195 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2196 billing period that began before the effective date of the repeal of the tax or the tax rate
2197 decrease if the billing period for the transaction begins before the effective date of the repeal
2198 of the tax or the tax rate decrease imposed under:
2199 (A) Subsection (2)(a)(i)(A);
2200 (B) Subsection (2)(b)(i);
2201 (C) Subsection (2)(c)(i); or
2202 (D) Subsection (2)(d)(i)(A)(I).
2203 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
2204 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
2205 or change in a tax rate takes effect:
2206 (A) on the first day of a calendar quarter; and
2207 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
2208 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
2209 (A) Subsection (2)(a)(i)(A);
2210 (B) Subsection (2)(b)(i);
2211 (C) Subsection (2)(c)(i); or
2212 (D) Subsection (2)(d)(i)(A)(I).
2213 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

2214 the commission may by rule define the term "catalogue sale."
2215 (3) (a) The following state taxes shall be deposited into the General Fund:
2216 (i) the tax imposed by Subsection (2)(a)(i)(A);
2217 (ii) the tax imposed by Subsection (2)(b)(i);
2218 (iii) the tax imposed by Subsection (2)(c)(i); or
2219 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
2220 (b) The following local taxes shall be distributed to a county, city, or town as provided
2221 in this chapter:
2222 (i) the tax imposed by Subsection (2)(a)(ii);
2223 (ii) the tax imposed by Subsection (2)(b)(ii);
2224 (iii) the tax imposed by Subsection (2)(c)(ii); and
2225 (iv) the tax imposed by Subsection (2)(d)(i)(B).
2226 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July
2227 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
2228 through (g):
2229 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
2230 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
2231 (B) for the fiscal year; or
2232 (ii) \$17,500,000.
2233 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2234 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2235 Department of Natural Resources to:
2236 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
2237 protect sensitive plant and animal species; or
2238 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2239 act, to political subdivisions of the state to implement the measures described in Subsections
2240 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.
2241 (ii) Money transferred to the Department of Natural Resources under Subsection

2242 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2243 person to list or attempt to have listed a species as threatened or endangered under the
2244 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2245 (iii) At the end of each fiscal year:

2246 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2247 Conservation and Development Fund created in Section 73-10-24;

2248 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2249 Program Subaccount created in Section 73-10c-5; and

2250 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2251 Program Subaccount created in Section 73-10c-5.

2252 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2253 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2254 created in Section 4-18-6.

2255 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2256 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2257 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2258 water rights.

2259 (ii) At the end of each fiscal year:

2260 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2261 Conservation and Development Fund created in Section 73-10-24;

2262 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2263 Program Subaccount created in Section 73-10c-5; and

2264 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2265 Program Subaccount created in Section 73-10c-5.

2266 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
2267 described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and
2268 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2269 (ii) In addition to the uses allowed of the Water Resources Conservation and

2270 Development Fund under Section 73-10-24, the Water Resources Conservation and

2271 Development Fund may also be used to:

2272 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2273 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2274 quantifying surface and ground water resources and describing the hydrologic systems of an
2275 area in sufficient detail so as to enable local and state resource managers to plan for and
2276 accommodate growth in water use without jeopardizing the resource;

2277 (B) fund state required dam safety improvements; and

2278 (C) protect the state's interest in interstate water compact allocations, including the
2279 hiring of technical and legal staff.

2280 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2281 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2282 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2283 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2284 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2285 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2286 (i) provide for the installation and repair of collection, treatment, storage, and
2287 distribution facilities for any public water system, as defined in Section 19-4-102;

2288 (ii) develop underground sources of water, including springs and wells; and

2289 (iii) develop surface water sources.

2290 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July
2291 1, 2006, the difference between the following amounts shall be expended as provided in this
2292 Subsection (5), if that difference is greater than \$1:

2293 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2294 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2295 (ii) \$17,500,000.

2296 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2297 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

2298 credits; and

2299 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2300 restoration.

2301 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits
2302 described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and
2303 Development Fund created in Section 73-10-24.

2304 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2305 remaining difference described in Subsection (5)(a) shall be:

2306 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2307 credits; and

2308 (B) expended by the Division of Water Resources for cloud-seeding projects
2309 authorized by Title 73, Chapter 15, Modification of Weather.

2310 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits
2311 described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and
2312 Development Fund created in Section 73-10-24.

2313 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2314 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2315 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2316 Division of Water Resources for:

2317 (i) preconstruction costs:

2318 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2319 26, Bear River Development Act; and

2320 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2321 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2322 (ii) the cost of employing a civil engineer to oversee any project authorized by Title
2323 73, Chapter 26, Bear River Development Act;

2324 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2325 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2326 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2327 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2328 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2329 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2330 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2331 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2332 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2333 incurred for employing additional technical staff for the administration of water rights.

2334 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2335 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2336 Fund created in Section 73-10-24.

2337 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2338 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a
2339 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be
2340 deposited in the Transportation Fund created by Section 72-2-102.

2341 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
2342 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
2343 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
2344 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
2345 transactions under Subsection (1).

2346 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
2347 have been paid off and the highway projects completed that are intended to be paid from
2348 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
2349 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
2350 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2351 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2352 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2353 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in

2354 Subsection (7)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after
2355 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund
2356 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
2357 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
2358 portion of the approximately 17% of sales and use tax revenues generated annually by the
2359 sales and use tax on vehicles and vehicle-related products:

- 2360 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2361 (ii) the tax imposed by Subsection (2)(b)(i);
- 2362 (iii) the tax imposed by Subsection (2)(c)(i); and
- 2363 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

2364 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
2365 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
2366 highway projects completed that are intended to be paid from revenues deposited in the
2367 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
2368 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
2369 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
2370 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following
2371 taxes, which represents a portion of the approximately 17% of sales and use tax revenues
2372 generated annually by the sales and use tax on vehicles and vehicle-related products:

- 2373 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2374 (ii) the tax imposed by Subsection (2)(b)(i);
- 2375 (iii) the tax imposed by Subsection (2)(c)(i); and
- 2376 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

2377 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
2378 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
2379 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

2380 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
2381 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit

2382 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2383 Critical Highway Needs Fund created by Section 72-2-125.

2384 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
2385 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
2386 have been paid off and the highway projects completed that are included in the prioritized
2387 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
2388 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
2389 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
2390 of 2005 created by Section 72-2-124.

2391 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2392 2008-09, \$915,000 shall be deposited into the Qualified Emergency Food Agencies Fund
2393 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

2394 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection
2395 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
2396 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
2397 amount of tax revenue generated by a .025% tax rate on the transactions described in
2398 Subsection (1).

2399 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into
2400 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for
2401 food and food ingredients, except for tax revenue generated by a bundled transaction
2402 attributable to food and food ingredients and tangible personal property other than food and
2403 food ingredients described in Subsection (2)(e).

2404 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),
2405 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the
2406 general obligation bonds authorized by Section 63B-16-101 have been paid off and the
2407 highway projects completed that are included in the prioritized project list under Subsection
2408 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of
2409 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section

2410 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions
2411 described in Subsection (1).

2412 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into
2413 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2414 charged for food and food ingredients, except for tax revenue generated by a bundled
2415 transaction attributable to food and food ingredients and tangible personal property other than
2416 food and food ingredients described in Subsection (2)(e).

2417 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
2418 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
2419 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
2420 .025% tax rate on the transactions described in Subsection (1) to be expended to address
2421 chokepoints in construction management.

2422 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
2423 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
2424 food ingredients, except for tax revenue generated by a bundled transaction attributable to
2425 food and food ingredients and tangible personal property other than food and food ingredients
2426 described in Subsection (2)(e).

2427 Section 5. Section **59-12-104** is amended to read:

2428 **59-12-104. Exemptions.**

2429 The following sales and uses are exempt from the taxes imposed by this chapter:

2430 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2431 under Chapter 13, Motor and Special Fuel Tax Act;

2432 (2) sales to the state, its institutions, and its political subdivisions; however, this
2433 exemption does not apply to sales of:

2434 (a) construction materials except:

2435 (i) construction materials purchased by or on behalf of institutions of the public
2436 education system as defined in Utah Constitution Article X, Section 2, provided the
2437 construction materials are clearly identified and segregated and installed or converted to real

2438 property which is owned by institutions of the public education system; and
2439 (ii) construction materials purchased by the state, its institutions, or its political
2440 subdivisions which are installed or converted to real property by employees of the state, its
2441 institutions, or its political subdivisions; or
2442 (b) tangible personal property in connection with the construction, operation,
2443 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2444 providing additional project capacity, as defined in Section 11-13-103;
2445 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
2446 (i) the proceeds of each sale do not exceed \$1; and
2447 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2448 the cost of the item described in Subsection (3)(b) as goods consumed; and
2449 (b) Subsection (3)(a) applies to:
2450 (i) food and food ingredients; or
2451 (ii) prepared food;
2452 (4) sales of the following to a commercial airline carrier for in-flight consumption:
2453 (a) food and food ingredients;
2454 (b) prepared food; or
2455 (c) services related to Subsection (4)(a) or (b);
2456 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
2457 and equipment:
2458 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
2459 North American Industry Classification System of the federal Executive Office of the
2460 President, Office of Management and Budget; and
2461 (II) for:
2462 (Aa) installation in an aircraft, including services relating to the installation of parts or
2463 equipment in the aircraft;
2464 (Bb) renovation of an aircraft; or
2465 (Cc) repair of an aircraft; or

2466 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
2467 commerce; or

2468 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
2469 aircraft operated by a common carrier in interstate or foreign commerce; and

2470 (b) notwithstanding the time period of Subsection 59-12-110(2) for filing for a refund,
2471 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
2472 refund:

2473 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

2474 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

2475 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
2476 the sale prior to filing for the refund;

2477 (iv) for sales and use taxes paid under this chapter on the sale;

2478 (v) in accordance with Section 59-12-110; and

2479 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,
2480 if the person files for the refund on or before September 30, 2011;

2481 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2482 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2483 exhibitor, distributor, or commercial television or radio broadcaster;

2484 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
2485 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
2486 washing of tangible personal property;

2487 (b) if a seller that sells at the same business location assisted cleaning or washing of
2488 tangible personal property and cleaning or washing of tangible personal property that is not
2489 assisted cleaning or washing of tangible personal property, the exemption described in
2490 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2491 or washing of the tangible personal property; and

2492 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2493 Utah Administrative Rulemaking Act, the commission may make rules:

- 2494 (i) governing the circumstances under which sales are at the same business location;
2495 and
- 2496 (ii) establishing the procedures and requirements for a seller to separately account for
2497 sales of assisted cleaning or washing of tangible personal property;
- 2498 (8) sales made to or by religious or charitable institutions in the conduct of their
2499 regular religious or charitable functions and activities, if the requirements of Section
2500 59-12-104.1 are fulfilled;
- 2501 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws
2502 of this state if the vehicle is:
- 2503 (a) not registered in this state; and
- 2504 (b) (i) not used in this state; or
2505 (ii) used in this state:
- 2506 (A) if the vehicle is not used to conduct business, for a time period that does not
2507 exceed the longer of:
- 2508 (I) 30 days in any calendar year; or
2509 (II) the time period necessary to transport the vehicle to the borders of this state; or
2510 (B) if the vehicle is used to conduct business, for the time period necessary to
2511 transport the vehicle to the borders of this state;
- 2512 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2513 (i) the item is intended for human use; and
2514 (ii) (A) a prescription was issued for the item; or
2515 (B) the item was purchased by a hospital or other medical facility; and
2516 (b) (i) Subsection (10)(a) applies to:
- 2517 (A) a drug;
2518 (B) a syringe; or
2519 (C) a stoma supply; and
2520 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2521 the commission may by rule define the terms:

- 2522 (A) "syringe"; or
- 2523 (B) "stoma supply";
- 2524 (11) sales or use of property, materials, or services used in the construction of or
- 2525 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 2526 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2527 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2528 general public:
 - 2529 (A) a church; or
 - 2530 (B) a charitable institution;
 - 2531 (ii) an institution of higher education if:
 - 2532 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 2533 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 2534 offered by the institution of higher education; or
 - 2535 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 2536 (i) a medical facility; or
 - 2537 (ii) a nursing facility; and
 - 2538 (c) Subsections (12)(a) and (b) apply to:
 - 2539 (i) food and food ingredients;
 - 2540 (ii) prepared food; or
 - 2541 (iii) alcoholic beverages;
 - 2542 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal
 - 2543 property or a product transferred electronically by a person:
 - 2544 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 2545 property or product transferred electronically by that person; and
 - 2546 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 2547 property or product transferred electronically;
 - 2548 (b) this Subsection (13) does not apply if:
 - 2549 (i) the sale is one of a series of sales of a character to indicate that the person is

2550 regularly engaged in the business of selling that type of tangible personal property or product
2551 transferred electronically;

2552 (ii) the person holds that person out as regularly engaged in the business of selling that
2553 type of tangible personal property or product transferred electronically;

2554 (iii) the person sells an item of tangible personal property or product transferred
2555 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2556 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2557 this state in which case the tax is based upon:

2558 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2559 sold; or

2560 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2561 value of the vehicle or vessel being sold at the time of the sale as determined by the
2562 commission; and

2563 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2564 commission shall make rules establishing the circumstances under which:

2565 (i) a person is regularly engaged in the business of selling a type of tangible personal
2566 property or product transferred electronically;

2567 (ii) a sale of tangible personal property or a product transferred electronically is one of
2568 a series of sales of a character to indicate that a person is regularly engaged in the business of
2569 selling that type of tangible personal property or product transferred electronically; or

2570 (iii) a person holds that person out as regularly engaged in the business of selling a
2571 type of tangible personal property or product transferred electronically;

2572 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2573 July 1, 2006, for a purchase or lease by a manufacturing facility [~~other than~~] except for a
2574 cogeneration facility, for the following:

2575 (i) machinery and equipment that:

2576 (A) [~~is~~] are used:

2577 (I) for a manufacturing facility [~~other than~~] except for a manufacturing facility that is a

2578 scrap recycler described in Subsection 59-12-102(52)(b):
2579 (Aa) in the manufacturing process; ~~and~~
2580 (Bb) to manufacture an item sold as tangible personal property; and
2581 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this
2582 Subsection (14)(a)(i)(A)(I) in the state; or
2583 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2584 59-12-102(52)(b)[;]:
2585 (Aa) to process an item sold as tangible personal property; and
2586 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this
2587 Subsection (14)(a)(i)(A)(II) in the state; and
2588 (B) ~~has~~ have an economic life of three or more years; and
2589 (ii) normal operating repair or replacement parts that:
2590 (A) have an economic life of three or more years; and
2591 (B) are used:
2592 (I) for a manufacturing facility ~~[in the state other than]~~ except for a manufacturing
2593 facility that is a scrap recycler described in Subsection 59-12-102(52)(b)[;]:
2594 (Aa) in the manufacturing process; and
2595 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
2596 state; or
2597 (II) for a manufacturing facility ~~[in the state]~~ that is a scrap recycler described in
2598 Subsection 59-12-102(52)(b)[;]:
2599 (Aa) to process an item sold as tangible personal property; and
2600 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
2601 state;
2602 (b) ~~(f)~~ amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2603 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2604 for the following:
2605 ~~(A)~~ (i) machinery and equipment that:

2606 ~~[(F) is]~~ (A) are used:

2607 ~~[(Aa)]~~ (I) in the manufacturing process; ~~[and]~~

2608 ~~[(Bb)]~~ (II) to manufacture an item sold as tangible personal property; and

2609 (III) beginning on July 1, 2009, in a manufacturing facility described in this

2610 Subsection (14)(b) in the state; and

2611 ~~[(H) has]~~ (B) have an economic life of three or more years; and

2612 ~~[(B)]~~ (ii) normal operating repair or replacement parts that:

2613 ~~[(F)]~~ (A) are used;

2614 (I) in the manufacturing process; and

2615 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

2616 ~~[(H)]~~ (B) have an economic life of three or more years; ~~[and]~~

2617 ~~[(ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,~~

2618 ~~2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may~~

2619 ~~claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund.]~~

2620 ~~[(A) for sales and use taxes paid under this chapter on the purchase or lease payment;~~

2621 ~~and]~~

2622 ~~[(B) in accordance with Section 59-12-110;]~~

2623 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

2624 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

2625 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

2626 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

2627 of the 2002 North American Industry Classification System of the federal Executive Office of

2628 the President, Office of Management and Budget:

2629 (i) machinery and equipment that:

2630 (A) are used ~~[in]~~:

2631 (I) (Aa) in the production process, other than the production of real property; or

2632 ~~[(H)]~~ (Bb) in research and development; and

2633 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

2634 in the state; and
2635 (B) have an economic life of three or more years; and
2636 (ii) normal operating repair or replacement parts that:
2637 (A) have an economic life of three or more years; and
2638 (B) are used in:
2639 (I) (Aa) the production process, [~~other than~~] except for the production of real
2640 property[~~, in~~]; and
2641 (Bb) an establishment described in this Subsection (14)(c) in the state; or
2642 (II) (Aa) research and development; and
2643 (Bb) in an establishment described in this Subsection (14)(c) in the state;
2644 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
2645 Utah Administrative Rulemaking Act, the commission:
2646 (i) shall by rule define the term "establishment"; and
2647 (ii) may by rule define what constitutes:
2648 (A) processing an item sold as tangible personal property;
2649 (B) the production process, [~~other than~~] except for the production of real property; or
2650 (C) research and development; and
2651 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
2652 commission shall:
2653 (i) review the exemptions described in this Subsection (14) and make
2654 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2655 exemptions should be continued, modified, or repealed; and
2656 (ii) include in its report:
2657 (A) the cost of the exemptions;
2658 (B) the purpose and effectiveness of the exemptions; and
2659 (C) the benefits of the exemptions to the state;
2660 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2661 (i) tooling;

2662 (ii) special tooling;
2663 (iii) support equipment;
2664 (iv) special test equipment; or
2665 (v) parts used in the repairs or renovations of tooling or equipment described in
2666 Subsections (15)(a)(i) through (iv); and
2667 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2668 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2669 performance of any aerospace or electronics industry contract with the United States
2670 government or any subcontract under that contract; and
2671 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2672 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2673 by:
2674 (A) a government identification tag placed on the tooling, equipment, or parts; or
2675 (B) listing on a government-approved property record if placing a government
2676 identification tag on the tooling, equipment, or parts is impractical;
2677 (16) sales of newspapers or newspaper subscriptions;
2678 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2679 product transferred electronically traded in as full or part payment of the purchase price,
2680 except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle
2681 dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
2682 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2683 vehicle being traded in; or
2684 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2685 fair market value of the vehicle being sold and the vehicle being traded in, as determined by
2686 the commission; and
2687 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2688 following items of tangible personal property or products transferred electronically traded in as
2689 full or part payment of the purchase price:

2690 (i) money;

2691 (ii) electricity;

2692 (iii) water;

2693 (iv) gas; or

2694 (v) steam;

2695 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal

2696 property or a product transferred electronically used or consumed primarily and directly in

2697 farming operations, regardless of whether the tangible personal property or product transferred

2698 electronically:

2699 (A) becomes part of real estate; or

2700 (B) is installed by a:

2701 (I) farmer;

2702 (II) contractor; or

2703 (III) subcontractor; or

2704 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

2705 product transferred electronically if the tangible personal property or product transferred

2706 electronically is exempt under Subsection (18)(a)(i); and

2707 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are

2708 subject to the taxes imposed by this chapter:

2709 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

2710 incidental to farming:

2711 (I) machinery;

2712 (II) equipment;

2713 (III) materials; or

2714 (IV) supplies; and

2715 (B) tangible personal property that is considered to be used in a manner that is

2716 incidental to farming includes:

2717 (I) hand tools; or

2718 (II) maintenance and janitorial equipment and supplies;

2719 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

2720 transferred electronically if the tangible personal property or product transferred electronically

2721 is used in an activity other than farming; and

2722 (B) tangible personal property or a product transferred electronically that is considered

2723 to be used in an activity other than farming includes:

2724 (I) office equipment and supplies; or

2725 (II) equipment and supplies used in:

2726 (Aa) the sale or distribution of farm products;

2727 (Bb) research; or

2728 (Cc) transportation; or

2729 (iii) a vehicle required to be registered by the laws of this state during the period

2730 ending two years after the date of the vehicle's purchase;

2731 (19) sales of hay;

2732 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

2733 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

2734 garden, farm, or other agricultural produce is sold by:

2735 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2736 agricultural produce;

2737 (b) an employee of the producer described in Subsection (20)(a); or

2738 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2739 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2740 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2741 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2742 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

2743 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2744 manufacturer, processor, wholesaler, or retailer;

2745 (23) a product stored in the state for resale;

