

1 **TAXES AND RELATED SCHOOL FUNDING PROVISIONS**

2 **AMENDMENTS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill makes changes to taxes and school funding.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ increases the state sales and use tax rate on food and food ingredients to the general
13 state sales and use tax rate;

14 ▶ adds food and food ingredients to the tax base for certain local option sales and use
15 taxes;

16 ▶ creates a School Equalization Fund and provides for operation of the fund;

17 ▶ deposits revenues from the state sales and use tax increases into the School
18 Equalization Fund;

19 ▶ provides a methodology for allocations from the School Equalization Fund;

20 ▶ reduces school district certified property tax rates by the amount of allocations from
21 the School Equalization Fund;

22 ▶ prohibits all taxing entities from imposing a property tax rate higher than the
23 certified tax rate for a certain period of time;

24 ▶ makes adjustments to property tax fee-in-lieu allocations;

25 ▶ adjusts the methodology for funding charter schools and the school board and voted
26 leeway guarantee programs;
27



- 28 ▶ adjusts allocations to the Centennial Highway Fund Restricted Account; and
- 29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides for effective dates.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **10-1-405**, as last amended by Laws of Utah 2009, Chapter 212
- 37 **11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384
- 38 **26-36a-206**, as enacted by Laws of Utah 2010, Chapter 179
- 39 **53A-1a-513**, as last amended by Laws of Utah 2010, Chapters 3 and 399
- 40 **53A-17a-133**, as last amended by Laws of Utah 2010, Chapter 399
- 41 **53A-17a-134**, as last amended by Laws of Utah 2010, Chapter 399
- 42 **53A-21-101.5**, as last amended by Laws of Utah 2010, Chapter 185
- 43 **59-1-401**, as last amended by Laws of Utah 2010, Chapter 233
- 44 **59-2-404**, as last amended by Laws of Utah 2008, Chapter 206
- 45 **59-2-405**, as last amended by Laws of Utah 2008, Chapter 210
- 46 **59-2-405.1**, as last amended by Laws of Utah 2008, Chapter 210
- 47 **59-2-405.2**, as last amended by Laws of Utah 2009, Chapter 169
- 48 **59-2-405.3**, as enacted by Laws of Utah 2005, Chapter 217
- 49 **59-12-102**, as last amended by Laws of Utah 2010, Chapters 88, 142, 234, and 263
- 50 **59-12-103**, as last amended by Laws of Utah 2010, Chapter 412
- 51 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
- 52 **59-12-108**, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384
- 53 **59-12-401**, as last amended by Laws of Utah 2010, Chapter 9
- 54 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
- 55 **59-12-703**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 56 **59-12-802**, as last amended by Laws of Utah 2008, Chapter 384
- 57 **59-12-804**, as last amended by Laws of Utah 2008, Chapter 384
- 58 **59-12-1201**, as last amended by Laws of Utah 2009, Chapter 203

- 59 **59-12-1302**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 60 **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 61 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263
- 62 **59-12-2103**, as enacted by Laws of Utah 2008, Chapter 323
- 63 **59-12-2204**, as enacted by Laws of Utah 2010, Chapter 263

64 ENACTS:

- 65 **53A-21-601**, Utah Code Annotated 1953
- 66 **53A-21-602**, Utah Code Annotated 1953
- 67 **53A-21-603**, Utah Code Annotated 1953
- 68 **59-2-919.3**, Utah Code Annotated 1953
- 69 **59-2-924.5**, Utah Code Annotated 1953



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

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

73 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
 74 **Rulemaking authority -- Charge for services.**

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

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

- 80 (i) Title 59, Chapter 1, General Taxation Policies; and
- 81 (ii) Title 59, Chapter 12, Part 1, Tax Collection:
 - 82 (A) except for:
 - 83 (I) Subsection 59-12-103(2)(~~g~~)(f);
 - 84 (II) Section 59-12-104;
 - 85 (III) Section 59-12-104.1;
 - 86 (IV) Section 59-12-104.2;
 - 87 (V) Section 59-12-104.3;
 - 88 (VI) Section 59-12-107.1; and
 - 89 (VII) Section 59-12-123; and

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

93 (b) a uniform interlocal agreement:

94 (i) between:

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

96 (B) the commission;

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

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

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

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

102 (i) transmit money collected under this part:

103 (A) monthly; and

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

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

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

108 (A) sufficient to reimburse the commission for the cost to the commission in rendering
109 the services; and

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

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

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

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

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

120 (b) used for administration of municipal telecommunications license taxes under this

121 part.

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

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

126 (i) within the municipality;

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

128 (iii) from a telecommunications provider required to pay the municipal

129 telecommunications license tax on or after July 1, 2007; and

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

132 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
133 telecommunications license tax under this part at a rate of up to 3.5%;

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

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

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

140 **11-41-102. Definitions.**

141 As used in this chapter:

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

143 (a) (i) county; or

144 (ii) municipality; and

145 (b) person.

146 (2) "Municipality" means a:

147 (a) city; or

148 (b) town.

149 (3) "Payment" includes:

150 (a) a payment;

151 (b) a rebate;

- 152 (c) a refund; or
- 153 (d) an amount similar to Subsections (3)(a) through (c).
- 154 (4) "Regional retail business" means a:
 - 155 (a) retail business that occupies a floor area of more than 80,000 square feet;
 - 156 (b) dealer as defined in Section 41-1a-102;
 - 157 (c) retail shopping facility that has at least two anchor tenants if the total number of
 - 158 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
 - 159 feet; or
 - 160 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 161 (5) (a) "Sales and use tax" means a tax:
 - 162 (i) imposed on transactions within a:
 - 163 (A) county; or
 - 164 (B) municipality; and
 - 165 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
 - 166 Sales and Use Tax Act.
- 167 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
- 168 authorized under:
 - 169 (i) Subsection 59-12-103(2)(a)(i);
 - 170 (ii) Subsection 59-12-103(2)(b)(i);
 - 171 [~~(iii) Subsection 59-12-103(2)(c)(i);~~]
 - 172 [~~(iv) Subsection 59-12-103(2)(d)(i)(A);~~]
 - 173 [~~(v)~~] (iii) Section 59-12-301;
 - 174 [~~(vi)~~] (iv) Section 59-12-352;
 - 175 [~~(vii)~~] (v) Section 59-12-353;
 - 176 [~~(viii)~~] (vi) Section 59-12-603; or
 - 177 [~~(ix)~~] (vii) Section 59-12-1201.
- 178 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
 - 179 (i) to a person;
 - 180 (ii) by a:
 - 181 (A) county; or
 - 182 (B) municipality;

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

184 (A) county; or

185 (B) municipality; and

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

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

189 Section 3. Section **26-36a-206** is amended to read:

190 **26-36a-206. Penalties and interest.**

191 (1) A facility that fails to pay any assessment or file a return as required under this
192 chapter, within the time required by this chapter, shall pay, in addition to the assessment,
193 penalties and interest established by the department.

194 (2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in
195 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish
196 reasonable penalties and interest for the violations described in Subsection (1).

197 (b) If a hospital fails to timely pay the full amount of a quarterly assessment, the
198 department shall add to the assessment:

199 (i) a penalty equal to 5% of the quarterly amount not paid on or before the due date;
200 and

201 (ii) on the last day of each quarter after the due date until the assessed amount and the
202 penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

203 (A) any unpaid quarterly assessment; and

204 (B) any unpaid penalty assessment.

205 (c) The division may waive, reduce, or compromise the penalties and interest provided
206 for in this section in the same manner as provided in Subsection 59-1-401[~~(8)~~](13).

207 Section 4. Section **53A-1a-513** is amended to read:

208 **53A-1a-513. Funding for charter schools.**

209 (1) As used in this section:

210 (a) "Charter school students' average local revenues" means the amount determined as
211 follows:

212 (i) for each student enrolled in a charter school on the previous October 1, calculate the
213 district per pupil local revenues of the school district in which the student resides;

214 (ii) sum the district per pupil local revenues for each student enrolled in a charter
215 school on the previous October 1; and

216 (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students
217 enrolled in charter schools on the previous October 1.

218 (b) "District per pupil local revenues" means the amount determined as follows, using
219 data from the most recently published school district annual financial reports and state
220 superintendent's annual report:

221 (i) calculate the sum of a school district's revenue received from:

222 (A) a voted levy imposed under Section 53A-17a-133;

223 (B) a board levy imposed under Section 53A-17a-134;

224 (C) 10% of the cost of the basic program levy imposed under Section 53A-17a-145;

225 (D) a tort liability levy imposed under Section 63G-7-704;

226 (E) a capital outlay levy imposed under Section 53A-16-107; ~~and~~

227 (F) a voted capital outlay levy imposed under Section 53A-16-110; and

228 (G) the School Equalization Fund, in accordance with Section 53A-21-603, except for
229 allocations used to abate property taxes imposed for bond payments in accordance with Section
230 53A-21-602; and

231 (ii) divide the sum calculated under Subsection (1)(b)(i) by the sum of:

232 (A) a school district's average daily membership; and

233 (B) the average daily membership of a school district's resident students who attend
234 charter schools.

235 (c) "Resident student" means a student who is considered a resident of the school
236 district under ~~[Title 53A,]~~ Chapter 2, Part 2, District of Residency.

237 (d) "Statewide average debt service ~~[revenues]"~~ expenditures" means the amount
238 determined as follows, using data from the most recently published state superintendent's
239 annual report:

240 (i) sum the ~~[revenues]~~ expenditures of each school district for general obligation
241 bonded indebtedness from the debt service levy imposed under Section 11-14-310 and
242 allocations from the School Equalization Fund created in Section 53A-21-603; and

243 (ii) divide the sum calculated under Subsection (1)(d)(i) by statewide school district
244 average daily membership.

245 (2) (a) Charter schools shall receive funding as described in this section, except
246 Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

247 (b) Charter schools authorized by local school boards that are converted from district
248 schools or operate in district facilities without paying reasonable rent shall receive funding as
249 prescribed in Section 53A-1a-515.

250 (3) (a) Except as provided in Subsection (3)(b), a charter school shall receive state
251 funds, as applicable, on the same basis as a school district receives funds.

252 (b) In distributing funds under [~~Title 53A,~~] Chapter 17a, Minimum School Program
253 Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

- 254 (i) .55 for kindergarten pupils;
- 255 (ii) .9 for pupils in grades 1-6;
- 256 (iii) .99 for pupils in grades 7-8; and
- 257 (iv) 1.2 for pupils in grades 9-12.

258 (4) (a) (i) A school district shall allocate a portion of school district revenues for each
259 resident student of the school district who is enrolled in a charter school on October 1 equal to
260 25% of the lesser of:

- 261 (A) district per pupil local revenues; or
- 262 (B) charter school students' average local revenues.

263 (ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program
264 established under Chapter 28, Utah School Bond Guaranty Act.

265 (b) The State Board of Education shall:

266 (i) deduct an amount equal to the allocation provided under Subsection (4)(a) from
267 state funds the school district is authorized to receive under [~~Title 53A,~~] Chapter 17a,
268 Minimum School Program Act; and

269 (ii) remit the money to the student's charter school.

270 (c) Notwithstanding the method used to transfer school district revenues to charter
271 schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter
272 schools under this section from:

- 273 (i) unrestricted revenues available to the school district; or
- 274 (ii) the revenue sources listed in Subsections (1)(b)(i)(A) through [~~(F)~~] (G) based on
275 the portion of the allocations to charter schools attributed to each of the revenue sources listed

276 in Subsections (1)(b)(i)(A) through [~~F~~] (G).

277 (d) (i) Subject to future budget constraints, the Legislature shall provide an
278 appropriation for charter schools for each student enrolled on October 1 to supplement the
279 allocation of school district revenues under Subsection (4)(a).

280 (ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the
281 state for a charter school student shall be the sum of:

282 (A) charter school students' average local revenues minus the allocation of school
283 district revenues under Subsection (4)(a); and

284 (B) statewide average debt service [~~revenues~~] expenditures.

285 (iii) If the total of a school district's allocation for a charter school student under
286 Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than
287 \$1427, the state shall provide an additional supplement so that a charter school receives at least
288 \$1427 per student under this Subsection (4).

289 (iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the
290 amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated
291 among charter schools in proportion to each charter school's enrollment as a percentage of the
292 total enrollment in charter schools.

293 (B) If the State Board of Education makes adjustments to Minimum School Program
294 allocations as provided under Section 53A-17a-105, the allocation provided in Subsection
295 (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

296 (e) Of the money provided to a charter school under this Subsection (4), 10% shall be
297 expended for funding school facilities only.

298 (5) Charter schools are eligible to receive federal funds if they meet all applicable
299 federal requirements and comply with relevant federal regulations.

300 (6) The State Board of Education shall distribute funds for charter school students
301 directly to the charter school.

302 (7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state
303 transportation funding.

304 (b) The board shall also adopt rules relating to the transportation of students to and
305 from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

306 (c) The governing body of the charter school may provide transportation through an

307 agreement or contract with the local school board, a private provider, or with parents.

308 (8) (a) (i) The state superintendent of public instruction may allocate grants for both
309 start-up and ongoing costs to eligible charter school applicants from money appropriated for
310 the implementation of this part.

311 (ii) Applications for the grants shall be filed on a form determined by the state
312 superintendent and in conjunction with the application for a charter.

313 (iii) The amount of a grant may vary based upon the size, scope, and special
314 circumstances of the charter school.

315 (iv) The governing board of the charter school shall use the grant to meet the expenses
316 of the school as established in the school's charter.

317 (b) The State Board of Education shall coordinate the distribution of federal money
318 appropriated to help fund costs for establishing and maintaining charter schools within the
319 state.

320 (9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
321 endowment, gift, or donation of any property made to the school for any of the purposes of this
322 part.

323 (b) It is unlawful for any person affiliated with a charter school to demand or request
324 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
325 with the charter school as a condition for employment or enrollment at the school or continued
326 attendance at the school.

327 Section 5. Section **53A-17a-133** is amended to read:

328 **53A-17a-133. State-supported voted leeway program authorized -- Election**
329 **requirements -- State guarantee -- Reconsideration of the program.**

330 (1) An election to consider adoption or modification of a voted leeway program is
331 required if initiative petitions signed by 10% of the number of electors who voted at the last
332 preceding general election are presented to the local school board or by action of the board.

333 (2) (a) (i) To establish a voted leeway program, a majority of the electors of a district
334 voting at an election in the manner set forth in Section 53A-16-110 must vote in favor of a
335 special tax.

336 (ii) The tax rate may not exceed .002 per dollar of taxable value.

337 (b) The district may maintain a school program which exceeds the cost of the program

338 referred to in Section 53A-17a-145 with this voted leeway.

339 (c) In order to receive state support the first year, a district must receive voter approval
340 no later than December 1 of the year prior to implementation.

341 (3) (a) Under the voted leeway program, the state shall contribute an amount sufficient
342 to guarantee \$25.25 per weighted pupil unit for each .0001 of the first .0016 per dollar of
343 taxable value.

344 (b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar
345 of taxable value under Subsection (3)(a) shall apply to the board-approved leeway authorized
346 in Section 53A-17a-134, so that the guarantee shall apply up to a total of .002 per dollar of
347 taxable value if a school district levies a tax rate under both programs.

348 (c) Beginning July 1, 2011, the \$25.25 guarantee under Subsections (3)(a) and (b) shall
349 be indexed each year to the value of the weighted pupil unit by making the value of the
350 guarantee equal to .010544 times the value of the prior year's weighted pupil unit.

351 (d) (i) The amount of state guarantee money to which a school district would otherwise
352 be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's
353 levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924
354 pursuant to changes in property valuation.