2746 (24) (a) purchases of a product if:
2747 (i) the product is:
2748 (A) purchased outside of this state;
2749 (B) brought into this state:
2750 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2751 (II) by a nonresident person who is not living or working in this state at the time of the
2752 purchase;
2753 (C) used for the personal use or enjoyment of the nonresident person described in
2754 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
2755 (D) not used in conducting business in this state; and
2756 (ii) for:
2757 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2758 the product for a purpose for which the product is designed occurs outside of this state;
2759 (B) a boat, the boat is registered outside of this state; or
2760 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2761 outside of this state;
2762 (b) the exemption provided for in Subsection (24)(a) does not apply to:
2763 (i) a lease or rental of a product; or
2764 (ii) a sale of a vehicle exempt under Subsection (33); and
2765 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2766 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2767 following:
2768 (i) conducting business in this state if that phrase has the same meaning in this
2769 Subsection (24) as in Subsection [~~(64)~~] (63);
2770 (ii) the first use of a product if that phrase has the same meaning in this Subsection
2771 (24) as in Subsection [~~(64)~~] (63); or
2772 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2773 this Subsection (24) as in Subsection [~~(64)~~] (63);

2774 (25) a product purchased for resale in this state, in the regular course of business, either
2775 in its original form or as an ingredient or component part of a manufactured or compounded
2776 product;

2777 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2778 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2779 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2780 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2781 Act;

2782 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2783 person for use in compounding a service taxable under the subsections;

2784 (28) purchases made in accordance with the special supplemental nutrition program
2785 for women, infants, and children established in 42 U.S.C. Sec. 1786;

2786 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2787 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or
2788 ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial
2789 Classification Manual of the federal Executive Office of the President, Office of Management
2790 and Budget;

2791 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2792 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2793 (a) not registered in this state; and

2794 (b) (i) not used in this state; or

2795 (ii) used in this state:

2796 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2797 time period that does not exceed the longer of:

2798 (I) 30 days in any calendar year; or

2799 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2800 the borders of this state; or

2801 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

2802 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2803 state;

2804 (31) sales of aircraft manufactured in Utah;

2805 (32) amounts paid for the purchase of telecommunications service for purposes of
2806 providing telecommunications service;

2807 (33) sales, leases, or uses of the following:

2808 (a) a vehicle by an authorized carrier; or

2809 (b) tangible personal property that is installed on a vehicle:

2810 (i) sold or leased to or used by an authorized carrier; and

2811 (ii) before the vehicle is placed in service for the first time;

2812 (34) (a) 45% of the sales price of any new manufactured home; and

2813 (b) 100% of the sales price of any used manufactured home;

2814 (35) sales relating to schools and fundraising sales;

2815 (36) sales or rentals of durable medical equipment if:

2816 (a) a person presents a prescription for the durable medical equipment; and

2817 (b) the durable medical equipment is used for home use only;

2818 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2819 Section 72-11-102; and

2820 (b) the commission shall by rule determine the method for calculating sales exempt
2821 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

2822 (38) sales to a ski resort of:

2823 (a) snowmaking equipment;

2824 (b) ski slope grooming equipment;

2825 (c) passenger ropeways as defined in Section 72-11-102; or

2826 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2827 described in Subsections (38)(a) through (c);

2828 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial
2829 use;

2830 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2831 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2832 59-12-102;

2833 (b) if a seller that sells or rents at the same business location the right to use or operate
2834 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2835 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2836 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2837 amusement, entertainment, or recreation for the assisted amusement devices; and

2838 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2839 Utah Administrative Rulemaking Act, the commission may make rules:

2840 (i) governing the circumstances under which sales are at the same business location;
2841 and

2842 (ii) establishing the procedures and requirements for a seller to separately account for
2843 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation
2844 for assisted amusement devices;

2845 (41) (a) sales of photocopies by:

2846 (i) a governmental entity; or

2847 (ii) an entity within the state system of public education, including:

2848 (A) a school; or

2849 (B) the State Board of Education; or

2850 (b) sales of publications by a governmental entity;

2851 (42) amounts paid for admission to an athletic event at an institution of higher
2852 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2853 20 U.S.C. Sec. 1681 et seq.;

2854 [~~43~~] sales of telecommunications service charged to a prepaid telephone calling card;]

2855 [~~44~~] (43) (a) sales made to or by:

2856 (i) an area agency on aging; or

2857 (ii) a senior citizen center owned by a county, city, or town; or

2858 (b) sales made by a senior citizen center that contracts with an area agency on aging;
2859 [~~(45)~~] (44) sales or leases of semiconductor fabricating, processing, research, or
2860 development materials regardless of whether the semiconductor fabricating, processing,
2861 research, or development materials:

2862 (a) actually come into contact with a semiconductor; or

2863 (b) ultimately become incorporated into real property;

2864 [~~(46)~~] (45) an amount paid by or charged to a purchaser for accommodations and
2865 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
2866 Section 59-12-104.2;

2867 [~~(47)~~] (46) beginning on September 1, 2001, the lease or use of a vehicle issued a
2868 temporary sports event registration certificate in accordance with Section 41-3-306 for the
2869 event period specified on the temporary sports event registration certificate;

2870 [~~(48)~~] (47) sales or uses of electricity, if the sales or uses are:

2871 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2872 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2873 source, as designated in the tariff by the Public Service Commission of Utah; and

2874 (b) for an amount of electricity that is:

2875 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2876 under the tariff described in Subsection [~~(48)~~] (47)(a); and

2877 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2878 Subsection [~~(48)~~] (47)(a) that may be purchased under the tariff described in Subsection [~~(48)~~]
2879 (47)(a);

2880 [~~(49)~~] (48) sales or rentals of mobility enhancing equipment if a person presents a
2881 prescription for the mobility enhancing equipment;

2882 [~~(50)~~] (49) sales of water in a:

2883 (a) pipe;

2884 (b) conduit;

2885 (c) ditch; or

2886 (d) reservoir;

2887 [~~(51)~~] (50) sales of currency or coinage that constitute legal tender of the United States

2888 or of a foreign nation;

2889 [~~(52)~~] (51) (a) sales of an item described in Subsection [~~(52)~~] (51)(b) if the item:

2890 (i) does not constitute legal tender of any nation; and

2891 (ii) has a gold, silver, or platinum content of 80% or more; and

2892 (b) Subsection [~~(52)~~] (51)(a) applies to a gold, silver, or platinum:

2893 (i) ingot;

2894 (ii) bar;

2895 (iii) medallion; or

2896 (iv) decorative coin;

2897 [~~(53)~~] (52) amounts paid on a sale-leaseback transaction;

2898 [~~(54)~~] (53) sales of a prosthetic device:

2899 (a) for use on or in a human; and

2900 (b) (i) for which a prescription is required; or

2901 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2902 [~~(55)~~] (54) (a) except as provided in Subsection [~~(55)~~] (54)(b), purchases, leases, or

2903 rentals of machinery or equipment by an establishment described in Subsection [~~(55)~~] (54)(c)

2904 if the machinery or equipment is primarily used in the production or postproduction of the

2905 following media for commercial distribution:

2906 (i) a motion picture;

2907 (ii) a television program;

2908 (iii) a movie made for television;

2909 (iv) a music video;

2910 (v) a commercial;

2911 (vi) a documentary; or

2912 (vii) a medium similar to Subsections [~~(55)~~] (54)(a)(i) through (vi) as determined by

2913 the commission by administrative rule made in accordance with Subsection [~~(55)~~] (54)(d); or

2914 (b) notwithstanding Subsection [~~(55)~~] (54)(a), purchases, leases, or rentals of
2915 machinery or equipment by an establishment described in Subsection [~~(55)~~] (54)(c) that is
2916 used for the production or postproduction of the following are subject to the taxes imposed by
2917 this chapter:

2918 (i) a live musical performance;

2919 (ii) a live news program; or

2920 (iii) a live sporting event;

2921 (c) the following establishments listed in the 1997 North American Industry
2922 Classification System of the federal Executive Office of the President, Office of Management
2923 and Budget, apply to Subsections [~~(55)~~] (54)(a) and (b):

2924 (i) NAICS Code 512110; or

2925 (ii) NAICS Code 51219; and

2926 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2927 the commission may by rule:

2928 (i) prescribe what constitutes a medium similar to Subsections [~~(55)~~] (54)(a)(i)
2929 through (vi); or

2930 (ii) define:

2931 (A) "commercial distribution";

2932 (B) "live musical performance";

2933 (C) "live news program"; or

2934 (D) "live sporting event";

2935 [~~(56)~~] (55) (a) leases of seven or more years or purchases made on or after July 1,
2936 2004 but on or before June 30, 2019, of machinery or equipment that:

2937 (i) is leased or purchased for or by a facility that:

2938 (A) is a renewable energy production facility;

2939 (B) is located in the state; and

2940 (C) (I) becomes operational on or after July 1, 2004; or

2941 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2942 2004 as a result of the use of the machinery or equipment;

2943 (ii) has an economic life of five or more years; and

2944 (iii) is used to make the facility or the increase in capacity of the facility described in

2945 Subsection [~~56~~] (55)(a)(i) operational up to the point of interconnection with an existing

2946 transmission grid including:

2947 (A) a wind turbine;

2948 (B) generating equipment;

2949 (C) a control and monitoring system;

2950 (D) a power line;

2951 (E) substation equipment;

2952 (F) lighting;

2953 (G) fencing;

2954 (H) pipes; or

2955 (I) other equipment used for locating a power line or pole; and

2956 (b) this Subsection [~~56~~] (55) does not apply to:

2957 (i) machinery or equipment used in construction of:

2958 (A) a new renewable energy production facility; or

2959 (B) the increase in the capacity of a renewable energy production facility;

2960 (ii) contracted services required for construction and routine maintenance activities;

2961 and

2962 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2963 of the facility described in Subsection [~~56~~] (55)(a)(i)(C)(II), machinery or equipment used or

2964 acquired after:

2965 (A) the renewable energy production facility described in Subsection [~~56~~] (55)(a)(i)

2966 is operational as described in Subsection [~~56~~] (55)(a)(iii); or

2967 (B) the increased capacity described in Subsection [~~56~~] (55)(a)(i) is operational as

2968 described in Subsection [~~56~~] (55)(a)(iii);

2969 [~~57~~] (56) (a) leases of seven or more years or purchases made on or after July 1,

2970 2004 but on or before June 30, 2019, of machinery or equipment that:

2971 (i) is leased or purchased for or by a facility that:

2972 (A) is a waste energy production facility;

2973 (B) is located in the state; and

2974 (C) (I) becomes operational on or after July 1, 2004; or

2975 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2976 2004 as a result of the use of the machinery or equipment;

2977 (ii) has an economic life of five or more years; and

2978 (iii) is used to make the facility or the increase in capacity of the facility described in

2979 Subsection [~~(57)~~] (56)(a)(i) operational up to the point of interconnection with an existing

2980 transmission grid including:

2981 (A) generating equipment;

2982 (B) a control and monitoring system;

2983 (C) a power line;

2984 (D) substation equipment;

2985 (E) lighting;

2986 (F) fencing;

2987 (G) pipes; or

2988 (H) other equipment used for locating a power line or pole; and

2989 (b) this Subsection [~~(57)~~] (56) does not apply to:

2990 (i) machinery or equipment used in construction of:

2991 (A) a new waste energy facility; or

2992 (B) the increase in the capacity of a waste energy facility;

2993 (ii) contracted services required for construction and routine maintenance activities;

2994 and

2995 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

2996 described in Subsection [~~(57)~~] (56)(a)(i)(C)(II), machinery or equipment used or acquired

2997 after:

2998 (A) the waste energy facility described in Subsection [~~(57)~~] (56)(a)(i) is operational as
2999 described in Subsection [~~(57)~~] (56)(a)(iii); or

3000 (B) the increased capacity described in Subsection [~~(57)~~] (56)(a)(i) is operational as
3001 described in Subsection [~~(57)~~] (56)(a)(iii);

3002 [~~(58)~~] (57) (a) leases of five or more years or purchases made on or after July 1, 2004
3003 but on or before June 30, 2019, of machinery or equipment that:

3004 (i) is leased or purchased for or by a facility that:

3005 (A) is located in the state;

3006 (B) produces fuel from biomass energy including:

3007 (I) methanol; or

3008 (II) ethanol; and

3009 (C) (I) becomes operational on or after July 1, 2004; or

3010 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004

3011 as a result of the installation of the machinery or equipment;

3012 (ii) has an economic life of five or more years; and

3013 (iii) is installed on the facility described in Subsection [~~(58)~~] (57)(a)(i);

3014 (b) this Subsection [~~(58)~~] (57) does not apply to:

3015 (i) machinery or equipment used in construction of:

3016 (A) a new facility described in Subsection [~~(58)~~] (57)(a)(i); or

3017 (B) the increase in capacity of the facility described in Subsection [~~(58)~~] (57)(a)(i); or

3018 (ii) contracted services required for construction and routine maintenance activities;

3019 and

3020 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

3021 described in Subsection [~~(58)~~] (57)(a)(i)(C)(II), machinery or equipment used or acquired

3022 after:

3023 (A) the facility described in Subsection [~~(58)~~] (57)(a)(i) is operational; or

3024 (B) the increased capacity described in Subsection [~~(58)~~] (57)(a)(i) is operational;

3025 [~~(59)~~] (58) (a) subject to Subsection [~~(59)~~] (58)(b) or (c), sales of tangible personal

3026 property or a product transferred electronically to a person within this state if that tangible
3027 personal property or product transferred electronically is subsequently shipped outside the
3028 state and incorporated pursuant to contract into and becomes a part of real property located
3029 outside of this state;

3030 (b) the exemption under Subsection [~~59~~] (58)(a) is not allowed to the extent that the
3031 other state or political entity to which the tangible personal property is shipped imposes a
3032 sales, use, gross receipts, or other similar transaction excise tax on the transaction against
3033 which the other state or political entity allows a credit for sales and use taxes imposed by this
3034 chapter; and

3035 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a
3036 refund, a person may claim the exemption allowed by this Subsection [~~59~~] (58) for a sale by
3037 filing for a refund:

3038 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

3039 (ii) as if this Subsection [~~59~~] (58) as in effect on July 1, 2008, were in effect on the
3040 day on which the sale is made;

3041 (iii) if the person did not claim the exemption allowed by this Subsection [~~59~~] (58)
3042 for the sale prior to filing for the refund;

3043 (iv) for sales and use taxes paid under this chapter on the sale;

3044 (v) in accordance with Section 59-12-110; and

3045 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,
3046 if the person files for the refund on or before June 30, 2011;

3047 [~~60~~] (59) purchases:

3048 (a) of one or more of the following items in printed or electronic format:

3049 (i) a list containing information that includes one or more:

3050 (A) names; or

3051 (B) addresses; or

3052 (ii) a database containing information that includes one or more:

3053 (A) names; or

3054 (B) addresses; and
3055 (b) used to send direct mail;
3056 ~~[(61)]~~ (60) redemptions or repurchases of a product by a person if that product was:
3057 (a) delivered to a pawnbroker as part of a pawn transaction; and
3058 (b) redeemed or repurchased within the time period established in a written agreement
3059 between the person and the pawnbroker for redeeming or repurchasing the product;
3060 ~~[(62)]~~ (61) (a) purchases or leases of an item described in Subsection ~~[(62)]~~ (61)(b) if
3061 the item:
3062 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
3063 and
3064 (ii) has a useful economic life of one or more years; and
3065 (b) the following apply to Subsection ~~[(62)]~~ (61)(a):
3066 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3067 (ii) telecommunications equipment, machinery, or software required for 911 service;
3068 (iii) telecommunications maintenance or repair equipment, machinery, or software;
3069 (iv) telecommunications switching or routing equipment, machinery, or software; or
3070 (v) telecommunications transmission equipment, machinery, or software;
3071 ~~[(63)]~~ (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of
3072 tangible personal property or a product transferred electronically that are used in the research
3073 and development of coal-to-liquids, oil shale, or tar sands technology; and
3074 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3075 the commission may, for purposes of Subsection ~~[(63)]~~ (62)(a), make rules defining what
3076 constitutes purchases of tangible personal property or a product transferred electronically that
3077 are used in the research and development of coal-to-liquids, oil shale, and tar sands
3078 technology;
3079 ~~[(64)]~~ (63) (a) purchases of tangible personal property or a product transferred
3080 electronically if:
3081 (i) the tangible personal property or product transferred electronically is:

- 3082 (A) purchased outside of this state;
- 3083 (B) brought into this state at any time after the purchase described in Subsection
- 3084 [~~(64)~~] (63)(a)(i)(A); and
- 3085 (C) used in conducting business in this state; and
- 3086 (ii) for:
- 3087 (A) tangible personal property or a product transferred electronically other than the
- 3088 tangible personal property described in Subsection [~~(64)~~] (63)(a)(ii)(B), the first use of the
- 3089 property for a purpose for which the property is designed occurs outside of this state; or
- 3090 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 3091 outside of this state;
- 3092 (b) the exemption provided for in Subsection [~~(64)~~] (63)(a) does not apply to:
- 3093 (i) a lease or rental of tangible personal property or a product transferred
- 3094 electronically; or
- 3095 (ii) a sale of a vehicle exempt under Subsection (33); and
- 3096 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 3097 purposes of Subsection [~~(64)~~] (63)(a), the commission may by rule define what constitutes the
- 3098 following:
- 3099 (i) conducting business in this state if that phrase has the same meaning in this
- 3100 Subsection [~~(64)~~] (63) as in Subsection (24);
- 3101 (ii) the first use of tangible personal property or a product transferred electronically if
- 3102 that phrase has the same meaning in this Subsection [~~(64)~~] (63) as in Subsection (24); or
- 3103 (iii) a purpose for which tangible personal property or a product transferred
- 3104 electronically is designed if that phrase has the same meaning in this Subsection [~~(64)~~] (63) as
- 3105 in Subsection (24);
- 3106 [~~(65)~~] (64) sales of disposable home medical equipment or supplies if:
- 3107 (a) a person presents a prescription for the disposable home medical equipment or
- 3108 supplies;
- 3109 (b) the disposable home medical equipment or supplies are used exclusively by the

3110 person to whom the prescription described in Subsection [~~65~~] (64)(a) is issued; and
3111 (c) the disposable home medical equipment and supplies are listed as eligible for
3112 payment under:
3113 (i) Title XVIII, federal Social Security Act; or
3114 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
3115 [~~66~~] (65) sales:
3116 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
3117 District Act; or
3118 (b) of tangible personal property to a subcontractor of a public transit district, if the
3119 tangible personal property is:
3120 (i) clearly identified; and
3121 (ii) installed or converted to real property owned by the public transit district;
3122 [~~67~~] (66) sales of construction materials:
3123 (a) purchased on or after July 1, 2010;
3124 (b) purchased by, on behalf of, or for the benefit of an international airport:
3125 (i) located within a county of the first class; and
3126 (ii) that has a United States customs office on its premises; and
3127 (c) if the construction materials are:
3128 (i) clearly identified;
3129 (ii) segregated; and
3130 (iii) installed or converted to real property:
3131 (A) owned or operated by the international airport described in Subsection [~~67~~]
3132 (66)(b); and
3133 (B) located at the international airport described in Subsection [~~67~~] (66)(b);
3134 [~~68~~] (67) sales of construction materials:
3135 (a) purchased on or after July 1, 2008;
3136 (b) purchased by, on behalf of, or for the benefit of a new airport:
3137 (i) located within a county of the second class; and

- 3138 (ii) that is owned or operated by a city in which an airline as defined in Section
- 3139 59-2-102 is headquartered; and
- 3140 (c) if the construction materials are:
- 3141 (i) clearly identified;
- 3142 (ii) segregated; and
- 3143 (iii) installed or converted to real property:
- 3144 (A) owned or operated by the new airport described in Subsection [~~(68)~~] (67)(b);
- 3145 (B) located at the new airport described in Subsection [~~(68)~~] (67)(b); and
- 3146 (C) as part of the construction of the new airport described in Subsection [~~(68)~~]
- 3147 (67)(b); and

3148 [~~(69)~~] (68) sales of fuel to a common carrier that is a railroad for use in a locomotive
3149 engine.

3150 Section 6. Section **59-12-104.2** is amended to read:
3151 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
3152 **Nation.**

- 3153 (1) As used in this section "tribal taxing area" means the geographical area that:
- 3154 (a) is subject to the taxing authority of the Navajo Nation; and
- 3155 (b) consists of:
- 3156 (i) notwithstanding the issuance of a patent, all land:
- 3157 (A) within the limits of an Indian reservation under the jurisdiction of the federal
- 3158 government; and
- 3159 (B) including any rights-of-way running through the reservation; and
- 3160 (ii) all Indian allotments the Indian titles to which have not been extinguished,
- 3161 including any rights-of-way running through an Indian allotment.

3162 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
3163 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the
3164 tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted
3165 under Subsection (2)(b) if:

3166 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
3167 provided within:

3168 (A) the state; and
3169 (B) a tribal taxing area;

3170 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
3171 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
3172 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
3173 regard to whether or not the purchaser that pays or is charged for the accommodations and
3174 services is an enrolled member of the Navajo Nation; and
3175 (iv) the requirements of Subsection (4) are met.

3176 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
3177 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
3178 Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

3179 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
3180 if that difference is greater than \$0; and
3181 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
3182 if the difference described in Subsection (3) is equal to or less than \$0.