355 (ii) Except as provided in Subsection (3)(d)(iii), Subsection (3)(d)(i) applies for a
356 period of five years following any such change in the certified tax rate.

357 (iii) For fiscal year 2012-13, Subsection (3)(d)(i) applies for a period of six years
358 following any such change in the certified tax rate.

359 (e) The guarantee provided under this section does not apply to the portion of a voted
360 leeway rate that exceeds the voted leeway rate that was in effect for the previous fiscal year,
361 unless an increase in the voted leeway rate was authorized in an election conducted on or after
362 July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

363 (4) (a) An election to modify an existing voted leeway program is not a reconsideration
364 of the existing program unless the proposition submitted to the electors expressly so states.

365 (b) A majority vote opposing a modification does not deprive the district of authority to
366 continue an existing program.

367 (c) If adoption of a leeway program is contingent upon an offset reducing other local
368 school board levies, the board must allow the electors, in an election, to consider modifying or

369 discontinuing the program prior to a subsequent increase in other levies that would increase the
370 total local school board levy.

371 (d) Nothing contained in this section terminates, without an election, the authority of a
372 school district to continue an existing voted leeway program previously authorized by the
373 voters.

374 (5) Notwithstanding Section 59-2-919, a school district may budget an increased
375 amount of ad valorem property tax revenue derived from a voted leeway imposed under this
376 section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without
377 having to comply with the notice requirements of Section 59-2-919, if:

378 (a) the voted leeway is approved:

379 (i) in accordance with Section 53A-16-110 on or after January 1, 2003; and

380 (ii) within the four-year period immediately preceding the year in which the school
381 district seeks to budget an increased amount of ad valorem property tax revenue derived from
382 the voted leeway; and

383 (b) for a voted leeway approved or modified in accordance with this section on or after
384 January 1, 2009, the school district complies with the requirements of Subsection (7).

385 (6) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this
386 section that exceeds the certified tax rate without having to comply with the notice
387 requirements of Section 59-2-919 if:

388 (a) the levy exceeds the certified tax rate as the result of a school district budgeting an
389 increased amount of ad valorem property tax revenue derived from a voted leeway imposed
390 under this section;

391 (b) the voted leeway was approved:

392 (i) in accordance with Section 53A-16-110 on or after January 1, 2003; and

393 (ii) within the four-year period immediately preceding the year in which the school
394 district seeks to budget an increased amount of ad valorem property tax revenue derived from
395 the voted leeway; and

396 (c) for a voted leeway approved or modified in accordance with this section on or after
397 January 1, 2009, the school district complies with requirements of Subsection (7).

398 (7) For purposes of Subsection (5)(b) or (6)(c), the proposition submitted to the
399 electors regarding the adoption or modification of a voted leeway program shall contain the

400 following statement:

401 "A vote in favor of this tax means that (name of the school district) may increase
402 revenue from this property tax without advertising the increase for the next five years."

403 Section 6. Section **53A-17a-134** is amended to read:

404 **53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.**

405 (1) Each local school board may levy a tax rate of up to .0004 per dollar of taxable
406 value to maintain a school program above the cost of the basic school program as follows:

407 (a) a local school board shall use the monies generated by the tax for class size
408 reduction within the school district;

409 (b) if a local school board determines that the average class size in the school district is
410 not excessive, it may use the monies for other school purposes but only if the board has
411 declared the use for other school purposes in a public meeting prior to levying the tax rate; and

412 (c) a district may not use the monies for other school purposes under Subsection (1)(b)
413 until it has certified in writing that its class size needs are already being met and has identified
414 the other school purposes for which the monies will be used to the State Board of Education
415 and the state board has approved their use for other school purposes.

416 (2) (a) The state shall contribute an amount sufficient to guarantee \$25.25 per weighted
417 pupil unit for each .0001 per dollar of taxable value.

418 (b) The guarantee shall increase in the same manner as provided for the voted leeway
419 guarantee in Subsection 53A-17a-133(3)(c).

420 (c) (i) The amount of state guarantee money to which a school district would otherwise
421 be entitled [tø] under this Subsection (2) may not be reduced for the sole reason that the
422 district's levy is reduced as a consequence of changes in the certified tax rate under Section
423 59-2-924 pursuant to changes in property valuation.

424 (ii) Except as provided in Subsection (2)(c)(iii), Subsection (2)(c)(i) applies for a
425 period of five years following any such change in the certified tax rate.

426 (iii) For fiscal year 2012-13, Subsection (2)(c)(i) applies for a period of six years
427 following any such change in the certified tax rate.

428 (d) The guarantee provided under this section does not apply to:

429 (i) a board-authorized leeway in the first fiscal year the leeway is in effect, unless the
430 leeway was approved by voters pursuant to Subsections (4) through (6); or

431 (ii) the portion of a board-authorized leeway rate that is in excess of the
432 board-authorized leeway rate that was in effect for the previous fiscal year.

433 (3) The levy authorized under this section is not in addition to the maximum rate of
434 .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax
435 rate under that section.

436 (4) As an exception to Section 53A-17a-133, the board-authorized levy does not
437 require voter approval, but the board may require voter approval if requested by a majority of
438 the board.

439 (5) An election to consider disapproval of the board-authorized levy is required, if
440 within 60 days after the levy is established by the board, referendum petitions signed by the
441 number of legal voters required in Section 20A-7-301, who reside within the school district, are
442 filed with the school district.

443 (6) (a) A local school board shall establish its board-approved levy by April 1 to have
444 the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an
445 election is required under this section, the levy applies to the fiscal year beginning July 1 of the
446 next calendar year.

447 (b) The approval and disapproval votes authorized in Subsections (4) and (5) shall
448 occur at a general election in even-numbered years, except that a vote required under this
449 section in odd-numbered years shall occur at a special election held on a day in odd-numbered
450 years that corresponds to the general election date. The school district shall pay for the cost of
451 a special election.

452 (7) (a) Modification or termination of a voter-approved leeway rate authorized under
453 this section is governed by Section 53A-17a-133.

454 (b) A board-authorized leeway rate may be modified or terminated by a majority vote
455 of the board subject to disapproval procedures specified in this section.

456 (8) A board levy election does not require publication of a voter information pamphlet.

457 Section 7. Section **53A-21-101.5** is amended to read:

458 **53A-21-101.5. Definitions.**

459 As used in this chapter:

460 (1) "ADM" or "pupil in average daily membership" is as defined in Section
461 53A-17a-103.

- 462 (2) "Base tax effort rate" means the average of:
- 463 (a) the highest combined capital levy rate; and
- 464 (b) the average combined capital levy rate for the school districts statewide.
- 465 (3) "Combined capital levy rate" means a rate that includes the sum of the following
- 466 property tax levies:
- 467 (a) the capital outlay levy authorized in Section 53A-16-107;
- 468 (b) the portion of the 10% of basic levy described in Section 53A-17a-145 that is
- 469 budgeted for debt service or capital outlay;
- 470 (c) the debt service levy authorized in Section 11-14-310; and
- 471 (d) the voted capital outlay leeway authorized in Section 53A-16-110.
- 472 (4) "Derived net taxable value" means the quotient of:
- 473 (a) the total property tax collections from April 1 through the following March 31 for a
- 474 school district for the calendar year preceding the March 31 date; divided by
- 475 (b) the school district's total tax rate for the calendar year preceding the March 31
- 476 referenced in Subsection (4)(a).
- 477 (5) "Highest combined capital levy rate" means the highest combined capital levy rate
- 478 imposed by a school district within the state for a fiscal year.
- 479 (6) "Property tax base per ADM" means the quotient of:
- 480 (a) a school district's derived net taxable value; divided by
- 481 (b) the school district's ADM.
- 482 (7) "Property tax yield per ADM" means:
- 483 (a) the product of:
- 484 (i) a school district's derived net taxable value; and
- 485 (ii) the base tax effort rate; divided by
- 486 (b) the school district's ADM.
- 487 (8) "School Equalization Fund" or "fund" means the fund created in Section
- 488 53A-21-602.
- 489 [~~(8)~~] (9) "Statewide average property tax base per ADM" means the quotient of:
- 490 (a) the sum of all school districts' derived net taxable value; divided by
- 491 (b) the sum of all school districts' ADM.
- 492 Section 8. Section **53A-21-601** is enacted to read:

Part 6. School Equalization

53A-21-601. Definitions.

As used in this part:

(1) "Enrollment" means enrollment in a school district or charter school as of the October 1 enrollment counts.

(2) "Three-year average enrollment growth" means an amount calculated by:

(a) subtracting the enrollment in the year that is three years prior to the current year from the enrollment in the current year; and

(b) dividing the number resulting from the subtraction under Subsection (2)(a) by three.

Section 9. Section **53A-21-602** is enacted to read:

53A-21-602. School Equalization Fund -- Sources of revenue -- Interest.

(1) There is created a special revenue fund within the Education Fund known as the "School Equalization Fund."

(2) (a) The fund shall be funded by:

(i) sales and use tax revenues deposited in accordance with Section 59-12-103; and

(ii) legislative appropriations.

(b) Any interest earned on the fund shall be deposited into the fund.

(3) The State Board of Education shall distribute revenues deposited into the fund in accordance with Section 53A-21-603.

(4) A school district or charter school that receives an allocation from the School Equalization Fund:

(a) shall first use funds to reduce and replace property taxes imposed for capital outlay in accordance with Section 53A-16-107; and

(b) if property taxes imposed for capital outlay are fully reduced in accordance with Subsection (4)(a), shall first use the funds in place of property tax levies imposed under Sections 11-14-310, 53A-16-110, 53A-17a-133, 53A-17a-134, 53A-17a-145, and 63G-7-704, and then may use the funds for any capital outlay or general fund purpose.

Section 10. Section **53A-21-603** is enacted to read:

53A-21-603. School Equalization Program -- Allocations.

(1) There is created the "School Equalization Program," as described in this section.

524 (2) For fiscal years beginning on or after July 1, 2012, the State Board of Education
525 shall annually allocate School Equalization Program funds in accordance with Subsection (3).

526 (3) Except as provided in Subsection (4), the State Board of Education shall annually:

527 (a) determine the amount of funds available in the School Equalization Fund for
528 allocation;

529 (b) distribute 75% of the available funds to school districts in proportion to each school
530 district's percentage of statewide enrollment in the current year; and

531 (c) distribute 25% of the available funds to school districts in proportion to each school
532 district's percentage of the combined total of three-year average enrollment growth in all school
533 districts with an increase in three-year average enrollment growth.

534 (4) (a) In making allocations under Subsection (3), the State Board of Education shall
535 allocate funds in fiscal year 2012-13 only to the extent that the related certified tax rate
536 reduction under Section 59-2-924.5 does not reduce a school district's certified tax rate below
537 the minimum basic tax rate imposed under Section 53A-17a-135.

538 (b) The State Board of Education shall allocate any funds that are not allocated due to
539 Subsection (4)(a) to other school districts in accordance with the allocation methodology under
540 Subsection (3).

541 (5) By April 1, 2012, the State Board of Education shall notify the Tax Commission
542 and each school district of projected allocations under this section for fiscal year 2012-13.

543 (6) If a new school district is created or school district boundaries are adjusted, the
544 enrollment and three-year average enrollment growth shall be calculated on the basis of
545 enrollment in school district schools located within that school district's newly created or
546 adjusted boundaries.

547 Section 11. Section **59-1-401** is amended to read:

548 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
549 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
550 **interest.**

551 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

574 (I) this title;

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

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

577 (IV) Section 19-6-410.5;

578 (V) Section 19-6-714;

579 (VI) Section 19-6-805;

580 (VII) Section 34A-2-202;

581 (VIII) Section 40-6-14;

582 (IX) Section 69-2-5;

583 (X) Section 69-2-5.5; or

584 (XI) Section 69-2-5.6; or

585 (B) another amount that by statute is subject to a penalty imposed under this section.

- 586 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 587 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 588 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 589 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 590 (D) Chapter 3, Tax Equivalent Property Act; or
- 591 (E) Chapter 4, Privilege Tax.
- 592 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 593 tax, fee, or charge.
- 594 (2) (a) The due date for filing a return is:
- 595 (i) if the person filing the return is not allowed by law an extension of time for filing
- 596 the return, the day on which the return is due as provided by law; or
- 597 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 598 return, the earlier of:
- 599 (A) the date the person files the return; or
- 600 (B) the last day of that extension of time as allowed by law.
- 601 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 602 return after the due date described in Subsection (2)(a).
- 603 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 604 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 605 tax, fee, or charge:
- 606 (A) \$20; or
- 607 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 608 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 609 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 610 (A) \$20; or
- 611 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 612 filed no later than five days after the due date described in Subsection (2)(a);
- 613 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
- 614 more than five days after the due date but no later than 15 days after the due date described in
- 615 Subsection (2)(a); or
- 616 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is

617 filed more than 15 days after the due date described in Subsection (2)(a).
618 (d) This Subsection (2) does not apply to:
619 (i) an amended return; or
620 (ii) a return with no tax due.
621 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
622 (i) the person files a return on or before the due date for filing a return described in
623 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
624 date;
625 (ii) the person:
626 (A) is subject to a penalty under Subsection (2)(b); and
627 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
628 due date for filing a return described in Subsection (2)(a);
629 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
630 (B) the commission estimates an amount of tax due for that person in accordance with
631 Subsection 59-1-1406(2);
632 (iv) the person:
633 (A) is mailed a notice of deficiency; and
634 (B) within a 30-day period after the day on which the notice of deficiency described in
635 Subsection (3)(a)(iv)(A) is mailed:
636 (I) does not file a petition for redetermination or a request for agency action; and
637 (II) fails to pay the tax, fee, or charge due on a return;
638 (v) (A) the commission:
639 (I) issues an order constituting final agency action resulting from a timely filed petition
640 for redetermination or a timely filed request for agency action; or
641 (II) is considered to have denied a request for reconsideration under Subsection
642 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
643 request for agency action; and
644 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
645 after the date the commission:
646 (I) issues the order constituting final agency action described in Subsection
647 (3)(a)(v)(A)(I); or

648 (II) is considered to have denied the request for reconsideration described in
649 Subsection (3)(a)(v)(A)(II); or
650 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
651 of a final judicial decision resulting from a timely filed petition for judicial review.
652 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
653 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
654 respect to an unactivated tax, fee, or charge:
655 (A) \$20; or
656 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
657 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
658 respect to an activated tax, fee, or charge, beginning on the activation date:
659 (A) \$20; or
660 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
661 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
662 return described in Subsection (2)(a);
663 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
664 fee, or charge due on the return is paid more than five days after the due date for filing a return
665 described in Subsection (2)(a) but no later than 15 days after that due date; or
666 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
667 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
668 return described in Subsection (2)(a).
669 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
670 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
671 shall be added a penalty in an amount determined by applying the interest rate provided under
672 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period
673 of the underpayment.
674 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
675 excess of the required installment over the amount, if any, of the installment paid on or before
676 the due date for the installment.
677 (ii) The period of the underpayment shall run from the due date for the installment to
678 whichever of the following dates is the earlier:

679 (A) the original due date of the tax return, without extensions, for the taxable year; or
680 (B) with respect to any portion of the underpayment, the date on which that portion is
681 paid.

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

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

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

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

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

698 (6) If a person does not file a return within an extension of time allowed by Section
699 59-7-505 or 59-10-516, the person:

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

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

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

703 (A) \$20; or

704 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as
705 provided by law, not including the extension of time; and

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

707 (A) \$20; or

708 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
709 due as provided by law, not including the extension of time.

710 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
711 in this Subsection (7)(a).

712 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,
713 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
714 is due to negligence.

715 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a
716 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire
717 underpayment.