3183 (3) The difference described in Subsection (2)(b) is equal to the difference between:
3184 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I)
3185 on the amounts paid by or charged to a purchaser for accommodations and services described
3186 in Subsection 59-12-103(1)(i); less
3187 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
3188 charged to a purchaser for the accommodations and services described in Subsection
3189 59-12-103(1)(i).

3190 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
3191 imposed on amounts paid by or charged to a purchaser for accommodations and services
3192 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
3193 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the

3194 calendar quarter after a 90-day period beginning on the date the commission receives notice
3195 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

3196 (b) The notice described in Subsection (4)(a) shall state:

3197 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
3198 amounts paid by or charged to a purchaser for accommodations and services described in
3199 Subsection 59-12-103(1)(i);

3200 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
3201 and

3202 (iii) the new rate of the tax described in Subsection (4)(b)(i).

3203 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

3204 (a) shall review the exemption provided for in this section one or more times every
3205 five years;

3206 (b) shall determine on or before the November interim meeting of the year in which
3207 the Revenue and Taxation Interim Committee reviews the exemption provided for in this
3208 section whether the exemption should be:

3209 (i) continued;

3210 (ii) modified; or

3211 (iii) repealed; and

3212 (c) may review any other issue related to the exemption provided for in this section as
3213 determined by the Revenue and Taxation Interim Committee.

3214 Section 7. Section **59-12-104.5** is amended to read:

3215 **59-12-104.5. Utah Tax Review Commission review of sales and use tax system.**

3216 (1) The Utah Tax Review Commission, in cooperation with the governor's office and
3217 the commission, shall review the sales and use tax system of the state as provided in this
3218 section.

3219 (2) (a) Beginning with the 2009 interim, and one or more times every ten years after
3220 the 2009 interim, the Utah Tax Review Commission shall make findings and
3221 recommendations as to whether:

- 3222 (i) the sales and use tax is broadly based;
- 3223 (ii) the sales and use tax base reflects the overall economy;
- 3224 (iii) the sales and use tax mitigates regressive impacts;
- 3225 (iv) the sales and use tax is administratively simple; and
- 3226 (v) the sales and use tax promotes compliance.

3227 (b) On or before the November interim meeting of the year in which the Utah Tax
3228 Review Commission makes the findings and recommendations required by Subsection (2)(a),
3229 the Utah Tax Review Commission shall report its findings and recommendations made in
3230 accordance with Subsection (2)(a) to:

- 3231 (i) the governor; and
- 3232 (ii) the Revenue and Taxation Interim Committee.
- 3233 (3) Notwithstanding Subsection (2):

3234 (a) the Utah Tax Review Commission shall review Subsection 59-12-104(28) before
3235 October 1 of the year after the year in which Congress permits a state to participate in the
3236 special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales
3237 taxes are collected within the state on purchases of food under that program;

3238 (b) the Utah Tax Review Commission shall review Subsection 59-12-104(21) before
3239 October 1 of the year after the year in which Congress permits a state to participate in the food
3240 stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or local
3241 sales taxes are collected within the state on purchases of food under that program; and

3242 (c) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(63)~~](62)
3243 before the October 2011 interim meeting.

3244 Section 8. Section **59-12-105** is amended to read:

3245 **59-12-105. Certain exempt sales to be reported -- Penalties.**

3246 (1) An owner or purchaser shall report to the commission the amount of sales or uses
3247 exempt under Subsection 59-12-104(14) or [~~(45)~~] (44).

3248 (2) A report required by Subsection (1) shall be filed:

3249 (a) with the commission; and

3250 (b) on a form prescribed by the commission.
3251 (3) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections
3252 (3)(b) and (4), if the owner or purchaser fails to report the full amount of the exemptions
3253 granted under Subsection 59-12-104(14) or [~~45~~] (44) on the report required by Subsection
3254 (1), the commission shall impose a penalty equal to the lesser of:

- 3255 (i) 10% of the sales and use tax that would have been imposed if the exemption had
3256 not applied; or
- 3257 (ii) \$1,000.

3258 (b) Notwithstanding Subsection (3)(a)(i), the commission may not impose a penalty
3259 under Subsection (3)(a)(i) if the owner or purchaser files an amended report:

- 3260 (i) containing the amount of the exemption; and
- 3261 (ii) before the owner or purchaser receives a notice of audit from the commission.

3262 (4) (a) The commission may waive, reduce, or compromise a penalty imposed under
3263 this section if the commission finds there are reasonable grounds for the waiver, reduction, or
3264 compromise.

3265 (b) If the commission waives, reduces, or compromises a penalty under Subsection
3266 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or
3267 compromising the penalty.

3268 Section 9. Section **59-12-110** is amended to read:

3269 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

3270 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
3271 return.

3272 (b) If the commission determines that the correct amount of tax to be remitted is
3273 greater or less than the amount shown to be due on the return, the commission shall recompute
3274 the tax.

3275 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
3276 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

3277 (d) The commission may not credit or refund to the taxpayer interest on an

3278 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
3279 made for the purpose of investment.

3280 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
3281 erroneously receives, collects, or computes any tax, penalty, or interest, including an
3282 overpayment described in Subsection (1)(c), the commission shall:

3283 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
3284 amounts of tax, penalties, or interest the taxpayer owes; and

3285 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
3286 executors, or assigns.

3287 (b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer
3288 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)
3289 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.

3290 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
3291 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

3292 (i) the three-year period under Subsection (2)(b) has not expired; and

3293 (ii) the commission and the taxpayer sign a written agreement:

3294 (A) authorizing the extension; and

3295 (B) providing for the length of the extension.

3296 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
3297 Subsection 59-12-107(9)(c) for bad debt shall file the claim with the commission within three
3298 years from the date on which the seller could first claim the refund for the bad debt.

3299 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
3300 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
3301 assessment as provided in Subsection 59-12-114(1).

3302 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
3303 chapter on a transaction that is taxable under ~~[Section]~~ Subsection 59-12-103(1) if:

3304 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
3305 date of purchase; and

3306 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
3307 the commission as provided in Subsections (2)(b) through (e).

3308 (g) If the commission denies a claim for a refund or credit under this Subsection (2),
3309 the taxpayer may request a redetermination of the denial by filing a petition or request for
3310 agency action with the commission as provided in Title 63G, Chapter 4, Administrative
3311 Procedures Act.

3312 (3) If the commission erroneously determines an amount to be due from a taxpayer,
3313 the commission shall authorize the amounts to be cancelled upon its records.

3314 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on
3315 a deficiency under this section:

3316 (i) a penalty as provided in Section 59-1-401; and

3317 (ii) interest as provided in Section 59-1-402.

3318 (b) The commission may impose a penalty and interest on the entire deficiency if any
3319 part of the deficiency is due to:

3320 (i) negligence;

3321 (ii) intentional disregard of law or rule; or

3322 (iii) fraud with intent to evade the tax.

3323 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
3324 including penalties or interest under this section, within ten days after the commission
3325 provides the taxpayer notice and demand of the deficiency, penalty, or interest.

3326 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty,
3327 or interest within 30 days after the commission provides the taxpayer notice and demand of
3328 the deficiency, penalty, or interest if the commission determines:

3329 (i) that a greater amount was due than was shown on the return; and

3330 (ii) the tax is not in jeopardy.

3331 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
3332 assess the amount of taxes imposed by this chapter, and any penalties and interest, within
3333 three years after a taxpayer files a return.

3334 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
3335 make an assessment under Subsection (6)(a) within three years, the commission may not
3336 commence a proceeding for the collection of the taxes after the expiration of the three-year
3337 period.

3338 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an
3339 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

3340 (i) fraud; or

3341 (ii) failure to file a return.

3342 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
3343 commission may extend the period to make an assessment or to commence a proceeding to
3344 collect the tax under this chapter if:

3345 (i) the three-year period under this Subsection (6) has not expired; and

3346 (ii) the commission and the taxpayer sign a written agreement:

3347 (A) authorizing the extension; and

3348 (B) providing for the length of the extension.

3349 (e) If the commission delays an audit at the request of a taxpayer, the commission may
3350 make an assessment as provided in Subsection (6)(f) if:

3351 (i) the taxpayer subsequently refuses to agree to an extension request by the
3352 commission; and

3353 (ii) the three-year period under this Subsection (6) expires before the commission
3354 completes the audit.

3355 (f) An assessment under Subsection (6)(e) shall be:

3356 (i) for the time period for which the commission could not make an assessment
3357 because of the expiration of the three-year period; and

3358 (ii) in an amount equal to the difference between:

3359 (A) the commission's estimate of the amount of taxes the taxpayer would have been
3360 assessed for the time period described in Subsection (6)(f)(i); and

3361 (B) the amount of taxes the taxpayer actually paid for the time period described in

3362 Subsection (6)(f)(i).

3363 Section 10. Section **59-12-125** is amended to read:

3364 **59-12-125. Seller or certified service provider reliance on commission**
3365 **information.**

3366 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3367 imposed under this part if[~~:(1) the tax rate at which the seller or certified service provider~~
3368 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3369 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the
3370 seller's or certified service provider's reliance on incorrect data provided by the commission in
3371 [~~the~~] a database created by the commission:~~

- 3372 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3373 (2) indicating the taxability of tangible personal property, a product transferred
3374 electronically, or a service.

3375 Section 11. Section **59-12-204** is amended to read:

3376 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
3377 **tax revenues.**

3378 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
3379 transactions listed in Subsection 59-12-103(1).

3380 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a
3381 tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including
3382 areas contained within the cities and towns located in the county:

- 3383 (i) at the rate of 1% of the purchase price paid or charged; and
- 3384 (ii) if the transaction is consummated within the county in accordance with Section
3385 59-12-205.

3386 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
3387 include a provision prohibiting a county, city, or town from imposing a tax under this section
3388 on[~~(i)] the sales and uses described in Section 59-12-104 to the extent the sales and uses are~~
3389 exempt from taxation under Section 59-12-104[~~; and~~].

3390 ~~[(ii) any amounts paid or charged by a seller that collects a tax in accordance with~~
3391 ~~Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the~~
3392 ~~tax under this section.]~~

3393 (3) Such tax ordinance shall include provisions substantially the same as those
3394 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the
3395 name of the county as the taxing agency shall be substituted for that of the state where
3396 necessary for the purpose of this part and that an additional license is not required if one has
3397 been or is issued under Section 59-12-106.

3398 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
3399 the effective date of the ordinance, with the commission to perform all functions incident to
3400 the administration or operation of the ordinance.

3401 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
3402 consumption of tangible personal property, the purchase price or the cost of which has been
3403 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
3404 part by any county, city, or town in any other county in this state, shall be exempt from the tax
3405 due under this ordinance.

3406 (6) Such tax ordinance shall include a provision that any person subject to the
3407 provisions of a city or town sales and use tax shall be exempt from the county sales and use
3408 tax if the city or town sales and use tax is levied under an ordinance including provisions in
3409 substance as follows:

3410 (a) a provision imposing a tax upon every transaction listed in [~~Section~~] Subsection
3411 59-12-103(1) made within the city or town at the rate imposed by the county in which it is
3412 situated pursuant to Subsection (2);

3413 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from
3414 imposing a tax under this section on [~~any amounts paid or charged by a seller that collects a~~
3415 ~~tax in accordance with Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns~~
3416 ~~in the state impose a tax under this section]~~ the sales and uses described in Section 59-12-104
3417 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

3418 (c) provisions substantially the same as those contained in Part 1, Tax Collection,
3419 insofar as they relate to sales and use taxes, except that the name of the city or town as the
3420 taxing agency shall be substituted for that of the state where necessary for the purposes of this
3421 part;

3422 (d) a provision that the city or town shall contract prior to the effective date of the city
3423 or town sales and use tax ordinance with the commission to perform all functions incident to
3424 the administration or operation of the sales and use tax ordinance of the city or town;

3425 (e) a provision that the sale, storage, use, or other consumption of tangible personal
3426 property, the gross receipts from the sale of or the cost of which has been subject to sales or
3427 use tax under a sales and use tax ordinance enacted in accordance with this part by any county
3428 other than the county in which the city or town is located, or city or town in this state, shall be
3429 exempt from the tax; and

3430 (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not
3431 be included as a part of the purchase price paid or charged for a taxable item.

3432 (7) Notwithstanding any other provision of this section, beginning July 1, 2000, the
3433 commission shall:

3434 (a) determine and retain the portion of sales and use tax imposed under this section:

3435 (i) by each county and by each city and town within that county whose legislative
3436 body consents by resolution to the commission's retaining and depositing sales and use tax
3437 revenues as provided in this Subsection (7); and

3438 (ii) that is equal to the revenues generated by a 1/64% tax rate;

3439 (b) deposit the revenues described in Subsection (7)(a) into a special fund of the
3440 county, or a city, town, or other political subdivision of the state located within that county,
3441 that has issued bonds to finance sports or recreational facilities or that is leasing sports or
3442 recreational facilities, in order to repay those bonds or to pay the lease payments; and

3443 (c) continue to deposit those revenues into the special fund only as long as the bonds
3444 or leases are outstanding.

3445 Section 12. Section **59-12-205** is amended to read:

3446 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
3447 **tax revenues -- Determination of population.**

3448 (1) Each county, city, and town, in order to maintain in effect sales and use tax
3449 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
3450 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective
3451 sales and use tax ordinances to conform with the amendments to Part 1, Tax Collection,
3452 insofar as they relate to sales and use taxes.

3453 (2) Except as provided in Subsections (3) through (5):

3454 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
3455 be paid to each county, city, and town on the basis of the percentage that the population of the
3456 county, city, or town bears to the total population of all counties, cities, and towns in the state;
3457 and

3458 (b) 50% of each dollar collected from the sales and use tax authorized by this part
3459 shall be paid to each county, city, and town on the basis of the location where the transaction
3460 is consummated as determined under Sections 59-12-211 through [~~59-12-214~~] 59-12-215.

3461 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
3462 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
3463 the taxable sales within the boundaries of the county, city, or town.

3464 (b) The commission shall proportionally reduce monthly distributions to any county,
3465 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
3466 sales and use tax revenue collected within the boundaries of the county, city, or town.

3467 (4) (a) As used in this Subsection (4):

3468 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000
3469 or more in tax revenue distributions in accordance with Subsection (3) for each of the
3470 following fiscal years:

3471 (A) fiscal year 2002-03;

3472 (B) fiscal year 2003-04; and

3473 (C) fiscal year 2004-05.

3474 (ii) "Minimum tax revenue distribution" means the greater of:
3475 (A) the total amount of tax revenue distributions an eligible county, city, or town
3476 receives from a tax imposed in accordance with this part for fiscal year 2000-01; or
3477 (B) the total amount of tax revenue distributions an eligible county, city, or town
3478 receives from a tax imposed in accordance with this part for fiscal year 2004-05.

3479 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii),
3480 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county,
3481 city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this
3482 part equal to the greater of:

3483 (A) the payment required by Subsection (2); or
3484 (B) the minimum tax revenue distribution.

3485 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible
3486 county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three
3487 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following
3488 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax
3489 revenue distribution equal to the payment required by Subsection (2).

3490 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year
3491 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution
3492 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that
3493 eligible county, city, or town is less than or equal to the product of:

3494 (i) the minimum tax revenue distribution; and
3495 (ii) .90.

3496 (5) (a) Population figures for purposes of this section shall be based on the most recent
3497 official census or census estimate of the United States Census Bureau.

3498 (b) If a needed population estimate is not available from the United States Census
3499 Bureau, population figures shall be derived from the estimate from the Utah Population
3500 Estimates Committee created by executive order of the governor.

3501 (6) The population of a county for purposes of this section shall be determined solely

3502 from the unincorporated area of the county.

3503 Section 13. Section **59-12-215** is amended to read:

3504 **59-12-215. Location of transaction involving telecommunications service or**
3505 **other related service.**

3506 (1) As used in this section:

3507 (a) "Air-to-ground radiotelephone service" means a radio service:

3508 (i) as defined in 47 C.F.R. Sec. 22.99; and

3509 (ii) for which a common carrier is authorized to offer and provide radio
3510 telecommunications service:

3511 (A) for hire; and

3512 (B) to a subscriber in an aircraft.

3513 (b) "Call-by-call basis" means a method of charging for telecommunications service
3514 that is measured by individual calls.

3515 (c) "Communications channel" means a physical or virtual path of communications
3516 over which a signal is transmitted between or among customer channel termination points.

3517 (d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

3518 (A) a person that is obligated under a contract with a telecommunications service
3519 provider to pay for telecommunications service received under the contract; or

3520 (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user
3521 of telecommunications service.

3522 (ii) "Customer" does not include a reseller:

3523 (A) of telecommunications service; or

3524 (B) for mobile telecommunications service, of a serving carrier under an agreement to
3525 serve a customer outside the home service provider's licensed service area.

3526 (e) "Customer channel termination point" means the location where a customer:

3527 (i) inputs communications; or

3528 (ii) receives communications.

3529 (f) "End user" means:

3530 (i) an individual who uses a telecommunications service; or
3531 (ii) for a telecommunications service provided to a person who is not an individual, an
3532 individual who uses a telecommunications service on behalf of the person who is provided the
3533 telecommunications service.

3534 (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing
3535 Act, 4 U.S.C. Sec. 124.

3536 ~~[(h) "Mobile telecommunications service" is as defined in the Mobile~~
3537 ~~Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.]~~

3538 ~~[(i) "Place of primary use":]~~
3539 ~~[(i) for telecommunications service other than mobile telecommunications service,~~
3540 ~~means the street address representative of where a customer's use of the telecommunications~~
3541 ~~service primarily occurs, which shall be:]~~

3542 ~~[(A) the residential street address of the customer; or]~~
3543 ~~[(B) the primary business street address of the customer; or]~~

3544 ~~[(ii) for mobile telecommunications service, is as defined in the Mobile~~
3545 ~~Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.]~~

3546 ~~[(j)]~~ (h) ~~[Notwithstanding where a call is billed or paid, "service]~~ "Service address"
3547 means:

3548 (i) ~~[if the location]~~ regardless of where a call is billed or paid ~~[is known]~~, the location
3549 of the telecommunications equipment:

3550 (A) to which a customer's call is charged; and
3551 (B) from which the call:

3552 (I) originates; or
3553 (II) terminates;

3554 (ii) if the location ~~[of where a call is billed or paid is not known but the location of the~~
3555 ~~origination point of the signal of the telecommunications service is]~~ described in Subsection
3556 (1)(h)(i) is not known, the location of the origination point of the signal of the
3557 telecommunications service first identified by:

- 3558 (A) the telecommunications system of the telecommunications service provider; or
3559 (B) if the system used to transport the signal of the telecommunications service is not
3560 a system of the telecommunications service provider, information received by the
3561 telecommunications service provider from the telecommunications service provider's
3562 telecommunications service provider; or
- 3563 (iii) if the ~~[following]~~ locations described in Subsections (1)(h)(i) and (ii) are not
3564 known, the location of a customer's place of primary use[~~;~~].
3565 [~~(A) the location of where a call is billed or paid; and~~]
3566 [~~(B) the location of the origination point of the signal of the telecommunications~~
3567 ~~service.~~]
- 3568 (2) Except as provided in Subsection (4), the location of a sale of a
3569 telecommunications service sold on a call-by-call basis is:
- 3570 (a) the location at which the call originates and terminates; or
3571 (b) the location at which:
3572 (i) the call:
3573 (A) originates; or
3574 (B) terminates; and
3575 (ii) the service address is located.
- 3576 (3) Except as provided in Subsection (4), the location of a sale of a
3577 telecommunications service sold on a basis other than a call-by-call basis is the customer's
3578 place of primary use.
- 3579 (4) Notwithstanding Subsection (2) or (3):
3580 (a) the location of a sale of a mobile telecommunications service, other than an
3581 air-to-ground radiotelephone service or a prepaid calling service, is the location required by
3582 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;
3583 (b) the location of a sale of a postpaid calling service is the origination point of the
3584 telecommunications signal as first identified by:
3585 (i) the seller's telecommunications system; or

3586 (ii) if the system used to transport the telecommunications signal is not that of the
3587 seller, information received by the seller from the seller's telephone service provider;

3588 (c) the location of a sale of a prepaid calling service is the location determined under
3589 Section 59-12-211; and

3590 (d) (i) subject to Subsection (4)(d)(ii), the location of a sale of a prepaid wireless
3591 calling service is the location determined under Section 59-12-211; and

3592 (ii) for purposes of Subsection (4)(d)(i), the location of a transaction determined under
3593 Subsection 59-12-211(6) is considered to include the location associated with the mobile
3594 telephone number.