718 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,
719 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

720 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or
721 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

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

725 (i) The notice of proposed penalty shall:

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

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

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

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

731 or

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

733 (iii) A person against whom a penalty is proposed in accordance with this Subsection
734 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
735 the commission.

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

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

741 (I) to the person's last-known address; and
742 (II) in accordance with Section 59-1-1404.
743 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
744 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
745 (i) a court of competent jurisdiction issues a final unappealable judgment or order
746 determining that:
747 (A) the seller meets one or more of the criteria described in Subsection
748 59-12-107(1)(a); and
749 (B) the commission or a county, city, or town may require the seller to collect a tax
750 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); or
751 (ii) the commission issues a final unappealable administrative order determining that:
752 (A) the seller meets one or more of the criteria described in Subsection
753 59-12-107(1)(a); and
754 (B) the commission or a county, city, or town may require the seller to collect a tax
755 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c).
756 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
757 subject to the penalty under Subsection (7)(a)(ii) if:
758 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
759 determining that:
760 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
761 and
762 (II) the commission or a county, city, or town may require the seller to collect a tax
763 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); or
764 (B) the commission issues a final unappealable administrative order determining that:
765 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
766 and
767 (II) the commission or a county, city, or town may require the seller to collect a tax
768 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); and
769 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
770 nonfrivolous argument for the extension, modification, or reversal of existing law or the
771 establishment of new law.

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

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

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

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

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

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

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

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

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

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

793 (A) a return;

794 (B) an affidavit;

795 (C) a claim; or

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

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

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

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

- 803 (i) preparing any portion of a document described in Subsection (11)(a)(i);
- 804 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
- 805 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
- 806 (iv) advising in the preparation or presentation of any portion of a document described
- 807 in Subsection (11)(a)(i);
- 808 (v) aiding in the preparation or presentation of any portion of a document described in
- 809 Subsection (11)(a)(i);
- 810 (vi) assisting in the preparation or presentation of any portion of a document described
- 811 in Subsection (11)(a)(i); or
- 812 (vii) counseling in the preparation or presentation of any portion of a document
- 813 described in Subsection (11)(a)(i).
- 814 (c) For purposes of Subsection (11)(a), the penalty:
- 815 (i) shall be imposed by the commission;
- 816 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
- 817 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
- 818 (iii) is in addition to any other penalty provided by law.
- 819 (d) The commission may seek a court order to enjoin a person from engaging in
- 820 conduct that is subject to a penalty under this Subsection (11).
- 821 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 822 commission may make rules prescribing the documents that are similar to Subsections
- 823 (11)(a)(i)(A) through (C).
- 824 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
- 825 provided in Subsections (12)(b) through (e).
- 826 (b) (i) A person who is required by this title or any laws the commission administers or
- 827 regulates to register with or obtain a license or permit from the commission, who operates
- 828 without having registered or secured a license or permit, or who operates when the registration,
- 829 license, or permit is expired or not current, is guilty of a class B misdemeanor.
- 830 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
- 831 penalty may not:
- 832 (A) be less than \$500; or
- 833 (B) exceed \$1,000.

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

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

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

842 (B) exceed \$5,000.

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

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

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

849 (B) exceed \$25,000.

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

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

853 (I) a return;

854 (II) an affidavit;

855 (III) a claim; or

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

857 (B) subject to Subsection (12)(e)(iii), with knowledge that ~~the~~ a document described
858 in Subsection (12)(e)(i)(A):

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

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

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

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

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

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

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

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

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

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

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

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

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

878 (II) consented to the falsity of ~~the~~ a document described in Subsection (12)(e)(i)(A);

879 and

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

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

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

884 (B) exceed \$25,000.

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

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

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

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

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

894 (13) Upon making a record of its actions, and upon reasonable cause shown, the

895 commission may waive, reduce, or compromise any of the penalties or interest imposed under

896 this part.

897 Section 12. Section **59-2-404** is amended to read:

898 **59-2-404. Uniform fee on aircraft -- Collection of fee by commission --**

899 **Distribution of fees.**

900 (1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
901 beginning on January 1, 2009, an aircraft, required to be registered with the state is:

902 (a) exempt from the tax imposed by Section 59-2-103; and

903 (b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee
904 of \$25.

905 (2) (a) The uniform fee shall be collected by the commission with the registration fee
906 and distributed to the county in which the aircraft is based, in accordance with Subsection (3).

907 (b) A based aircraft is an aircraft which is hangared, tied down, or parked at the airport
908 for a plurality of the year.

909 (3) (a) ~~[The]~~ Forty-five percent of the uniform fees received by a county under
910 Subsection (2) shall be distributed to each taxing entity within the county that is not a school
911 district in the same proportion in which revenues collected from the ad valorem property tax
912 are distributed.

913 (b) Each taxing entity described in Subsection (3)(a) that receives revenues from the
914 uniform fee imposed by this section shall distribute the revenues in the same proportion in
915 which revenues collected from the ad valorem property tax are distributed.

916 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
917 be distributed by the county to each school district within the county in proportion to the school
918 district's percentage of the total current year enrollment in all of the school districts within the
919 county, as of October 1 enrollment counts.

920 (4) The commission shall promulgate rules to implement this section.

921 Section 13. Section **59-2-405** is amended to read:

922 **59-2-405. Uniform fee on tangible personal property required to be registered**
923 **with the state -- Distribution of revenues -- Appeals.**

924 (1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt
925 from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2,
926 Subsection (6).

927 (2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a
928 statewide uniform fee in lieu of the ad valorem tax on:

929 (i) motor vehicles required to be registered with the state that weigh 12,001 pounds or
930 more;

931 (ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with
932 the state;

933 (iii) watercraft required to be registered with the state;

934 (iv) recreational vehicles required to be registered with the state; and

935 (v) all other tangible personal property required to be registered with the state before it
936 is used on a public highway, on a public waterway, on public land, or in the air.

937 (b) The following tangible personal property is exempt from the statewide uniform fee
938 imposed by this section:

939 (i) aircraft;

940 (ii) state-assessed commercial vehicles;

941 (iii) tangible personal property subject to a uniform fee imposed by:

942 (A) Section 59-2-405.1;

943 (B) Section 59-2-405.2; or

944 (C) Section 59-2-405.3; and

945 (iv) personal property that is exempt from state or county ad valorem property taxes
946 under the laws of this state or of the federal government.

947 (3) Beginning on January 1, 1999, the uniform fee is 1.5% of the fair market value of
948 the personal property, as established by the commission.

949 (4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is
950 brought into the state and is required to be registered in Utah shall, as a condition of
951 registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by
952 the state of origin have been paid for the current calendar year.

953 (5) (a) ~~The~~ Forty-five percent of the revenues collected in each county from the
954 uniform fee shall be distributed by the county to each taxing entity that is not a school district
955 in which the property described in Subsection (2) is located in the same proportion in which
956 revenue collected from ad valorem real property tax is distributed.

957 (b) ~~Each~~ A taxing entity shall distribute the revenues received under Subsection

958 (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is
959 distributed.

960 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
961 be distributed by the county to each school district within the county in proportion to the school
962 district's percentage of the total current year enrollment in all of the school districts within the
963 county, as of October 1 enrollment counts.

964 (6) An appeal relating to the uniform fee imposed on the tangible personal property
965 described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

966 Section 14. Section **59-2-405.1** is amended to read:

967 **59-2-405.1. Uniform fee on certain vehicles weighing 12,000 pounds or less --**
968 **Distribution of revenues -- Appeals.**

969 (1) The property described in Subsection (2) is exempt from ad valorem property taxes
970 pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

971 (2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a
972 statewide uniform fee in lieu of the ad valorem tax on:

973 (i) motor vehicles as defined in Section 41-1a-102 that:

974 (A) are required to be registered with the state; and

975 (B) weigh 12,000 pounds or less; and

976 (ii) state-assessed commercial vehicles required to be registered with the state that
977 weigh 12,000 pounds or less.

978 (b) The following tangible personal property is exempt from the statewide uniform fee
979 imposed by this section:

980 (i) aircraft;

981 (ii) tangible personal property subject to a uniform fee imposed by:

982 (A) Section 59-2-405;

983 (B) Section 59-2-405.2; or

984 (C) Section 59-2-405.3; and

985 (iii) tangible personal property that is exempt from state or county ad valorem property
986 taxes under the laws of this state or of the federal government.

987 (3) (a) Except as provided in Subsections (3)(b) and (c), beginning on January 1, 1999,
988 the uniform fee for purposes of this section is as follows:

989	Age of Vehicle	Uniform Fee
990	12 or more years	\$10
991	9 or more years but less than 12 years	\$50
992	6 or more years but less than 9 years	\$80
993	3 or more years but less than 6 years	\$110
994	Less than 3 years	\$150

995 (b) For registrations under Section 41-1a-215.5, beginning on January 1, 2007, the
 996 uniform fee for purposes of this section is as follows:

997	Age of Vehicle	Uniform Fee
998	12 or more years	\$5
999	9 or more years but less than 12 years	\$25
1000	6 or more years but less than 9 years	\$40
1001	3 or more years but less than 6 years	\$55
1002	Less than 3 years	\$75

1003 (c) Notwithstanding Subsections (3)(a) and (b), beginning on September 1, 2001, for a
 1004 motor vehicle issued a temporary sports event registration certificate in accordance with
 1005 Section 41-3-306, the uniform fee for purposes of this section is \$5 for the event period
 1006 specified on the temporary sports event registration certificate regardless of the age of the
 1007 motor vehicle.

1008 (4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is
 1009 brought into the state and is required to be registered in Utah shall, as a condition of
 1010 registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by
 1011 the state of origin have been paid for the current calendar year.

1012 (5) (a) ~~The~~ Forty-five percent of the revenues collected in each county from the
 1013 uniform fee shall be distributed by the county to each taxing entity that is not a school district
 1014 in which the property described in Subsection (2) is located in the same proportion in which
 1015 revenue collected from ad valorem real property tax is distributed.

1016 (b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in
 1017 the same proportion in which revenue collected from ad valorem real property tax is

1018 distributed.

1019 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
1020 be distributed by the county to each school district within the county in proportion to the school
1021 district's percentage of the total current year enrollment in all of the school districts within the
1022 county, as of October 1 enrollment counts.

1023 Section 15. Section **59-2-405.2** is amended to read:

1024 **59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal**
1025 **property -- Distribution of revenues -- Rulemaking authority -- Determining the length of**
1026 **a vessel.**

1027 (1) As used in this section:

1028 (a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor
1029 vehicle that:

1030 (A) is an:

1031 (I) all-terrain type I vehicle as defined in Section 41-22-2; or

1032 (II) all-terrain type II vehicle as defined in Section 41-22-2;

1033 (B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
1034 Vehicles; and

1035 (C) has:

1036 (I) an engine with more than 150 cubic centimeters displacement;

1037 (II) a motor that produces more than five horsepower; or

1038 (III) an electric motor; and

1039 (ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a
1040 snowmobile.

1041 (b) "Camper" means a camper:

1042 (i) as defined in Section 41-1a-102; and

1043 (ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
1044 Registration.

1045 (c) (i) "Canoe" means a vessel that:

1046 (A) is long and narrow;

1047 (B) has curved sides; and

1048 (C) is tapered:

- 1049 (I) to two pointed ends; or
- 1050 (II) to one pointed end and is blunt on the other end; and
- 1051 (ii) "canoe" includes:
- 1052 (A) a collapsible inflatable canoe;
- 1053 (B) a kayak;
- 1054 (C) a racing shell;
- 1055 (D) a rowing scull; or
- 1056 (E) notwithstanding the definition of vessel in Subsection (1)(aa), a canoe with an
- 1057 outboard motor.
- 1058 (d) "Dealer" is as defined in Section 41-1a-102.
- 1059 (e) "Jon boat" means a vessel that:
- 1060 (i) has a square bow; and
- 1061 (ii) has a flat bottom.
- 1062 (f) "Motor vehicle" is as defined in Section 41-22-2.
- 1063 (g) "Other motorcycle" means a motor vehicle that:
- 1064 (i) is:
- 1065 (A) a motorcycle as defined in Section 41-1a-102; and
- 1066 (B) designed primarily for use and operation over unimproved terrain;
- 1067 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
- 1068 Registration; and
- 1069 (iii) has:
- 1070 (A) an engine with more than 150 cubic centimeters displacement; or
- 1071 (B) a motor that produces more than five horsepower.
- 1072 (h) (i) "Other trailer" means a portable vehicle without motive power that is primarily
- 1073 used:
- 1074 (A) to transport tangible personal property; and
- 1075 (B) for a purpose other than a commercial purpose; and
- 1076 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 1077 purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a
- 1078 purpose other than a commercial purpose.
- 1079 (i) "Outboard motor" is as defined in Section 41-1a-102.

- 1080 (j) "Personal watercraft" means a personal watercraft:
- 1081 (i) as defined in Section 73-18-2; and
- 1082 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
- 1083 Boating Act.
- 1084 (k) (i) "Pontoon" means a vessel that:
- 1085 (A) is:
- 1086 (I) supported by one or more floats; and
- 1087 (II) propelled by either inboard or outboard power; and
- 1088 (B) is not:
- 1089 (I) a houseboat; or
- 1090 (II) a collapsible inflatable vessel; and
- 1091 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1092 commission may by rule define the term "houseboat."
- 1093 (l) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption,
- 1094 or reduction:
- 1095 (i) of all or a portion of a qualifying payment;
- 1096 (ii) granted by a county during the refund period; and
- 1097 (iii) received by a qualifying person.
- 1098 (m) (i) "Qualifying payment" means the payment made:
- 1099 (A) of a uniform statewide fee in accordance with this section:
- 1100 (I) by a qualifying person;
- 1101 (II) to a county; and
- 1102 (III) during the refund period; and
- 1103 (B) on an item of qualifying tangible personal property; and
- 1104 (ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for
- 1105 an item of qualifying tangible personal property, the qualifying payment for that qualifying
- 1106 tangible personal property is equal to the difference between:
- 1107 (A) the payment described in this Subsection (1)(m) for that item of qualifying tangible
- 1108 personal property; and
- 1109 (B) the amount of the qualifying adjustment, exemption, or reduction.
- 1110 (n) "Qualifying person" means a person that paid a uniform statewide fee:

- 1111 (i) during the refund period;
- 1112 (ii) in accordance with this section; and
- 1113 (iii) on an item of qualifying tangible personal property.
- 1114 (o) "Qualifying tangible personal property" means a:
 - 1115 (i) qualifying vehicle; or
 - 1116 (ii) qualifying watercraft.
- 1117 (p) "Qualifying vehicle" means:
 - 1118 (i) an all-terrain vehicle with an engine displacement that is 100 or more cubic
 - 1119 centimeters but 150 or less cubic centimeters;
 - 1120 (ii) an other motorcycle with an engine displacement that is 100 or more cubic
 - 1121 centimeters but 150 or less cubic centimeters;
 - 1122 (iii) a small motor vehicle with an engine displacement that is 100 or more cubic
 - 1123 centimeters but 150 or less cubic centimeters;
 - 1124 (iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters
 - 1125 but 150 or less cubic centimeters; or
 - 1126 (v) a street motorcycle with an engine displacement that is 100 or more cubic
 - 1127 centimeters but 150 or less cubic centimeters.
- 1128 (q) "Qualifying watercraft" means a:
 - 1129 (i) canoe;
 - 1130 (ii) collapsible inflatable vessel;
 - 1131 (iii) jon boat;
 - 1132 (iv) pontoon;
 - 1133 (v) sailboat; or
 - 1134 (vi) utility boat.
- 1135 (r) "Refund period" means the time period:
 - 1136 (i) beginning on January 1, 2006; and
 - 1137 (ii) ending on December 29, 2006.
- 1138 (s) "Sailboat" means a sailboat as defined in Section 73-18-2.
- 1139 (t) (i) "Small motor vehicle" means a motor vehicle that:
 - 1140 (A) is required to be registered in accordance with Title 41, Motor Vehicles; and
 - 1141 (B) has:

- 1142 (I) an engine with 150 or less cubic centimeters displacement; or
- 1143 (II) a motor that produces five or less horsepower; and
- 1144 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1145 commission may by rule develop a process for an owner of a motor vehicle to certify whether
- 1146 the motor vehicle has:
 - 1147 (A) an engine with 150 or less cubic centimeters displacement; or
 - 1148 (B) a motor that produces five or less horsepower.
- 1149 (u) "Snowmobile" means a motor vehicle that:
 - 1150 (i) is a snowmobile as defined in Section 41-22-2;
 - 1151 (ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
 - 1152 Vehicles; and
 - 1153 (iii) has:
 - 1154 (A) an engine with more than 150 cubic centimeters displacement; or
 - 1155 (B) a motor that produces more than five horsepower.
- 1156 (v) "Street motorcycle" means a motor vehicle that:
 - 1157 (i) is:
 - 1158 (A) a motorcycle as defined in Section 41-1a-102; and
 - 1159 (B) designed primarily for use and operation on highways;
 - 1160 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
 - 1161 Registration; and
 - 1162 (iii) has:
 - 1163 (A) an engine with more than 150 cubic centimeters displacement; or
 - 1164 (B) a motor that produces more than five horsepower.
- 1165 (w) "Tangible personal property owner" means a person that owns an item of
- 1166 qualifying tangible personal property.
- 1167 (x) "Tent trailer" means a portable vehicle without motive power that:
 - 1168 (i) is constructed with collapsible side walls that:
 - 1169 (A) fold for towing by a motor vehicle; and
 - 1170 (B) unfold at a campsite;
 - 1171 (ii) is designed as a temporary dwelling for travel, recreational, or vacation use;
 - 1172 (iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,

1173 Registration; and
1174 (iv) does not require a special highway movement permit when drawn by a
1175 self-propelled motor vehicle.
1176 (y) (i) Except as provided in Subsection (1)(y)(ii), "travel trailer" means a travel trailer:
1177 (A) as defined in Section 41-1a-102; and
1178 (B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
1179 Registration; and
1180 (ii) notwithstanding Subsection (1)(y)(i), "travel trailer" does not include:
1181 (A) a camper; or
1182 (B) a tent trailer.
1183 (z) (i) "Utility boat" means a vessel that:
1184 (A) has:
1185 (I) two or three bench seating;
1186 (II) an outboard motor; and
1187 (III) a hull made of aluminum, fiberglass, or wood; and
1188 (B) does not have:
1189 (I) decking;
1190 (II) a permanent canopy; or
1191 (III) a floor other than the hull; and
1192 (ii) notwithstanding Subsection (1)(z)(i), "utility boat" does not include a collapsible
1193 inflatable vessel.
1194 (aa) "Vessel" means a vessel:
1195 (i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
1196 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
1197 Boating Act.
1198 (2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
1199 beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:
1200 (i) exempt from the tax imposed by Section 59-2-103; and
1201 (ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as
1202 provided in this section.
1203 (b) The following tangible personal property applies to Subsection (2)(a) if that

1204 tangible personal property is required to be registered with the state:

1205 (i) an all-terrain vehicle;

1206 (ii) a camper;

1207 (iii) an other motorcycle;

1208 (iv) an other trailer;

1209 (v) a personal watercraft;

1210 (vi) a small motor vehicle;

1211 (vii) a snowmobile;

1212 (viii) a street motorcycle;

1213 (ix) a tent trailer;

1214 (x) a travel trailer; and

1215 (xi) a vessel if that vessel is less than 31 feet in length as determined under Subsection

1216 (6).

1217 (3) For purposes of this section, the uniform statewide fees are:

1218 (a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

1219	Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
1220	12 or more years	\$10
1221	9 or more years but less than 12 years	\$20
1222	6 or more years but less than 9 years	\$30
1223	3 or more years but less than 6 years	\$35
1224	Less than 3 years	\$45

1225 (b) for a camper or a tent trailer:

1226	Age of Camper or Tent Trailer	Uniform Statewide Fee
1227	12 or more years	\$10
1228	9 or more years but less than 12 years	\$25
1229	6 or more years but less than 9 years	\$35
1230	3 or more years but less than 6 years	\$50
1231	Less than 3 years	\$70

1232 (c) for an other trailer:

1233	Age of Other Trailer	Uniform Statewide Fee
1234	12 or more years	\$10
1235	9 or more years but less than 12 years	\$15
1236	6 or more years but less than 9 years	\$20
1237	3 or more years but less than 6 years	\$25
1238	Less than 3 years	\$30
1239	(d) for a personal watercraft:	
1240	Age of Personal Watercraft	Uniform Statewide Fee
1241	12 or more years	\$10
1242	9 or more years but less than 12 years	\$25
1243	6 or more years but less than 9 years	\$35
1244	3 or more years but less than 6 years	\$45
1245	Less than 3 years	\$55
1246	(e) for a small motor vehicle:	
1247	Age of Small Motor Vehicle	Uniform Statewide Fee
1248	6 or more years	\$10
1249	3 or more years but less than 6 years	\$15
1250	Less than 3 years	\$25
1251	(f) for a street motorcycle:	
1252	Age of Street Motorcycle	Uniform Statewide Fee
1253	12 or more years	\$10
1254	9 or more years but less than 12 years	\$35
1255	6 or more years but less than 9 years	\$50
1256	3 or more years but less than 6 years	\$70
1257	Less than 3 years	\$95
1258	(g) for a travel trailer:	
1259	Age of Travel Trailer	Uniform Statewide Fee

1260	12 or more years	\$20
1261	9 or more years but less than 12 years	\$65
1262	6 or more years but less than 9 years	\$90
1263	3 or more years but less than 6 years	\$135
1264	Less than 3 years	\$175

1265 (h) \$10 regardless of the age of the vessel if the vessel is:

1266 (i) less than 15 feet in length;

1267 (ii) a canoe;

1268 (iii) a jon boat; or

1269 (iv) a utility boat;

1270 (i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

1271	Length of Vessel	Uniform Statewide Fee
1272	15 feet or more in length but less than 19 feet in length	\$15
1273	19 feet or more in length but less than 23 feet in length	\$25
1274	23 feet or more in length but less than 27 feet in length	\$40
1275	27 feet or more in length but less than 31 feet in length	\$75

1276 (j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,

1277 sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

1278	Age of Vessel	Uniform Statewide Fee
1279	12 or more years	\$25
1280	9 or more years but less than 12 years	\$65
1281	6 or more years but less than 9 years	\$80
1282	3 or more years but less than 6 years	\$110
1283	Less than 3 years	\$150

1284 (k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,

1285 sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

1286	Age of Vessel	Uniform Statewide Fee
1287	12 or more years	\$50

1288	9 or more years but less than 12 years	\$120
1289	6 or more years but less than 9 years	\$175
1290	3 or more years but less than 6 years	\$220
1291	Less than 3 years	\$275

1292 (l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
 1293 sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

1294	Age of Vessel	Uniform Statewide Fee
1295	12 or more years	\$100
1296	9 or more years but less than 12 years	\$180
1297	6 or more years but less than 9 years	\$240
1298	3 or more years but less than 6 years	\$310
1299	Less than 3 years	\$400

1300 (m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
 1301 sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

1302	Age of Vessel	Uniform Statewide Fee
1303	12 or more years	\$120
1304	9 or more years but less than 12 years	\$250
1305	6 or more years but less than 9 years	\$350
1306	3 or more years but less than 6 years	\$500
1307	Less than 3 years	\$700

1308 (4) Notwithstanding Section 59-2-407, tangible personal property subject to the
 1309 uniform statewide fees imposed by this section that is brought into the state shall, as a
 1310 condition of registration, be subject to the uniform statewide fees unless all property taxes or
 1311 uniform fees imposed by the state of origin have been paid for the current calendar year.

1312 (5) (a) ~~The~~ Forty-five percent of the revenues collected in ~~each~~ a county from the
 1313 uniform statewide fees imposed by this section shall be distributed by the county to each taxing
 1314 entity that is not a school district in which each item of tangible personal property subject to the
 1315 uniform statewide fees is located in the same proportion in which revenues collected from the
 1316 ad valorem property tax are distributed.

1317 (b) Each taxing entity described in Subsection (5)(a) that receives revenues from the
1318 uniform statewide fees imposed by this section shall distribute the revenues in the same
1319 proportion in which revenues collected from the ad valorem property tax are distributed.

1320 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
1321 be distributed by the county to each school district within the county in proportion to the school
1322 district's percentage of the total current year enrollment in all of the school districts within the
1323 county, as of October 1 enrollment counts.

1324 (6) (a) For purposes of the uniform statewide fee imposed by this section, the length of
1325 a vessel shall be determined as provided in this Subsection (6).

1326 (b) (i) Except as provided in Subsection (6)(b)(ii), the length of a vessel shall be
1327 measured as follows:

1328 (A) the length of a vessel shall be measured in a straight line; and

1329 (B) the length of a vessel is equal to the distance between the bow of the vessel and the
1330 stern of the vessel.

1331 (ii) Notwithstanding Subsection (6)(b)(i), the length of a vessel may not include the
1332 length of:

1333 (A) a swim deck;

1334 (B) a ladder;

1335 (C) an outboard motor; or

1336 (D) an appurtenance or attachment similar to Subsections (6)(b)(ii)(A) through (C) as
1337 determined by the commission by rule.

1338 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1339 the commission may by rule define what constitutes an appurtenance or attachment similar to
1340 Subsections (6)(b)(ii)(A) through (C).

1341 (c) The length of a vessel:

1342 (i) (A) for a new vessel, is the length:

1343 (I) listed on the manufacturer's statement of origin if the length of the vessel measured
1344 under Subsection (6)(b) is equal to the length of the vessel listed on the manufacturer's
1345 statement of origin; or

1346 (II) listed on a form submitted to the commission by a dealer in accordance with
1347 Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b) is not equal to

1348 the length of the vessel listed on the manufacturer's statement of origin; or
1349 (B) for a vessel other than a new vessel, is the length:
1350 (I) corresponding to the model number if the length of the vessel measured under
1351 Subsection (6)(b) is equal to the length of the vessel determined by reference to the model
1352 number; or
1353 (II) listed on a form submitted to the commission by an owner of the vessel in
1354 accordance with Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b)
1355 is not equal to the length of the vessel determined by reference to the model number; and
1356 (ii) (A) is determined at the time of the:
1357 (I) first registration as defined in Section 41-1a-102 that occurs on or after January 1,
1358 2006; or
1359 (II) first renewal of registration that occurs on or after January 1, 2006; and
1360 (B) may be determined after the time described in Subsection (6)(c)(ii)(A) only if the
1361 commission requests that a dealer or an owner submit a form to the commission in accordance
1362 with Subsection (6)(d).
1363 (d) (i) A form under Subsection (6)(c) shall:
1364 (A) be developed by the commission;
1365 (B) be provided by the commission to:
1366 (I) a dealer; or
1367 (II) an owner of a vessel;
1368 (C) provide for the reporting of the length of a vessel;
1369 (D) be submitted to the commission at the time the length of the vessel is determined in
1370 accordance with Subsection (6)(c)(ii);
1371 (E) be signed by:
1372 (I) if the form is submitted by a dealer, that dealer; or
1373 (II) if the form is submitted by an owner of the vessel, an owner of the vessel; and
1374 (F) include a certification that the information set forth in the form is true.
1375 (ii) A certification made under Subsection (6)(d)(i)(F) is considered as if made under
1376 oath and subject to the same penalties as provided by law for perjury.
1377 (iii) (A) A dealer or an owner that submits a form to the commission under Subsection
1378 (6)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

- 1379 (I) the commission;
- 1380 (II) the county assessor; or
- 1381 (III) the commission and the county assessor.
- 1382 (B) The consent described in Subsection (6)(d)(iii)(A) is a condition to the acceptance
- 1383 of any form.
- 1384 (7) (a) A county that collected a qualifying payment from a qualifying person during
- 1385 the refund period shall issue a refund to the qualifying person as described in Subsection (7)(b)
- 1386 if:
- 1387 (i) the difference described in Subsection (7)(b) is \$1 or more; and
- 1388 (ii) the qualifying person submitted a form in accordance with Subsections (7)(c) and
- 1389 (d).
- 1390 (b) The refund amount shall be calculated as follows:
- 1391 (i) for a qualifying vehicle, the refund amount is equal to the difference between:
- 1392 (A) the qualifying payment the qualifying person paid on the qualifying vehicle during
- 1393 the refund period; and
- 1394 (B) the amount of the statewide uniform fee:
- 1395 (I) for that qualifying vehicle; and
- 1396 (II) that the qualifying person would have been required to pay:
- 1397 (Aa) during the refund period; and
- 1398 (Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session,
- 1399 Chapter 3, Section 1, been in effect during the refund period; and
- 1400 (ii) for a qualifying watercraft, the refund amount is equal to the difference between:
- 1401 (A) the qualifying payment the qualifying person paid on the qualifying watercraft
- 1402 during the refund period; and
- 1403 (B) the amount of the statewide uniform fee:
- 1404 (I) for that qualifying watercraft;
- 1405 (II) that the qualifying person would have been required to pay:
- 1406 (Aa) during the refund period; and
- 1407 (Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session,
- 1408 Chapter 3, Section 1, been in effect during the refund period.
- 1409 (c) Before the county issues a refund to the qualifying person in accordance with

1410 Subsection (7)(a) the qualifying person shall submit a form to the county to verify the
1411 qualifying person is entitled to the refund.

1412 (d) (i) A form under Subsection (7)(c) or (8) shall:

1413 (A) be developed by the commission;

1414 (B) be provided by the commission to the counties;

1415 (C) be provided by the county to the qualifying person or tangible personal property
1416 owner;

1417 (D) provide for the reporting of the following:

1418 (I) for a qualifying vehicle:

1419 (Aa) the type of qualifying vehicle; and

1420 (Bb) the amount of cubic centimeters displacement;

1421 (II) for a qualifying watercraft:

1422 (Aa) the length of the qualifying watercraft;

1423 (Bb) the age of the qualifying watercraft; and

1424 (Cc) the type of qualifying watercraft;

1425 (E) be signed by the qualifying person or tangible personal property owner; and

1426 (F) include a certification that the information set forth in the form is true.

1427 (ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under
1428 oath and subject to the same penalties as provided by law for perjury.

1429 (iii) (A) A qualifying person or tangible personal property owner that submits a form to
1430 a county under Subsection (7)(c) or (8) is considered to have given the qualifying person's
1431 consent to an audit or review by:

1432 (I) the commission;

1433 (II) the county assessor; or

1434 (III) the commission and the county assessor.

1435 (B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance
1436 of any form.

1437 (e) The county shall make changes to the commission's records with the information
1438 received by the county from the form submitted in accordance with Subsection (7)(c).

1439 (8) A county shall change its records regarding an item of qualifying tangible personal
1440 property if the tangible personal property owner submits a form to the county in accordance

1441 with Subsection (7)(d).

1442 (9) (a) For purposes of this Subsection (9) "owner of tangible personal property" means
1443 a person that was required to pay a uniform statewide fee:

1444 (i) during the refund period;

1445 (ii) in accordance with this section; and

1446 (iii) on an item of tangible personal property subject to the uniform statewide fees
1447 imposed by this section.