3595 (5) The location of a sale of a private communication service is:

3596 (a) if all of the customer channel termination points are located entirely within one
3597 county, city, or town, the location of the sale is the county, city, or town in which all of the
3598 customer channel termination points are located;

3599 (b) if a charge for a service related to a customer channel termination point is
3600 separately stated, the location of the sale is the location in which the customer channel
3601 termination point is located;

3602 (c) if a charge for service for a segment of a channel between two customer channel
3603 termination points located in different counties, cities, or towns is separately stated, the
3604 location of the sale is each county, city, or town:

3605 (i) in which the customer channel termination points are located; and

3606 (ii) in equal proportions; and

3607 (d) if a charge for service for a segment of a channel located in more than one county,
3608 city, or town is not separately stated, the location of the sale is:

3609 (i) each county, city, or town in which a segment of the channel is located; and

3610 (ii) in proportion to the percentage of customer channel termination points in each
3611 county, city, or town compared to the total customer channel termination points in all counties,
3612 cities, and towns.

3613 (6) The location of a sale of Internet access service is the customer's place of primary

3614 use.

3615 (7) The location of a sale of an ancillary service is the customer's place of primary use.

3616 Section 14. Section **59-12-216** is amended to read:

3617 **59-12-216. Seller or certified service provider reliance on commission**
3618 **information.**

3619 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3620 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3621 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3622 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3623 ~~seller's or certified service provider's reliance on incorrect data provided by the commission in~~
3624 ~~[the] a database created by the commission;~~

3625 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
3626 (2) indicating the taxability of tangible personal property, a product transferred
3627 electronically, or a service.

3628 Section 15. Section **59-12-304** is amended to read:

3629 **59-12-304. Seller or certified service provider reliance on commission**
3630 **information.**

3631 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3632 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3633 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3634 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3635 ~~seller's or certified service provider's reliance on incorrect data provided by the commission in~~
3636 ~~[the] a database created by the commission;~~

3637 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
3638 (2) indicating the taxability of tangible personal property, a product transferred
3639 electronically, or a service.

3640 Section 16. Section **59-12-357** is amended to read:

3641 **59-12-357. Seller or certified service provider reliance on commission**

3642 **information.**

3643 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3644 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3645 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3646 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3647 seller's or certified service provider's reliance on incorrect data provided by the commission in
3648 [~~the~~] a database created by the commission;

- 3649 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3650 (2) indicating the taxability of tangible personal property, a product transferred
3651 electronically, or a service.

3652 Section 17. Section **59-12-406** is amended to read:

3653 **59-12-406. Seller or certified service provider reliance on commission**
3654 **information.**

3655 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3656 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3657 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3658 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3659 seller's or certified service provider's reliance on incorrect data provided by the commission in
3660 [~~the~~] a database created by the commission;

- 3661 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3662 (2) indicating the taxability of tangible personal property, a product transferred
3663 electronically, or a service.

3664 Section 18. Section **59-12-506** is amended to read:

3665 **59-12-506. Seller or certified service provider reliance on commission**
3666 **information.**

3667 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3668 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3669 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~

3670 ~~(2)~~] the seller's or certified service provider's failure to collect the tax is as a result of the
3671 seller's or certified service provider's reliance on incorrect data provided by the commission in
3672 ~~the~~ a database created by the commission;

- 3673 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3674 (2) indicating the taxability of tangible personal property, a product transferred
- 3675 electronically, or a service.

3676 Section 19. Section **59-12-605** is amended to read:

3677 **59-12-605. Seller or certified service provider reliance on commission**
3678 **information.**

3679 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3680 imposed under this part if: ~~(1) the tax rate at which the seller or certified service provider~~
3681 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3682 ~~(2)~~] the seller's or certified service provider's failure to collect the tax is as a result of the
3683 seller's or certified service provider's reliance on incorrect data provided by the commission in
3684 ~~the~~ a database created by the commission;

- 3685 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3686 (2) indicating the taxability of tangible personal property, a product transferred
- 3687 electronically, or a service.

3688 Section 20. Section **59-12-707** is amended to read:

3689 **59-12-707. Seller or certified service provider reliance on commission**
3690 **information.**

3691 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3692 imposed under this part if: ~~(1) the tax rate at which the seller or certified service provider~~
3693 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3694 ~~(2)~~] the seller's or certified service provider's failure to collect the tax is as a result of the
3695 seller's or certified service provider's reliance on incorrect data provided by the commission in
3696 ~~the~~ a database created by the commission;

- 3697 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

3698 (2) indicating the taxability of tangible personal property, a product transferred
3699 electronically, or a service.

3700 Section 21. Section **59-12-808** is amended to read:

3701 **59-12-808. Seller or certified service provider reliance on commission**
3702 **information.**

3703 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3704 imposed under this part if[~~:(1) the tax rate at which the seller or certified service provider~~
3705 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3706 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3707 ~~seller's or certified service provider's reliance on incorrect data provided by the commission in~~
3708 ~~[the] a database created by the commission;~~

3709 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
3710 (2) indicating the taxability of tangible personal property, a product transferred
3711 electronically, or a service.

3712 Section 22. Section **59-12-1004** is amended to read:

3713 **59-12-1004. Seller or certified service provider reliance on commission**
3714 **information.**

3715 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3716 imposed under this part if[~~:(1) the tax rate at which the seller or certified service provider~~
3717 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3718 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3719 ~~seller's or certified service provider's reliance on incorrect data provided by the commission in~~
3720 ~~[the] a database created by the commission;~~

3721 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
3722 (2) indicating the taxability of tangible personal property, a product transferred
3723 electronically, or a service.

3724 Section 23. Section **59-12-1104** is amended to read:

3725 **59-12-1104. Seller or certified service provider reliance on commission**

3726 **information.**

3727 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
 3728 imposed under this part if ~~[(1) the tax rate at which the seller or certified service provider~~
 3729 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
 3730 ~~(2)]~~ the seller's or certified service provider's failure to collect the tax is as a result of the
 3731 seller's or certified service provider's reliance on incorrect data provided by the commission in
 3732 ~~[the]~~ a database created by the commission:

3733 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
 3734 (2) indicating the taxability of tangible personal property, a product transferred
 3735 electronically, or a service.

3736 Section 24. Section **59-12-1201** is amended to read:

3737 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
 3738 **collection, and enforcement of tax -- Administrative fee -- Deposits.**

3739 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
 3740 short-term leases and rentals of motor vehicles not exceeding 30 days.

3741 (b) The tax imposed in this section is in addition to all other state, county, or
 3742 municipal fees and taxes imposed on rentals of motor vehicles.

3743 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
 3744 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

3745 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
 3746 take effect on the first day of the first billing period:

3747 (A) that begins after the effective date of the tax rate increase; and

3748 (B) if the billing period for the transaction begins before the effective date of a tax rate
 3749 increase imposed under Subsection (1).

3750 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
 3751 rate decrease shall take effect on the first day of the last billing period:

3752 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
 3753 and

3754 (B) if the billing period for the transaction begins before the effective date of the
3755 repeal of the tax or the tax rate decrease imposed under Subsection (1).

3756 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

3757 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

3758 (b) the motor vehicle is rented as a personal household goods moving van; or

3759 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
3760 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
3761 insurance agreement.

3762 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
3763 enforced in accordance with:

3764 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
3765 Tax Collection; and

3766 (B) Chapter 1, General Taxation Policies.

3767 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3768 Subsections 59-12-103(4) through ~~[(9)]~~ (12) or Section 59-12-107.1 or 59-12-123.

3769 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this
3770 section for the costs of rendering its services under this section.

3771 (c) Except as provided under Subsection (4)(b), all revenue received by the
3772 commission under this section shall be deposited daily with the state treasurer and credited
3773 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section
3774 72-2-117.

3775 Section 25. Section **59-12-1202** is amended to read:

3776 **59-12-1202. Seller or certified service provider reliance on commission**
3777 **information.**

3778 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3779 imposed under this part if ~~[(1) the tax rate at which the seller or certified service provider~~
3780 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3781 ~~(2)]~~ the seller's or certified service provider's failure to collect the tax is as a result of the

3782 seller's or certified service provider's reliance on incorrect data provided by the commission in
3783 [~~the~~] a database created by the commission;

3784 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

3785 (2) indicating the taxability of tangible personal property, a product transferred

3786 electronically, or a service.

3787 Section 26. Section **59-12-1304** is amended to read:

3788 **59-12-1304. Seller or certified service provider reliance on commission**
3789 **information.**

3790 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3791 imposed under this part if[~~:(1) the tax rate at which the seller or certified service provider~~

3792 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~

3793 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~

3794 seller's or certified service provider's reliance on incorrect data provided by the commission in

3795 [~~the~~] a database created by the commission;

3796 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

3797 (2) indicating the taxability of tangible personal property, a product transferred

3798 electronically, or a service.

3799 Section 27. Section **59-12-1405** is amended to read:

3800 **59-12-1405. Seller or certified service provider reliance on commission**
3801 **information.**

3802 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3803 imposed under this part if[~~:(1) the tax rate at which the seller or certified service provider~~

3804 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~

3805 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~

3806 seller's or certified service provider's reliance on incorrect data provided by the commission in

3807 [~~the~~] a database created by the commission;

3808 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

3809 (2) indicating the taxability of tangible personal property, a product transferred

3810 electronically, or a service.

3811 Section 28. Section **59-12-1505** is amended to read:

3812 **59-12-1505. Seller or certified service provider reliance on commission**
3813 **information.**

3814 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3815 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3816 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3817 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3818 ~~seller's or certified service provider's reliance on incorrect data provided by the commission in~~
3819 ~~[the] a database created by the commission;~~

3820 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
3821 (2) indicating the taxability of tangible personal property, a product transferred
3822 electronically, or a service.

3823 Section 29. Section **59-12-1706** is amended to read:

3824 **59-12-1706. Seller or certified service provider reliance on commission**
3825 **information.**

3826 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3827 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3828 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3829 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3830 ~~seller's or certified service provider's reliance on incorrect data provided by the commission in~~
3831 ~~[the] a database created by the commission;~~

3832 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
3833 (2) indicating the taxability of tangible personal property, a product transferred
3834 electronically, or a service.

3835 Section 30. Section **59-12-1804** is amended to read:

3836 **59-12-1804. Seller or certified service provider reliance on commission**
3837 **information.**

3838 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3839 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3840 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3841 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3842 seller's or certified service provider's reliance on incorrect data provided by the commission in
3843 [~~the~~] a database created by the commission;

- 3844 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3845 (2) indicating the taxability of tangible personal property, a product transferred
3846 electronically, or a service.

3847 Section 31. Section **59-12-1904** is amended to read:

3848 **59-12-1904. Seller or certified service provider reliance on commission**
3849 **information.**

3850 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3851 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3852 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3853 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3854 seller's or certified service provider's reliance on incorrect data provided by the commission in
3855 [~~the~~] a database created by the commission;

- 3856 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3857 (2) indicating the taxability of tangible personal property, a product transferred
3858 electronically, or a service.