1448 (b) A county that collected revenues from uniform statewide fees imposed by this
1449 section during the refund period shall notify an owner of tangible personal property:

1450 (i) of the tangible personal property classification changes made to this section
1451 pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;

1452 (ii) that the owner of tangible personal property may obtain and file a form to modify
1453 the county's records regarding the owner's tangible personal property; and

1454 (iii) that the owner may be entitled to a refund pursuant to Subsection (7).

1455 Section 16. Section **59-2-405.3** is amended to read:

1456 **59-2-405.3. Uniform statewide fee on motor homes -- Distribution of revenues.**

1457 (1) For purposes of this section, "motor home" means:

1458 (a) a motor home, as defined in Section 13-14-102, that is required to be registered
1459 with the state; or

1460 (b) a self-propelled vehicle that is:

1461 (i) modified for primary use as a temporary dwelling for travel, recreational, or
1462 vacation use; and

1463 (ii) required to be registered with the state.

1464 (2) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
1465 beginning on January 1, 2006, a motor home is:

1466 (a) exempt from the tax imposed by Section 59-2-103; and

1467 (b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee
1468 as provided in Subsection (3).

1469 (3) The uniform statewide fee described in Subsection (2)(b) is:

1470 (a) beginning on January 1, 2006, and ending December 31, 2007, 1.25% of the fair
1471 market value of the motor home, as established by the commission; and

1472 (b) beginning on January 1, 2008, 1% of the fair market value of the motor home, as
1473 established by the commission.

1474 (4) Notwithstanding Section 59-2-407, a motor home subject to the uniform statewide
1475 fee imposed by this section that is brought into the state shall, as a condition of registration, be
1476 subject to the uniform statewide fee unless all property taxes or uniform fees imposed by the
1477 state of origin have been paid for the current calendar year.

1478 (5) (a) Each county shall distribute 45% of the revenue collected by the county from
1479 the uniform statewide fee imposed by this section to each taxing entity that is not a school
1480 district in which each motor home subject to the uniform statewide fee is located in the same
1481 proportion in which revenue collected from the ad valorem property tax is distributed.

1482 (b) Each taxing entity described in Subsection (5)(a) that receives revenue from the
1483 uniform statewide fee imposed by this section shall distribute the revenue in the same
1484 proportion in which revenue collected from the ad valorem property tax is distributed.

1485 (c) Fifty-five percent of the revenues collected in a county from the uniform fee shall
1486 be distributed by the county to each school district within the county in proportion to the school
1487 district's percentage of the total current year enrollment in all of the school districts within the
1488 county, as of October 1 enrollment counts.

1489 (6) An appeal relating to the uniform statewide fee imposed on a motor home by this
1490 section shall be filed pursuant to Section 59-2-1005.

1491 Section 17. Section **59-2-919.3** is enacted to read:

1492 **59-2-919.3. Limitation on property tax -- Bond issuance.**

1493 (1) For the taxable year beginning on January 1, 2012 and ending on December 31,
1494 2012, a taxing entity may not levy a tax rate that exceeds its certified tax rate calculated in
1495 accordance with Sections 59-2-924 and 59-2-924.5.

1496 (2) Subsection (1) may not be construed to limit the ability of a taxing entity to:

1497 (a) submit a bond proposal to voters in accordance with applicable law; or

1498 (b) issue general obligation bonds previously approved by the taxing entity's voters.

1499 Section 18. Section **59-2-924.5** is enacted to read:

1500 **59-2-924.5. Reduction of certified tax rate for school districts based on school**
1501 **equalization allocation.**

1502 For the 2012 tax year, the certified tax rate of each school district shall be decreased by

1503 the amount necessary to reduce revenues for that school district by the projected amount of the
1504 allocation that the State Board of Education will make to that school district under Section
1505 53A-21-603 for fiscal year 2012-13.

1506 Section 19. Section **59-12-102** is amended to read:

1507 **59-12-102. Definitions.**

1508 As used in this chapter:

1509 (1) "800 service" means a telecommunications service that:

1510 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1511 (b) is typically marketed:

1512 (i) under the name 800 toll-free calling;

1513 (ii) under the name 855 toll-free calling;

1514 (iii) under the name 866 toll-free calling;

1515 (iv) under the name 877 toll-free calling;

1516 (v) under the name 888 toll-free calling; or

1517 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

1518 Federal Communications Commission.

1519 (2) (a) "900 service" means an inbound toll telecommunications service that:

1520 (i) a subscriber purchases;

1521 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1522 the subscriber's:

1523 (A) prerecorded announcement; or

1524 (B) live service; and

1525 (iii) is typically marketed:

1526 (A) under the name 900 service; or

1527 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

1528 Communications Commission.

1529 (b) "900 service" does not include a charge for:

1530 (i) a collection service a seller of a telecommunications service provides to a
1531 subscriber; or

1532 (ii) the following a subscriber sells to the subscriber's customer:

1533 (A) a product; or

- 1534 (B) a service.
- 1535 (3) (a) "Admission or user fees" includes season passes.
- 1536 (b) "Admission or user fees" does not include annual membership dues to private
1537 organizations.
- 1538 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
1539 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
1540 Agreement after November 12, 2002.
- 1541 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1542 (a) listed under Subsection (6); and
- 1543 (b) that are imposed within a local taxing jurisdiction.
- 1544 (6) "Agreement sales and use tax" means a tax imposed under:
- 1545 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1546 (b) Subsection 59-12-103(2)(b)(i);
- 1547 [~~(c)~~ Subsection 59-12-103(2)(c)(i);]
- 1548 [~~(d)~~ Subsection 59-12-103(2)(d)(i)(A)(I);]
- 1549 [~~(e)~~ (c) Section 59-12-204;
- 1550 [~~(f)~~ (d) Section 59-12-401;
- 1551 [~~(g)~~ (e) Section 59-12-402;
- 1552 [~~(h)~~ (f) Section 59-12-703;
- 1553 [~~(i)~~ (g) Section 59-12-802;
- 1554 [~~(j)~~ (h) Section 59-12-804;
- 1555 [~~(k)~~ (i) Section 59-12-1102;
- 1556 [~~(l)~~ (j) Section 59-12-1302;
- 1557 [~~(m)~~ (k) Section 59-12-1402;
- 1558 [~~(n)~~ (l) Section 59-12-1802;
- 1559 [~~(o)~~ (m) Section 59-12-2003;
- 1560 [~~(p)~~ (n) Section 59-12-2103;
- 1561 [~~(q)~~ (o) Section 59-12-2213;
- 1562 [~~(r)~~ (p) Section 59-12-2214;
- 1563 [~~(s)~~ (q) Section 59-12-2215;
- 1564 [~~(t)~~ (r) Section 59-12-2216;

1565 [~~(tt)~~] (s) Section 59-12-2217; or
1566 [~~(v)~~] (t) Section 59-12-2218.
1567 (7) "Aircraft" is as defined in Section 72-10-102.
1568 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
1569 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
1570 in Subsection 59-12-107(1)(f) of an airline; and
1571 (b) that has the workers, expertise, and facilities to perform the following, regardless of
1572 whether the business entity performs the following in this state:
1573 (i) check, diagnose, overhaul, and repair:
1574 (A) an onboard system of a fixed wing turbine powered aircraft; and
1575 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
1576 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
1577 engine;
1578 (iii) perform at least the following maintenance on a fixed wing turbine powered
1579 aircraft:
1580 (A) an inspection;
1581 (B) a repair, including a structural repair or modification;
1582 (C) changing landing gear; and
1583 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
1584 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
1585 completely apply new paint to the fixed wing turbine powered aircraft; and
1586 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
1587 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
1588 authority that certifies the fixed wing turbine powered aircraft.
1589 (9) "Alcoholic beverage" means a beverage that:
1590 (a) is suitable for human consumption; and
1591 (b) contains .5% or more alcohol by volume.
1592 (10) (a) "Ancillary service" means a service associated with, or incidental to, the
1593 provision of telecommunications service.
1594 (b) "Ancillary service" includes:
1595 (i) a conference bridging service;

1596 (ii) a detailed communications billing service;

1597 (iii) directory assistance;

1598 (iv) a vertical service; or

1599 (v) a voice mail service.

1600 (11) "Area agency on aging" is as defined in Section 62A-3-101.

1601 (12) "Assisted amusement device" means an amusement device, skill device, or ride
1602 device that is started and stopped by an individual:

1603 (a) who is not the purchaser or renter of the right to use or operate the amusement
1604 device, skill device, or ride device; and

1605 (b) at the direction of the seller of the right to use the amusement device, skill device,
1606 or ride device.

1607 (13) "Assisted cleaning or washing of tangible personal property" means cleaning or
1608 washing of tangible personal property if the cleaning or washing labor is primarily performed
1609 by an individual:

1610 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1611 property; and

1612 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1613 property.

1614 (14) "Authorized carrier" means:

1615 (a) in the case of vehicles operated over public highways, the holder of credentials
1616 indicating that the vehicle is or will be operated pursuant to both the International Registration
1617 Plan and the International Fuel Tax Agreement;

1618 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1619 certificate or air carrier's operating certificate; or

1620 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1621 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1622 (15) (a) Except as provided in Subsection (15)(b), "biomass energy" means any of the
1623 following that is used as the primary source of energy to produce fuel or electricity:

1624 (i) material from a plant or tree; or

1625 (ii) other organic matter that is available on a renewable basis, including:

1626 (A) slash and brush from forests and woodlands;

- 1627 (B) animal waste;
- 1628 (C) methane produced:
- 1629 (I) at landfills; or
- 1630 (II) as a byproduct of the treatment of wastewater residuals;
- 1631 (D) aquatic plants; and
- 1632 (E) agricultural products.
- 1633 (b) "Biomass energy" does not include:
- 1634 (i) black liquor;
- 1635 (ii) treated woods; or
- 1636 (iii) biomass from municipal solid waste other than methane produced:
- 1637 (A) at landfills; or
- 1638 (B) as a byproduct of the treatment of wastewater residuals.
- 1639 (16) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1640 property, products, or services if the tangible personal property, products, or services are:
- 1641 (i) distinct and identifiable; and
- 1642 (ii) sold for one nonitemized price.
- 1643 (b) "Bundled transaction" does not include:
- 1644 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1645 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1646 the transaction;
- 1647 (ii) the sale of real property;
- 1648 (iii) the sale of services to real property;
- 1649 (iv) the retail sale of tangible personal property and a service if:
- 1650 (A) the tangible personal property:
- 1651 (I) is essential to the use of the service; and
- 1652 (II) is provided exclusively in connection with the service; and
- 1653 (B) the service is the true object of the transaction;
- 1654 (v) the retail sale of two services if:
- 1655 (A) one service is provided that is essential to the use or receipt of a second service;
- 1656 (B) the first service is provided exclusively in connection with the second service; and
- 1657 (C) the second service is the true object of the transaction;

1658 (vi) a transaction that includes tangible personal property or a product subject to
1659 taxation under this chapter and tangible personal property or a product that is not subject to
1660 taxation under this chapter if the:

1661 (A) seller's purchase price of the tangible personal property or product subject to
1662 taxation under this chapter is de minimis; or

1663 (B) seller's sales price of the tangible personal property or product subject to taxation
1664 under this chapter is de minimis; and

1665 (vii) the retail sale of tangible personal property that is not subject to taxation under
1666 this chapter and tangible personal property that is subject to taxation under this chapter if:

1667 (A) that retail sale includes:

1668 (I) food and food ingredients;

1669 (II) a drug;

1670 (III) durable medical equipment;

1671 (IV) mobility enhancing equipment;

1672 (V) an over-the-counter drug;

1673 (VI) a prosthetic device; or

1674 (VII) a medical supply; and

1675 (B) subject to Subsection (16)(f):

1676 (I) the seller's purchase price of the tangible personal property subject to taxation under
1677 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1678 (II) the seller's sales price of the tangible personal property subject to taxation under
1679 this chapter is 50% or less of the seller's total sales price of that retail sale.

1680 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a
1681 service that is distinct and identifiable does not include:

1682 (A) packaging that:

1683 (I) accompanies the sale of the tangible personal property, product, or service; and

1684 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1685 service;

1686 (B) tangible personal property, a product, or a service provided free of charge with the
1687 purchase of another item of tangible personal property, a product, or a service; or

1688 (C) an item of tangible personal property, a product, or a service included in the

1689 definition of "purchase price."

1690 (ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a
1691 product, or a service is provided free of charge with the purchase of another item of tangible
1692 personal property, a product, or a service if the sales price of the purchased item of tangible
1693 personal property, product, or service does not vary depending on the inclusion of the tangible
1694 personal property, product, or service provided free of charge.

1695 (d) (i) For purposes of Subsection (16)(a)(ii), property sold for one nonitemized price
1696 does not include a price that is separately identified by tangible personal property, product, or
1697 service on the following, regardless of whether the following is in paper format or electronic
1698 format:

1699 (A) a binding sales document; or

1700 (B) another supporting sales-related document that is available to a purchaser.

1701 (ii) For purposes of Subsection (16)(d)(i), a binding sales document or another
1702 supporting sales-related document that is available to a purchaser includes:

1703 (A) a bill of sale;

1704 (B) a contract;

1705 (C) an invoice;

1706 (D) a lease agreement;

1707 (E) a periodic notice of rates and services;

1708 (F) a price list;

1709 (G) a rate card;

1710 (H) a receipt; or

1711 (I) a service agreement.

1712 (e) (i) For purposes of Subsection (16)(b)(vi), the sales price of tangible personal
1713 property or a product subject to taxation under this chapter is de minimis if:

1714 (A) the seller's purchase price of the tangible personal property or product is 10% or
1715 less of the seller's total purchase price of the bundled transaction; or

1716 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1717 the seller's total sales price of the bundled transaction.

1718 (ii) For purposes of Subsection (16)(b)(vi), a seller:

1719 (A) shall use the seller's purchase price or the seller's sales price to determine if the

1720 purchase price or sales price of the tangible personal property or product subject to taxation
1721 under this chapter is de minimis; and

1722 (B) may not use a combination of the seller's purchase price and the seller's sales price
1723 to determine if the purchase price or sales price of the tangible personal property or product
1724 subject to taxation under this chapter is de minimis.

1725 (iii) For purposes of Subsection (16)(b)(vi), a seller shall use the full term of a service
1726 contract to determine if the sales price of tangible personal property or a product is de minimis.

1727 (f) For purposes of Subsection (16)(b)(vii)(B), a seller may not use a combination of
1728 the seller's purchase price and the seller's sales price to determine if tangible personal property
1729 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1730 price of that retail sale.

1731 (17) "Certified automated system" means software certified by the governing board of
1732 the agreement that:

1733 (a) calculates the agreement sales and use tax imposed within a local taxing
1734 jurisdiction:

1735 (i) on a transaction; and

1736 (ii) in the states that are members of the agreement;

1737 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1738 member of the agreement; and

1739 (c) maintains a record of the transaction described in Subsection (17)(a)(i).

1740 (18) "Certified service provider" means an agent certified:

1741 (a) by the governing board of the agreement; and

1742 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1743 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1744 own purchases.

1745 (19) (a) Subject to Subsection (19)(b), "clothing" means all human wearing apparel
1746 suitable for general use.

1747 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1748 commission shall make rules:

1749 (i) listing the items that constitute "clothing"; and

1750 (ii) that are consistent with the list of items that constitute "clothing" under the

1751 agreement.

1752 (20) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1753 (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1754 fuels that does not constitute industrial use under Subsection (48) or residential use under
1755 Subsection (94).

1756 (22) (a) "Common carrier" means a person engaged in or transacting the business of
1757 transporting passengers, freight, merchandise, or other property for hire within this state.

1758 (b) (i) "Common carrier" does not include a person who, at the time the person is
1759 traveling to or from that person's place of employment, transports a passenger to or from the
1760 passenger's place of employment.

1761 (ii) For purposes of Subsection (22)(b)(i), in accordance with Title 63G, Chapter 3,
1762 Utah Administrative Rulemaking Act, the commission may make rules defining what
1763 constitutes a person's place of employment.

1764 (23) "Component part" includes:

1765 (a) poultry, dairy, and other livestock feed, and their components;

1766 (b) baling ties and twine used in the baling of hay and straw;

1767 (c) fuel used for providing temperature control of orchards and commercial
1768 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1769 off-highway type farm machinery; and

1770 (d) feed, seeds, and seedlings.

1771 (24) "Computer" means an electronic device that accepts information:

1772 (a) (i) in digital form; or

1773 (ii) in a form similar to digital form; and

1774 (b) manipulates that information for a result based on a sequence of instructions.

1775 (25) "Computer software" means a set of coded instructions designed to cause:

1776 (a) a computer to perform a task; or

1777 (b) automatic data processing equipment to perform a task.

1778 (26) (a) "Conference bridging service" means an ancillary service that links two or
1779 more participants of an audio conference call or video conference call.

1780 (b) "Conference bridging service" includes providing a telephone number as part of the
1781 ancillary service described in Subsection (26)(a).

1782 (c) "Conference bridging service" does not include a telecommunications service used
1783 to reach the ancillary service described in Subsection (26)(a).

1784 (27) "Construction materials" means any tangible personal property that will be
1785 converted into real property.

1786 (28) "Delivered electronically" means delivered to a purchaser by means other than
1787 tangible storage media.

1788 (29) (a) "Delivery charge" means a charge:

1789 (i) by a seller of:

1790 (A) tangible personal property;

1791 (B) a product transferred electronically; or

1792 (C) services; and

1793 (ii) for preparation and delivery of the tangible personal property, product transferred
1794 electronically, or services described in Subsection (29)(a)(i) to a location designated by the
1795 purchaser.

1796 (b) "Delivery charge" includes a charge for the following:

1797 (i) transportation;

1798 (ii) shipping;

1799 (iii) postage;

1800 (iv) handling;

1801 (v) crating; or

1802 (vi) packing.

1803 (30) "Detailed telecommunications billing service" means an ancillary service of
1804 separately stating information pertaining to individual calls on a customer's billing statement.

1805 (31) "Dietary supplement" means a product, other than tobacco, that:

1806 (a) is intended to supplement the diet;

1807 (b) contains one or more of the following dietary ingredients:

1808 (i) a vitamin;

1809 (ii) a mineral;

1810 (iii) an herb or other botanical;

1811 (iv) an amino acid;

1812 (v) a dietary substance for use by humans to supplement the diet by increasing the total

1813 dietary intake; or

1814 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

1815 described in Subsections (31)(b)(i) through (v);

1816 (c) (i) except as provided in Subsection (31)(c)(ii), is intended for ingestion in:

1817 (A) tablet form;

1818 (B) capsule form;

1819 (C) powder form;

1820 (D) softgel form;

1821 (E) gelcap form; or

1822 (F) liquid form; or

1823 (ii) notwithstanding Subsection (31)(c)(i), if the product is not intended for ingestion in

1824 a form described in Subsections (31)(c)(i)(A) through (F), is not represented:

1825 (A) as conventional food; and

1826 (B) for use as a sole item of:

1827 (I) a meal; or

1828 (II) the diet; and

1829 (d) is required to be labeled as a dietary supplement:

1830 (i) identifiable by the "Supplemental Facts" box found on the label; and

1831 (ii) as required by 21 C.F.R. Sec. 101.36.

1832 (32) (a) "Direct mail" means printed material delivered or distributed by United States

1833 mail or other delivery service:

1834 (i) to:

1835 (A) a mass audience; or

1836 (B) addressees on a mailing list provided:

1837 (I) by a purchaser of the mailing list; or

1838 (II) at the discretion of the purchaser of the mailing list; and

1839 (ii) if the cost of the printed material is not billed directly to the recipients.

1840 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

1841 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1842 (c) "Direct mail" does not include multiple items of printed material delivered to a

1843 single address.

- 1844 (33) "Directory assistance" means an ancillary service of providing:
1845 (a) address information; or
1846 (b) telephone number information.
- 1847 (34) (a) "Disposable home medical equipment or supplies" means medical equipment
1848 or supplies that:
1849 (i) cannot withstand repeated use; and
1850 (ii) are purchased by, for, or on behalf of a person other than:
1851 (A) a health care facility as defined in Section 26-21-2;
1852 (B) a health care provider as defined in Section 78B-3-403;
1853 (C) an office of a health care provider described in Subsection (34)(a)(ii)(B); or
1854 (D) a person similar to a person described in Subsections (34)(a)(ii)(A) through (C).
1855 (b) "Disposable home medical equipment or supplies" does not include:
1856 (i) a drug;
1857 (ii) durable medical equipment;
1858 (iii) a hearing aid;
1859 (iv) a hearing aid accessory;
1860 (v) mobility enhancing equipment; or
1861 (vi) tangible personal property used to correct impaired vision, including:
1862 (A) eyeglasses; or
1863 (B) contact lenses.
1864 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1865 commission may by rule define what constitutes medical equipment or supplies.
- 1866 (35) (a) "Drug" means a compound, substance, or preparation, or a component of a
1867 compound, substance, or preparation that is:
1868 (i) recognized in:
1869 (A) the official United States Pharmacopoeia;
1870 (B) the official Homeopathic Pharmacopoeia of the United States;
1871 (C) the official National Formulary; or
1872 (D) a supplement to a publication listed in Subsections (35)(a)(i)(A) through (C);
1873 (ii) intended for use in the:
1874 (A) diagnosis of disease;

- 1875 (B) cure of disease;
- 1876 (C) mitigation of disease;
- 1877 (D) treatment of disease; or
- 1878 (E) prevention of disease; or
- 1879 (iii) intended to affect:
- 1880 (A) the structure of the body; or
- 1881 (B) any function of the body.
- 1882 (b) "Drug" does not include:
- 1883 (i) food and food ingredients;
- 1884 (ii) a dietary supplement;
- 1885 (iii) an alcoholic beverage; or
- 1886 (iv) a prosthetic device.
- 1887 (36) (a) Except as provided in Subsection (36)(c), "durable medical equipment" means
- 1888 equipment that:
- 1889 (i) can withstand repeated use;
- 1890 (ii) is primarily and customarily used to serve a medical purpose;
- 1891 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1892 (iv) is not worn in or on the body.
- 1893 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1894 equipment described in Subsection (36)(a).
- 1895 (c) Notwithstanding Subsection (36)(a), "durable medical equipment" does not include
- 1896 mobility enhancing equipment.
- 1897 (37) "Electronic" means:
- 1898 (a) relating to technology; and
- 1899 (b) having:
- 1900 (i) electrical capabilities;
- 1901 (ii) digital capabilities;
- 1902 (iii) magnetic capabilities;
- 1903 (iv) wireless capabilities;
- 1904 (v) optical capabilities;
- 1905 (vi) electromagnetic capabilities; or

- 1906 (vii) capabilities similar to Subsections (37)(b)(i) through (vi).
- 1907 (38) "Employee" is as defined in Section 59-10-401.
- 1908 (39) "Fixed guideway" means a public transit facility that uses and occupies:
- 1909 (a) rail for the use of public transit; or
- 1910 (b) a separate right-of-way for the use of public transit.
- 1911 (40) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1912 (a) is powered by turbine engines;
- 1913 (b) operates on jet fuel; and
- 1914 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1915 (41) "Fixed wireless service" means a telecommunications service that provides radio
- 1916 communication between fixed points.
- 1917 (42) (a) "Food and food ingredients" means substances:
- 1918 (i) regardless of whether the substances are in:
- 1919 (A) liquid form;
- 1920 (B) concentrated form;
- 1921 (C) solid form;
- 1922 (D) frozen form;
- 1923 (E) dried form; or
- 1924 (F) dehydrated form; and
- 1925 (ii) that are:
- 1926 (A) sold for:
- 1927 (I) ingestion by humans; or
- 1928 (II) chewing by humans; and
- 1929 (B) consumed for the substance's:
- 1930 (I) taste; or
- 1931 (II) nutritional value.
- 1932 (b) "Food and food ingredients" includes an item described in Subsection (78)(b)(iii).
- 1933 (c) "Food and food ingredients" does not include:
- 1934 (i) an alcoholic beverage;
- 1935 (ii) tobacco; or
- 1936 (iii) prepared food.

- 1937 (43) (a) "Fundraising sales" means sales:
- 1938 (i) (A) made by a school; or
- 1939 (B) made by a school student;
- 1940 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1941 materials, or provide transportation; and
- 1942 (iii) that are part of an officially sanctioned school activity.
- 1943 (b) For purposes of Subsection (43)(a)(iii), "officially sanctioned school activity"
- 1944 means a school activity:
- 1945 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1946 district governing the authorization and supervision of fundraising activities;
- 1947 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1948 educational personnel by direct payment, commissions, or payment in kind; and
- 1949 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1950 controlled by the school or school district.
- 1951 (44) "Geothermal energy" means energy contained in heat that continuously flows
- 1952 outward from the earth that is used as the sole source of energy to produce electricity.
- 1953 (45) "Governing board of the agreement" means the governing board of the agreement
- 1954 that is:
- 1955 (a) authorized to administer the agreement; and
- 1956 (b) established in accordance with the agreement.
- 1957 (46) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 1958 (i) the executive branch of the state, including all departments, institutions, boards,
- 1959 divisions, bureaus, offices, commissions, and committees;
- 1960 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 1961 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 1962 (iii) the legislative branch of the state, including the House of Representatives, the
- 1963 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 1964 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 1965 Analyst;
- 1966 (iv) the National Guard;
- 1967 (v) an independent entity as defined in Section 63E-1-102; or

- 1968 (vi) a political subdivision as defined in Section 17B-1-102.
- 1969 (b) "Governmental entity" does not include the state systems of public and higher
1970 education, including:
- 1971 (i) a college campus of the Utah College of Applied Technology;
- 1972 (ii) a school;
- 1973 (iii) the State Board of Education;
- 1974 (iv) the State Board of Regents; or
- 1975 (v) a state institution of higher education as defined in Section 53B-3-102.
- 1976 (47) "Hydroelectric energy" means water used as the sole source of energy to produce
1977 electricity.
- 1978 (48) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
1979 other fuels:
- 1980 (a) in mining or extraction of minerals;
- 1981 (b) in agricultural operations to produce an agricultural product up to the time of
1982 harvest or placing the agricultural product into a storage facility, including:
- 1983 (i) commercial greenhouses;
- 1984 (ii) irrigation pumps;
- 1985 (iii) farm machinery;
- 1986 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1987 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 1988 (v) other farming activities;
- 1989 (c) in manufacturing tangible personal property at an establishment described in SIC
1990 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1991 Executive Office of the President, Office of Management and Budget;
- 1992 (d) by a scrap recycler if:
- 1993 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1994 one or more of the following items into prepared grades of processed materials for use in new
1995 products:
- 1996 (A) iron;
- 1997 (B) steel;
- 1998 (C) nonferrous metal;

1999 (D) paper;
2000 (E) glass;
2001 (F) plastic;
2002 (G) textile; or
2003 (H) rubber; and
2004 (ii) the new products under Subsection (48)(d)(i) would otherwise be made with
2005 nonrecycled materials; or
2006 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
2007 cogeneration facility as defined in Section 54-2-1.
2008 (49) (a) Except as provided in Subsection (49)(b), "installation charge" means a charge
2009 for installing:
2010 (i) tangible personal property; or
2011 (ii) a product transferred electronically.
2012 (b) "Installation charge" does not include a charge for repairs or renovations of:
2013 (i) tangible personal property; or
2014 (ii) a product transferred electronically.
2015 (50) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2016 personal property or a product transferred electronically for:
2017 (i) (A) a fixed term; or
2018 (B) an indeterminate term; and
2019 (ii) consideration.
2020 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2021 amount of consideration may be increased or decreased by reference to the amount realized
2022 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2023 Code.
2024 (c) "Lease" or "rental" does not include:
2025 (i) a transfer of possession or control of property under a security agreement or
2026 deferred payment plan that requires the transfer of title upon completion of the required
2027 payments;
2028 (ii) a transfer of possession or control of property under an agreement that requires the
2029 transfer of title:

- 2030 (A) upon completion of required payments; and
- 2031 (B) if the payment of an option price does not exceed the greater of:
 - 2032 (I) \$100; or
 - 2033 (II) 1% of the total required payments; or
 - 2034 (iii) providing tangible personal property along with an operator for a fixed period of
 - 2035 time or an indeterminate period of time if the operator is necessary for equipment to perform as
 - 2036 designed.
- 2037 (d) For purposes of Subsection (50)(c)(iii), an operator is necessary for equipment to
- 2038 perform as designed if the operator's duties exceed the:
 - 2039 (i) set-up of tangible personal property;
 - 2040 (ii) maintenance of tangible personal property; or
 - 2041 (iii) inspection of tangible personal property.
- 2042 (51) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 2043 if the tangible storage media is not physically transferred to the purchaser.
- 2044 (52) "Local taxing jurisdiction" means a:
 - 2045 (a) county that is authorized to impose an agreement sales and use tax;
 - 2046 (b) city that is authorized to impose an agreement sales and use tax; or
 - 2047 (c) town that is authorized to impose an agreement sales and use tax.
- 2048 (53) "Manufactured home" is as defined in Section 58-56-3.
- 2049 (54) For purposes of Section 59-12-104, "manufacturing facility" means:
 - 2050 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
 - 2051 Industrial Classification Manual of the federal Executive Office of the President, Office of
 - 2052 Management and Budget;
 - 2053 (b) a scrap recycler if:
 - 2054 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 2055 one or more of the following items into prepared grades of processed materials for use in new
 - 2056 products:
 - 2057 (A) iron;
 - 2058 (B) steel;
 - 2059 (C) nonferrous metal;
 - 2060 (D) paper;

- 2061 (E) glass;
- 2062 (F) plastic;
- 2063 (G) textile; or
- 2064 (H) rubber; and
- 2065 (ii) the new products under Subsection (54)(b)(i) would otherwise be made with
- 2066 nonrecycled materials; or
- 2067 (c) a cogeneration facility as defined in Section 54-2-1.
- 2068 (55) "Member of the immediate family of the producer" means a person who is related
- 2069 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2070 (a) child or stepchild, regardless of whether the child or stepchild is:
- 2071 (i) an adopted child or adopted stepchild; or
- 2072 (ii) a foster child or foster stepchild;
- 2073 (b) grandchild or stepgrandchild;
- 2074 (c) grandparent or stepgrandparent;
- 2075 (d) nephew or stepnephew;
- 2076 (e) niece or stepniece;
- 2077 (f) parent or stepparent;
- 2078 (g) sibling or stepsibling;
- 2079 (h) spouse;
- 2080 (i) person who is the spouse of a person described in Subsections (55)(a) through (g);
- 2081 or
- 2082 (j) person similar to a person described in Subsections (55)(a) through (i) as
- 2083 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2084 Administrative Rulemaking Act.
- 2085 (56) "Mobile home" is as defined in Section 58-56-3.
- 2086 (57) "Mobile telecommunications service" is as defined in the Mobile
- 2087 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2088 (58) (a) "Mobile wireless service" means a telecommunications service, regardless of
- 2089 the technology used, if:
- 2090 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2091 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2092 (iii) the origination point described in Subsection (58)(a)(i) and the termination point
2093 described in Subsection (58)(a)(ii) are not fixed.