3859 Section 32. Section **59-12-2005** is amended to read:

3860 **59-12-2005. Seller or certified service provider reliance on commission**
3861 **information.**

3862 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3863 imposed under this part if[: ~~(1) the tax rate at which the seller or certified service provider~~
3864 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3865 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~

3866 seller's or certified service provider's reliance on incorrect data provided by the commission in
3867 [~~the~~] a database created by the commission;

- 3868 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3869 (2) indicating the taxability of tangible personal property, a product transferred
- 3870 electronically, or a service.

3871 Section 33. Section **59-12-2104** is amended to read:

3872 **59-12-2104. Seller or certified service provider reliance on commission**
3873 **information.**

3874 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
3875 imposed under this part if[~~:(1) the tax rate at which the seller or certified service provider~~
3876 ~~collects the tax is derived from a database created by the commission containing tax rates; and~~
3877 ~~(2)] the seller's or certified service provider's failure to collect the tax is as a result of the~~
3878 seller's or certified service provider's reliance on incorrect data provided by the commission in
3879 [~~the~~] a database created by the commission;

- 3880 (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- 3881 (2) indicating the taxability of tangible personal property, a product transferred
- 3882 electronically, or a service.

3883 Section 34. Section **69-2-5** is amended to read:

3884 **69-2-5. Funding for 911 emergency telecommunications service.**

3885 (1) In providing funding of 911 emergency telecommunications service, any public
3886 agency establishing a 911 emergency telecommunications service may:

- 3887 (a) seek assistance from the federal or state government, to the extent constitutionally
- 3888 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or
- 3889 indirectly;

3890 (b) seek funds appropriated by local governmental taxing authorities for the funding of
3891 public safety agencies; and

3892 (c) seek gifts, donations, or grants from individuals, corporations, or other private
3893 entities.

3894 (2) For purposes of providing funding of 911 emergency telecommunications service,
3895 special service districts may raise funds as provided in Section 17D-1-105 and may borrow
3896 money and incur indebtedness as provided in Section 17D-1-103.

3897 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
3898 this Subsection (3) a county, city, or town within which 911 emergency telecommunications
3899 service is provided may levy monthly an emergency services telecommunications charge on:

3900 (i) each local exchange service switched access line within the boundaries of the
3901 county, city, or town;

3902 (ii) each revenue producing radio communications access line with a billing address
3903 within the boundaries of the county, city, or town; and

3904 (iii) any other service, including voice over Internet protocol, provided to a user within
3905 the boundaries of the county, city, or town that allows the user to make calls to and receive
3906 calls from the public switched telecommunications network, including commercial mobile
3907 radio service networks.

3908 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
3909 telecommunications service is exempt from emergency telecommunications charges.

3910 (c) The amount of the charge levied under this section may not exceed:

3911 (i) 61 cents per month for each local exchange service switched access line;

3912 (ii) 61 cents per month for each radio communications access line; and

3913 (iii) 61 cents per month for each service under Subsection (3)(a)(iii).

3914 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as
3915 provided in Section 59-12-102 or 59-12-215:

3916 (A) "mobile telecommunications service";

3917 (B) "[primary] place of primary use";

3918 (C) "service address"; and

3919 (D) "telecommunications service."

3920 (ii) An access line described in Subsection (3)(a) is considered to be within the
3921 boundaries of a county, city, or town if the telecommunications services provided over the

3922 access line are located within the county, city, or town:

3923 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax

3924 Act; and

3925 (B) determined in accordance with Section 59-12-215.

3926 (iii) The rate imposed on an access line under this section shall be determined in

3927 accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection

3928 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county,

3929 city, or town in which is located:

3930 (A) for a telecommunications service, the purchaser's service address; or

3931 (B) for mobile telecommunications service, the purchaser's [primary] place of primary

3932 use.

3933 (iv) The rate imposed on an access line under this section shall be the lower of:

3934 (A) the rate imposed by the county, city, or town in which the access line is located

3935 under Subsection (3)(d)(ii); or

3936 (B) the rate imposed by the county, city, or town in which it is located:

3937 (I) for telecommunications service, the purchaser's service address; or

3938 (II) for mobile telecommunications service, the purchaser's [primary] place of primary

3939 use.

3940 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent

3941 to levy the charge under this Subsection (3) at least 30 days before the effective date of the

3942 charge being levied.

3943 (ii) For purposes of this Subsection (3)(e):

3944 (A) "Annexation" means an annexation to:

3945 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

3946 (II) a county under Title 17, Chapter 2, Annexation to County.

3947 (B) "Annexing area" means an area that is annexed into a county, city, or town.

3948 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,

3949 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge

3950 under this section, the enactment, repeal, or change shall take effect:

3951 (I) on the first day of a calendar quarter; and

3952 (II) after a 90-day period beginning on the date the State Tax Commission receives
3953 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

3954 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:

3955 (I) that the county, city, or town will enact or repeal a charge or change the amount of
3956 the charge under this section;

3957 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

3958 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

3959 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
3960 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

3961 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge
3962 increase under this section shall take effect on the first day of the first billing period:

3963 (I) that begins after the effective date of the enactment of the charge or the charge
3964 increase; and

3965 (II) if the billing period for the charge begins before the effective date of the enactment
3966 of the charge or the charge increase imposed under this section.

3967 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge
3968 decrease under this section shall take effect on the first day of the last billing period:

3969 (I) that began before the effective date of the repeal of the charge or the charge
3970 decrease; and

3971 (II) if the billing period for the charge begins before the effective date of the repeal of
3972 the charge or the charge decrease imposed under this section.

3973 (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation
3974 that occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a
3975 change in the amount of a charge imposed under this section for an annexing area, the
3976 enactment, repeal, or change shall take effect:

3977 (I) on the first day of a calendar quarter; and

3978 (II) after a 90-day period beginning on the date the State Tax Commission receives
3979 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that
3980 annexes the annexing area.

3981 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:

3982 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an
3983 enactment, repeal, or a change in the charge being imposed under this section for the annexing
3984 area;

3985 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

3986 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

3987 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
3988 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

3989 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
3990 increase under this section shall take effect on the first day of the first billing period:

3991 (I) that begins after the effective date of the enactment of the charge or the charge
3992 increase; and

3993 (II) if the billing period for the charge begins before the effective date of the enactment
3994 of the charge or the charge increase imposed under this section.

3995 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
3996 decrease under this section shall take effect on the first day of the last billing period:

3997 (I) that began before the effective date of the repeal of the charge or the charge
3998 decrease; and

3999 (II) if the billing period for the charge begins before the effective date of the repeal of
4000 the charge or the charge decrease imposed under this section.

4001 (f) Subject to Subsection (3)(g), an emergency services telecommunications charge
4002 levied under this section shall:

4003 (i) be billed and collected by the person that provides the:

4004 (A) local exchange service switched access line services; or

4005 (B) radio communications access line services; and

4006 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax
4007 Commission.

4008 (g) An emergency services telecommunications charge on a mobile
4009 telecommunications service may be levied, billed, and collected only to the extent permitted
4010 by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4011 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

4012 (i) bill the charge imposed by this section in combination with the charge levied under
4013 Section 69-2-5.6 as one line item charge; and

4014 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as
4015 reimbursement for the cost of billing, collecting, and remitting the levy.

4016 (i) The State Tax Commission shall:

4017 (i) collect, enforce, and administer the charge imposed under this Subsection (3) using
4018 the same procedures used in the administration, collection, and enforcement of the state sales
4019 and use taxes under:

4020 (A) Title 59, Chapter 1, General Taxation Policies; and
4021 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:

4022 (I) Section 59-12-104;
4023 (II) Section 59-12-104.1;
4024 (III) Section 59-12-104.2;
4025 (IV) Section 59-12-107.1; and
4026 (V) Section [~~59-12-107.3~~] 59-12-123;

4027 (ii) transmit monies collected under this Subsection (3):

4028 (A) monthly; and
4029 (B) by electronic funds transfer by the commission to the county, city, or town that
4030 imposes the charge; and

4031 (iii) charge the county, city, or town for the State Tax Commission's services under
4032 this Subsection (3) in an amount:

4033 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax

4034 Commission in rendering the services; and

4035 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
4036 Subsection (3).

4037 (4) (a) Any money received by a public agency for the provision of 911 emergency
4038 telecommunications service shall be deposited in a special emergency telecommunications
4039 service fund.

4040 (b) (i) Except as provided in Subsection (5), the money in the emergency
4041 telecommunications service fund shall be expended by the public agency to pay the costs of
4042 establishing, installing, maintaining, and operating a 911 emergency telecommunications
4043 system or integrating a 911 system into an established public safety dispatch center, including
4044 contracting with the providers of local exchange service, radio communications service, and
4045 vendors of appropriate terminal equipment as necessary to implement the 911 emergency
4046 telecommunications service.

4047 (ii) Revenues derived for the funding of 911 emergency telecommunications service
4048 may only be used for that portion of costs related to the operation of the 911 emergency
4049 telecommunications system when such a system is integrated with any public safety dispatch
4050 system.

4051 (c) Any unexpended money in the emergency telecommunications service fund at the
4052 end of a fiscal year does not lapse, and must be carried forward to be used for the purposes
4053 described in this section.

4054 (5) (a) Revenue received by a local entity from an increase in the levy imposed under
4055 Subsection (3) after the 2004 Annual General Session, or from grants from the Utah 911
4056 Committee pursuant to Section 53-10-605:

4057 (i) shall be deposited into the special emergency telecommunications service fund
4058 described in Subsection (4)(a); and

4059 (ii) shall only be used for that portion of the costs related to the development and
4060 operation of wireless and land-based enhanced 911 emergency telecommunications service
4061 and the implementation of wireless E-911 Phase I and Phase II services as provided in

4062 Subsection (5)(b).

4063 (b) The costs allowed under Subsection (5)(a)(ii) shall include the public service
4064 answering point's or local entity's costs for:

4065 (i) acquisition, upgrade, modification, maintenance, and operation of public service
4066 answering point equipment capable of receiving E-911 information;

4067 (ii) database development, operation, and maintenance; and

4068 (iii) personnel costs associated with establishing, installing, maintaining, and
4069 operating wireless E-911 Phase I and Phase II services, including training emergency service
4070 personnel regarding receipt and use of E-911 wireless service information and educating
4071 consumers regarding the appropriate and responsible use of E-911 wireless service.

4072 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the
4073 2004 Annual General Session shall increase the levy to the maximum amount permitted by
4074 Subsection (3)(c).

4075 Section 35. **Effective date.**

4076 This bill takes effect on July 1, 2009.