2094 (b) "Mobile wireless service" includes a telecommunications service that is provided
2095 by a commercial mobile radio service provider.

2096 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2097 commission may by rule define "commercial mobile radio service provider."

2098 (59) (a) Except as provided in Subsection (59)(c), "mobility enhancing equipment"
2099 means equipment that is:

2100 (i) primarily and customarily used to provide or increase the ability to move from one
2101 place to another;

2102 (ii) appropriate for use in a:

2103 (A) home; or

2104 (B) motor vehicle; and

2105 (iii) not generally used by persons with normal mobility.

2106 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2107 the equipment described in Subsection (59)(a).

2108 (c) Notwithstanding Subsection (59)(a), "mobility enhancing equipment" does not
2109 include:

2110 (i) a motor vehicle;

2111 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2112 vehicle manufacturer;

2113 (iii) durable medical equipment; or

2114 (iv) a prosthetic device.

2115 (60) "Model 1 seller" means a seller registered under the agreement that has selected a
2116 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2117 functions for agreement sales and use taxes other than the seller's obligation under Section
2118 59-12-124 to remit a tax on the seller's own purchases.

2119 (61) "Model 2 seller" means a seller registered under the agreement that:

2120 (a) except as provided in Subsection (61)(b), has selected a certified automated system
2121 to perform the seller's sales tax functions for agreement sales and use taxes; and

2122 (b) notwithstanding Subsection (61)(a), retains responsibility for remitting all of the

2123 sales tax:

2124 (i) collected by the seller; and

2125 (ii) to the appropriate local taxing jurisdiction.

2126 (62) (a) Subject to Subsection (62)(b), "model 3 seller" means a seller registered under

2127 the agreement that has:

2128 (i) sales in at least five states that are members of the agreement;

2129 (ii) total annual sales revenues of at least \$500,000,000;

2130 (iii) a proprietary system that calculates the amount of tax:

2131 (A) for an agreement sales and use tax; and

2132 (B) due to each local taxing jurisdiction; and

2133 (iv) entered into a performance agreement with the governing board of the agreement.

2134 (b) For purposes of Subsection (62)(a), "model 3 seller" includes an affiliated group of

2135 sellers using the same proprietary system.

2136 (63) "Model 4 seller" means a seller that is registered under the agreement and is not a

2137 model 1 seller, model 2 seller, or model 3 seller.

2138 (64) "Modular home" means a modular unit as defined in Section 58-56-3.

2139 (65) "Motor vehicle" is as defined in Section 41-1a-102.

2140 (66) "Oil shale" means a group of fine black to dark brown shales containing

2141 bituminous material that yields petroleum upon distillation.

2142 (67) (a) "Other fuels" means products that burn independently to produce heat or

2143 energy.

2144 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible

2145 personal property.

2146 (68) (a) "Paging service" means a telecommunications service that provides

2147 transmission of a coded radio signal for the purpose of activating a specific pager.

2148 (b) For purposes of Subsection (68)(a), the transmission of a coded radio signal

2149 includes a transmission by message or sound.

2150 (69) "Pawnbroker" is as defined in Section 13-32a-102.

2151 (70) "Pawn transaction" is as defined in Section 13-32a-102.

2152 (71) (a) "Permanently attached to real property" means that for tangible personal

2153 property attached to real property:

- 2154 (i) the attachment of the tangible personal property to the real property:
- 2155 (A) is essential to the use of the tangible personal property; and
- 2156 (B) suggests that the tangible personal property will remain attached to the real
- 2157 property in the same place over the useful life of the tangible personal property; or
- 2158 (ii) if the tangible personal property is detached from the real property, the detachment
- 2159 would:
- 2160 (A) cause substantial damage to the tangible personal property; or
- 2161 (B) require substantial alteration or repair of the real property to which the tangible
- 2162 personal property is attached.
- 2163 (b) "Permanently attached to real property" includes:
- 2164 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 2165 (A) essential to the operation of the tangible personal property; and
- 2166 (B) attached only to facilitate the operation of the tangible personal property;
- 2167 (ii) a temporary detachment of tangible personal property from real property for a
- 2168 repair or renovation if the repair or renovation is performed where the tangible personal
- 2169 property and real property are located; or
- 2170 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2171 Subsection (71)(c)(iii) or (iv).
- 2172 (c) "Permanently attached to real property" does not include:
- 2173 (i) the attachment of portable or movable tangible personal property to real property if
- 2174 that portable or movable tangible personal property is attached to real property only for:
- 2175 (A) convenience;
- 2176 (B) stability; or
- 2177 (C) for an obvious temporary purpose;
- 2178 (ii) the detachment of tangible personal property from real property except for the
- 2179 detachment described in Subsection (71)(b)(ii);
- 2180 (iii) an attachment of the following tangible personal property to real property if the
- 2181 attachment to real property is only through a line that supplies water, electricity, gas,
- 2182 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2183 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2184 (A) a computer;

- 2185 (B) a telephone;
- 2186 (C) a television; or
- 2187 (D) tangible personal property similar to Subsections (71)(c)(iii)(A) through (C) as
- 2188 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2189 Administrative Rulemaking Act; or
- 2190 (iv) an item listed in Subsection (111)(c).

2191 (72) "Person" includes any individual, firm, partnership, joint venture, association,

2192 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

2193 municipality, district, or other local governmental entity of the state, or any group or

2194 combination acting as a unit.

2195 (73) "Place of primary use":

2196 (a) for telecommunications service other than mobile telecommunications service,

2197 means the street address representative of where the customer's use of the telecommunications

2198 service primarily occurs, which shall be:

2199 (i) the residential street address of the customer; or

2200 (ii) the primary business street address of the customer; or

2201 (b) for mobile telecommunications service, is as defined in the Mobile

2202 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2203 (74) (a) "Postpaid calling service" means a telecommunications service a person

2204 obtains by making a payment on a call-by-call basis:

2205 (i) through the use of a:

2206 (A) bank card;

2207 (B) credit card;

2208 (C) debit card; or

2209 (D) travel card; or

2210 (ii) by a charge made to a telephone number that is not associated with the origination

2211 or termination of the telecommunications service.

2212 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

2213 service, that would be a prepaid wireless calling service if the service were exclusively a

2214 telecommunications service.

2215 (75) "Postproduction" means an activity related to the finishing or duplication of a

- 2216 medium described in Subsection 59-12-104(54)(a).
- 2217 (76) "Prepaid calling service" means a telecommunications service:
- 2218 (a) that allows a purchaser access to telecommunications service that is exclusively
- 2219 telecommunications service;
- 2220 (b) that:
- 2221 (i) is paid for in advance; and
- 2222 (ii) enables the origination of a call using an:
- 2223 (A) access number; or
- 2224 (B) authorization code;
- 2225 (c) that is dialed:
- 2226 (i) manually; or
- 2227 (ii) electronically; and
- 2228 (d) sold in predetermined units or dollars that decline:
- 2229 (i) by a known amount; and
- 2230 (ii) with use.
- 2231 (77) "Prepaid wireless calling service" means a telecommunications service:
- 2232 (a) that provides the right to utilize:
- 2233 (i) mobile wireless service; and
- 2234 (ii) other service that is not a telecommunications service, including:
- 2235 (A) the download of a product transferred electronically;
- 2236 (B) a content service; or
- 2237 (C) an ancillary service;
- 2238 (b) that:
- 2239 (i) is paid for in advance; and
- 2240 (ii) enables the origination of a call using an:
- 2241 (A) access number; or
- 2242 (B) authorization code;
- 2243 (c) that is dialed:
- 2244 (i) manually; or
- 2245 (ii) electronically; and
- 2246 (d) sold in predetermined units or dollars that decline:

- 2247 (i) by a known amount; and
- 2248 (ii) with use.
- 2249 (78) (a) "Prepared food" means:
- 2250 (i) food:
- 2251 (A) sold in a heated state; or
- 2252 (B) heated by a seller;
- 2253 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2254 item; or
- 2255 (iii) except as provided in Subsection (78)(c), food sold with an eating utensil provided
- 2256 by the seller, including a:
- 2257 (A) plate;
- 2258 (B) knife;
- 2259 (C) fork;
- 2260 (D) spoon;
- 2261 (E) glass;
- 2262 (F) cup;
- 2263 (G) napkin; or
- 2264 (H) straw.
- 2265 (b) "Prepared food" does not include:
- 2266 (i) food that a seller only:
- 2267 (A) cuts;
- 2268 (B) repackages; or
- 2269 (C) pasteurizes; or
- 2270 (ii) (A) the following:
- 2271 (I) raw egg;
- 2272 (II) raw fish;
- 2273 (III) raw meat;
- 2274 (IV) raw poultry; or
- 2275 (V) a food containing an item described in Subsections (78)(b)(ii)(A)(I) through (IV);
- 2276 and
- 2277 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

2278 Food and Drug Administration's Food Code that a consumer cook the items described in
2279 Subsection (78)(b)(ii)(A) to prevent food borne illness; or
2280 (iii) the following if sold without eating utensils provided by the seller:
2281 (A) food and food ingredients sold by a seller if the seller's proper primary
2282 classification under the 2002 North American Industry Classification System of the federal
2283 Executive Office of the President, Office of Management and Budget, is manufacturing in
2284 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
2285 Manufacturing;
2286 (B) food and food ingredients sold in an unheated state:
2287 (I) by weight or volume; and
2288 (II) as a single item; or
2289 (C) a bakery item, including:
2290 (I) a bagel;
2291 (II) a bar;
2292 (III) a biscuit;
2293 (IV) bread;
2294 (V) a bun;
2295 (VI) a cake;
2296 (VII) a cookie;
2297 (VIII) a croissant;
2298 (IX) a danish;
2299 (X) a donut;
2300 (XI) a muffin;
2301 (XII) a pastry;
2302 (XIII) a pie;
2303 (XIV) a roll;
2304 (XV) a tart;
2305 (XVI) a torte; or
2306 (XVII) a tortilla.
2307 (c) Notwithstanding Subsection (78)(a)(iii), an eating utensil provided by the seller
2308 does not include the following used to transport the food:

2309 (i) a container; or
2310 (ii) packaging.
2311 (79) "Prescription" means an order, formula, or recipe that is issued:
2312 (a) (i) orally;
2313 (ii) in writing;
2314 (iii) electronically; or
2315 (iv) by any other manner of transmission; and
2316 (b) by a licensed practitioner authorized by the laws of a state.
2317 (80) (a) Except as provided in Subsection (80)(b)(ii) or (iii), "prewritten computer
2318 software" means computer software that is not designed and developed:
2319 (i) by the author or other creator of the computer software; and
2320 (ii) to the specifications of a specific purchaser.
2321 (b) "Prewritten computer software" includes:
2322 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
2323 software is not designed and developed:
2324 (A) by the author or other creator of the computer software; and
2325 (B) to the specifications of a specific purchaser;
2326 (ii) notwithstanding Subsection (80)(a), computer software designed and developed by
2327 the author or other creator of the computer software to the specifications of a specific purchaser
2328 if the computer software is sold to a person other than the purchaser; or
2329 (iii) notwithstanding Subsection (80)(a) and except as provided in Subsection (80)(c),
2330 prewritten computer software or a prewritten portion of prewritten computer software:
2331 (A) that is modified or enhanced to any degree; and
2332 (B) if the modification or enhancement described in Subsection (80)(b)(iii)(A) is
2333 designed and developed to the specifications of a specific purchaser.
2334 (c) Notwithstanding Subsection (80)(b)(iii), "prewritten computer software" does not
2335 include a modification or enhancement described in Subsection (80)(b)(iii) if the charges for
2336 the modification or enhancement are:
2337 (i) reasonable; and
2338 (ii) separately stated on the invoice or other statement of price provided to the
2339 purchaser.

- 2340 (81) (a) "Private communication service" means a telecommunications service:
2341 (i) that entitles a customer to exclusive or priority use of one or more communications
2342 channels between or among termination points; and
2343 (ii) regardless of the manner in which the one or more communications channels are
2344 connected.
- 2345 (b) "Private communications service" includes the following provided in connection
2346 with the use of one or more communications channels:
2347 (i) an extension line;
2348 (ii) a station;
2349 (iii) switching capacity; or
2350 (iv) another associated service that is provided in connection with the use of one or
2351 more communications channels as defined in Section 59-12-215.
- 2352 (82) (a) "Prosthetic device" means a device that is worn on or in the body to:
2353 (i) artificially replace a missing portion of the body;
2354 (ii) prevent or correct a physical deformity or physical malfunction; or
2355 (iii) support a weak or deformed portion of the body.
- 2356 (b) "Prosthetic device" includes:
2357 (i) parts used in the repairs or renovation of a prosthetic device;
2358 (ii) replacement parts for a prosthetic device;
2359 (iii) a dental prosthesis; or
2360 (iv) a hearing aid.
- 2361 (c) "Prosthetic device" does not include:
2362 (i) corrective eyeglasses; or
2363 (ii) contact lenses.
- 2364 (83) (a) "Protective equipment" means an item:
2365 (i) for human wear; and
2366 (ii) that is:
2367 (A) designed as protection:
2368 (I) to the wearer against injury or disease; or
2369 (II) against damage or injury of other persons or property; and
2370 (B) not suitable for general use.

2371 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2372 commission shall make rules:

- 2373 (i) listing the items that constitute "protective equipment"; and
- 2374 (ii) that are consistent with the list of items that constitute "protective equipment"
2375 under the agreement.

2376 (84) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2377 printed matter, other than a photocopy:

- 2378 (i) regardless of:
 - 2379 (A) characteristics;
 - 2380 (B) copyright;
 - 2381 (C) form;
 - 2382 (D) format;
 - 2383 (E) method of reproduction; or
 - 2384 (F) source; and
- 2385 (ii) made available in printed or electronic format.

2386 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2387 commission may by rule define the term "photocopy."

2388 (85) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 2389 (i) valued in money; and
- 2390 (ii) for which tangible personal property, a product transferred electronically, or
2391 services are:

- 2392 (A) sold;
- 2393 (B) leased; or
- 2394 (C) rented.

2395 (b) "Purchase price" and "sales price" include:

2396 (i) the seller's cost of the tangible personal property, a product transferred
2397 electronically, or services sold;

2398 (ii) expenses of the seller, including:

- 2399 (A) the cost of materials used;
- 2400 (B) a labor cost;
- 2401 (C) a service cost;

- 2402 (D) interest;
- 2403 (E) a loss;
- 2404 (F) the cost of transportation to the seller; or
- 2405 (G) a tax imposed on the seller;
- 2406 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2407 (iv) consideration a seller receives from a person other than the purchaser if:
- 2408 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2409 and
- 2410 (II) the consideration described in Subsection (85)(b)(iv)(A)(I) is directly related to a
- 2411 price reduction or discount on the sale;
- 2412 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2413 purchaser;
- 2414 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2415 the seller at the time of the sale to the purchaser; and
- 2416 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2417 seller to claim a price reduction or discount; and
- 2418 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2419 coupon, or other documentation with the understanding that the person other than the seller
- 2420 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2421 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2422 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2423 available to any patron of a seller does not constitute membership in a group or organization
- 2424 allowed a price reduction or discount; or
- 2425 (III) the price reduction or discount is identified as a third party price reduction or
- 2426 discount on the:
- 2427 (Aa) invoice the purchaser receives; or
- 2428 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2429 (c) "Purchase price" and "sales price" do not include:
- 2430 (i) a discount:
- 2431 (A) in a form including:
- 2432 (I) cash;

- 2433 (II) term; or
- 2434 (III) coupon;
- 2435 (B) that is allowed by a seller;
- 2436 (C) taken by a purchaser on a sale; and
- 2437 (D) that is not reimbursed by a third party; or
- 2438 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 2439 provided to the purchaser:
- 2440 (A) the following from credit extended on the sale of tangible personal property or
- 2441 services:
- 2442 (I) a carrying charge;
- 2443 (II) a financing charge; or
- 2444 (III) an interest charge;
- 2445 (B) a delivery charge;
- 2446 (C) an installation charge;
- 2447 (D) a manufacturer rebate on a motor vehicle; or
- 2448 (E) a tax or fee legally imposed directly on the consumer.
- 2449 (86) "Purchaser" means a person to whom:
- 2450 (a) a sale of tangible personal property is made;
- 2451 (b) a product is transferred electronically; or
- 2452 (c) a service is furnished.
- 2453 (87) "Regularly rented" means:
- 2454 (a) rented to a guest for value three or more times during a calendar year; or
- 2455 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 2456 value.
- 2457 (88) "Renewable energy" means:
- 2458 (a) biomass energy;
- 2459 (b) hydroelectric energy;
- 2460 (c) geothermal energy;
- 2461 (d) solar energy; or
- 2462 (e) wind energy.
- 2463 (89) (a) "Renewable energy production facility" means a facility that:

- 2464 (i) uses renewable energy to produce electricity; and
- 2465 (ii) has a production capacity of 20 kilowatts or greater.
- 2466 (b) A facility is a renewable energy production facility regardless of whether the
- 2467 facility is:
 - 2468 (i) connected to an electric grid; or
 - 2469 (ii) located on the premises of an electricity consumer.
- 2470 (90) "Rental" is as defined in Subsection (50).
- 2471 (91) "Repairs or renovations of tangible personal property" means:
 - 2472 (a) a repair or renovation of tangible personal property that is not permanently attached
 - 2473 to real property; or
 - 2474 (b) attaching tangible personal property or a product that is transferred electronically to
 - 2475 other tangible personal property if the other tangible personal property to which the tangible
 - 2476 personal property or product that is transferred electronically is attached is not permanently
 - 2477 attached to real property.
- 2478 (92) "Research and development" means the process of inquiry or experimentation
- 2479 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 2480 preparing those devices, technologies, or applications for marketing.
- 2481 (93) (a) "Residential telecommunications services" means a telecommunications
- 2482 service or an ancillary service that is provided to an individual for personal use:
 - 2483 (i) at a residential address; or
 - 2484 (ii) at an institution, including a nursing home or a school, if the telecommunications
 - 2485 service or ancillary service is provided to and paid for by the individual residing at the
 - 2486 institution rather than the institution.
- 2487 (b) For purposes of Subsection (93)(a), a residential address includes an:
 - 2488 (i) apartment; or
 - 2489 (ii) other individual dwelling unit.
- 2490 (94) "Residential use" means the use in or around a home, apartment building, sleeping
- 2491 quarters, and similar facilities or accommodations.
- 2492 (95) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 2493 than:
 - 2494 (a) resale;

2495 (b) sublease; or

2496 (c) subrent.

2497 (96) (a) "Retailer" means any person engaged in a regularly organized business in
2498 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2499 who is selling to the user or consumer and not for resale.

2500 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2501 engaged in the business of selling to users or consumers within the state.

2502 (97) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2503 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2504 Subsection 59-12-103(1), for consideration.

2505 (b) "Sale" includes:

2506 (i) installment and credit sales;

2507 (ii) any closed transaction constituting a sale;

2508 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2509 chapter;

2510 (iv) any transaction if the possession of property is transferred but the seller retains the
2511 title as security for the payment of the price; and

2512 (v) any transaction under which right to possession, operation, or use of any article of
2513 tangible personal property is granted under a lease or contract and the transfer of possession
2514 would be taxable if an outright sale were made.

2515 (98) "Sale at retail" is as defined in Subsection (95).

2516 (99) "Sale-leaseback transaction" means a transaction by which title to tangible
2517 personal property or a product transferred electronically that is subject to a tax under this
2518 chapter is transferred:

2519 (a) by a purchaser-lessee;

2520 (b) to a lessor;

2521 (c) for consideration; and

2522 (d) if:

2523 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2524 of the tangible personal property or product transferred electronically;

2525 (ii) the sale of the tangible personal property or product transferred electronically to the

2526 lessor is intended as a form of financing:

2527 (A) for the tangible personal property or product transferred electronically; and

2528 (B) to the purchaser-lessee; and

2529 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2530 is required to:

2531 (A) capitalize the tangible personal property or product transferred electronically for

2532 financial reporting purposes; and

2533 (B) account for the lease payments as payments made under a financing arrangement.

2534 (100) "Sales price" is as defined in Subsection (85).

2535 (101) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2536 amounts charged by a school:

2537 (i) sales that are directly related to the school's educational functions or activities

2538 including:

2539 (A) the sale of:

2540 (I) textbooks;

2541 (II) textbook fees;

2542 (III) laboratory fees;

2543 (IV) laboratory supplies; or

2544 (V) safety equipment;

2545 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

2546 that:

2547 (I) a student is specifically required to wear as a condition of participation in a

2548 school-related event or school-related activity; and

2549 (II) is not readily adaptable to general or continued usage to the extent that it takes the

2550 place of ordinary clothing;

2551 (C) sales of the following if the net or gross revenues generated by the sales are

2552 deposited into a school district fund or school fund dedicated to school meals:

2553 (I) food and food ingredients; or

2554 (II) prepared food; or

2555 (D) transportation charges for official school activities; or

2556 (ii) amounts paid to or amounts charged by a school for admission to a school-related

2557 event or school-related activity.

2558 (b) "Sales relating to schools" does not include:

2559 (i) bookstore sales of items that are not educational materials or supplies;

2560 (ii) except as provided in Subsection (101)(a)(i)(B):

2561 (A) clothing;

2562 (B) clothing accessories or equipment;

2563 (C) protective equipment; or

2564 (D) sports or recreational equipment; or

2565 (iii) amounts paid to or amounts charged by a school for admission to a school-related

2566 event or school-related activity if the amounts paid or charged are passed through to a person:

2567 (A) other than a:

2568 (I) school;

2569 (II) nonprofit organization authorized by a school board or a governing body of a

2570 private school to organize and direct a competitive secondary school activity; or

2571 (III) nonprofit association authorized by a school board or a governing body of a

2572 private school to organize and direct a competitive secondary school activity; and

2573 (B) that is required to collect sales and use taxes under this chapter.

2574 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2575 commission may make rules defining the term "passed through."

2576 (102) For purposes of this section and Section 59-12-104, "school":

2577 (a) means:

2578 (i) an elementary school or a secondary school that:

2579 (A) is a:

2580 (I) public school; or

2581 (II) private school; and

2582 (B) provides instruction for one or more grades kindergarten through 12; or

2583 (ii) a public school district; and

2584 (b) includes the Electronic High School as defined in Section 53A-15-1002.

2585 (103) "Seller" means a person that makes a sale, lease, or rental of:

2586 (a) tangible personal property;

2587 (b) a product transferred electronically; or

- 2588 (c) a service.
- 2589 (104) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2590 means tangible personal property or a product transferred electronically if the tangible personal
- 2591 property or product transferred electronically is:
 - 2592 (i) used primarily in the process of:
 - 2593 (A) (I) manufacturing a semiconductor;
 - 2594 (II) fabricating a semiconductor; or
 - 2595 (III) research or development of a:
 - 2596 (Aa) semiconductor; or
 - 2597 (Bb) semiconductor manufacturing process; or
 - 2598 (B) maintaining an environment suitable for a semiconductor; or
 - 2599 (ii) consumed primarily in the process of:
 - 2600 (A) (I) manufacturing a semiconductor;
 - 2601 (II) fabricating a semiconductor; or
 - 2602 (III) research or development of a:
 - 2603 (Aa) semiconductor; or
 - 2604 (Bb) semiconductor manufacturing process; or
 - 2605 (B) maintaining an environment suitable for a semiconductor.
- 2606 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2607 includes:
 - 2608 (i) parts used in the repairs or renovations of tangible personal property or a product
 - 2609 transferred electronically described in Subsection (104)(a); or
 - 2610 (ii) a chemical, catalyst, or other material used to:
 - 2611 (A) produce or induce in a semiconductor a:
 - 2612 (I) chemical change; or
 - 2613 (II) physical change;
 - 2614 (B) remove impurities from a semiconductor; or
 - 2615 (C) improve the marketable condition of a semiconductor.
- 2616 (105) "Senior citizen center" means a facility having the primary purpose of providing
- 2617 services to the aged as defined in Section 62A-3-101.
- 2618 (106) "Simplified electronic return" means the electronic return:

- 2619 (a) described in Section 318(C) of the agreement; and
- 2620 (b) approved by the governing board of the agreement.
- 2621 (107) "Solar energy" means the sun used as the sole source of energy for producing
- 2622 electricity.
- 2623 (108) (a) "Sports or recreational equipment" means an item:
- 2624 (i) designed for human use; and
- 2625 (ii) that is:
- 2626 (A) worn in conjunction with:
- 2627 (I) an athletic activity; or
- 2628 (II) a recreational activity; and
- 2629 (B) not suitable for general use.
- 2630 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2631 commission shall make rules:
- 2632 (i) listing the items that constitute "sports or recreational equipment"; and
- 2633 (ii) that are consistent with the list of items that constitute "sports or recreational
- 2634 equipment" under the agreement.
- 2635 (109) "State" means the state of Utah, its departments, and agencies.
- 2636 (110) "Storage" means any keeping or retention of tangible personal property or any
- 2637 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 2638 sale in the regular course of business.
- 2639 (111) (a) Except as provided in Subsection (111)(d) or (e), "tangible personal property"
- 2640 means personal property that:
- 2641 (i) may be:
- 2642 (A) seen;
- 2643 (B) weighed;
- 2644 (C) measured;
- 2645 (D) felt; or
- 2646 (E) touched; or
- 2647 (ii) is in any manner perceptible to the senses.
- 2648 (b) "Tangible personal property" includes:
- 2649 (i) electricity;

- 2650 (ii) water;
- 2651 (iii) gas;
- 2652 (iv) steam; or
- 2653 (v) prewritten computer software.

2654 (c) "Tangible personal property" includes the following regardless of whether the item
2655 is attached to real property:

- 2656 (i) a dishwasher;
- 2657 (ii) a dryer;
- 2658 (iii) a freezer;
- 2659 (iv) a microwave;
- 2660 (v) a refrigerator;
- 2661 (vi) a stove;
- 2662 (vii) a washer; or
- 2663 (viii) an item similar to Subsections (111)(c)(i) through (vii) as determined by the
2664 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2665 Rulemaking Act.

2666 (d) "Tangible personal property" does not include a product that is transferred
2667 electronically.

2668 (e) "Tangible personal property" does not include the following if attached to real
2669 property, regardless of whether the attachment to real property is only through a line that
2670 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2671 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2672 Rulemaking Act:

- 2673 (i) a hot water heater;
- 2674 (ii) a water filtration system; or
- 2675 (iii) a water softener system.

2676 (112) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
2677 and require further processing other than mechanical blending before becoming finished
2678 petroleum products.

2679 (113) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2680 software" means an item listed in Subsection (113)(b) if that item is purchased or leased

2681 primarily to enable or facilitate one or more of the following to function:

2682 (i) telecommunications switching or routing equipment, machinery, or software; or

2683 (ii) telecommunications transmission equipment, machinery, or software.

2684 (b) The following apply to Subsection (113)(a):

2685 (i) a pole;

2686 (ii) software;

2687 (iii) a supplementary power supply;

2688 (iv) temperature or environmental equipment or machinery;

2689 (v) test equipment;

2690 (vi) a tower; or

2691 (vii) equipment, machinery, or software that functions similarly to an item listed in

2692 Subsections (113)(b)(i) through (vi) as determined by the commission by rule made in

2693 accordance with Subsection (113)(c).

2694 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2695 commission may by rule define what constitutes equipment, machinery, or software that

2696 functions similarly to an item listed in Subsections (113)(b)(i) through (vi).

2697 (114) "Telecommunications equipment, machinery, or software required for 911

2698 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

2699 Sec. 20.18.

2700 (115) "Telecommunications maintenance or repair equipment, machinery, or software"

2701 means equipment, machinery, or software purchased or leased primarily to maintain or repair

2702 one or more of the following, regardless of whether the equipment, machinery, or software is

2703 purchased or leased as a spare part or as an upgrade or modification to one or more of the

2704 following:

2705 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2706 (b) telecommunications switching or routing equipment, machinery, or software; or

2707 (c) telecommunications transmission equipment, machinery, or software.

2708 (116) (a) "Telecommunications service" means the electronic conveyance, routing, or

2709 transmission of audio, data, video, voice, or any other information or signal to a point, or

2710 among or between points.

2711 (b) "Telecommunications service" includes:

- 2712 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2713 processing application is used to act:
- 2714 (A) on the code, form, or protocol of the content;
 - 2715 (B) for the purpose of electronic conveyance, routing, or transmission; and
 - 2716 (C) regardless of whether the service:
 - 2717 (I) is referred to as voice over Internet protocol service; or
 - 2718 (II) is classified by the Federal Communications Commission as enhanced or value
2719 added;
 - 2720 (ii) an 800 service;
 - 2721 (iii) a 900 service;
 - 2722 (iv) a fixed wireless service;
 - 2723 (v) a mobile wireless service;
 - 2724 (vi) a postpaid calling service;
 - 2725 (vii) a prepaid calling service;
 - 2726 (viii) a prepaid wireless calling service; or
 - 2727 (ix) a private communications service.
 - 2728 (c) "Telecommunications service" does not include:
 - 2729 (i) advertising, including directory advertising;
 - 2730 (ii) an ancillary service;
 - 2731 (iii) a billing and collection service provided to a third party;
 - 2732 (iv) a data processing and information service if:
 - 2733 (A) the data processing and information service allows data to be:
 - 2734 (I) (Aa) acquired;
 - 2735 (Bb) generated;
 - 2736 (Cc) processed;
 - 2737 (Dd) retrieved; or
 - 2738 (Ee) stored; and
 - 2739 (II) delivered by an electronic transmission to a purchaser; and
 - 2740 (B) the purchaser's primary purpose for the underlying transaction is the processed data
2741 or information;
 - 2742 (v) installation or maintenance of the following on a customer's premises:

- 2743 (A) equipment; or
- 2744 (B) wiring;
- 2745 (vi) Internet access service;
- 2746 (vii) a paging service;
- 2747 (viii) a product transferred electronically, including:
 - 2748 (A) music;
 - 2749 (B) reading material;
 - 2750 (C) a ring tone;
 - 2751 (D) software; or
 - 2752 (E) video;
 - 2753 (ix) a radio and television audio and video programming service:
 - 2754 (A) regardless of the medium; and
 - 2755 (B) including:
 - 2756 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 2757 programming service by a programming service provider;
 - 2758 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 2759 (III) audio and video programming services delivered by a commercial mobile radio
 - 2760 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 2761 (x) a value-added nonvoice data service; or
 - 2762 (xi) tangible personal property.
 - 2763 (117) (a) "Telecommunications service provider" means a person that:
 - 2764 (i) owns, controls, operates, or manages a telecommunications service; and
 - 2765 (ii) engages in an activity described in Subsection (117)(a)(i) for the shared use with or
 - 2766 resale to any person of the telecommunications service.
 - 2767 (b) A person described in Subsection (117)(a) is a telecommunications service provider
 - 2768 whether or not the Public Service Commission of Utah regulates:
 - 2769 (i) that person; or
 - 2770 (ii) the telecommunications service that the person owns, controls, operates, or
 - 2771 manages.
 - 2772 (118) (a) "Telecommunications switching or routing equipment, machinery, or
 - 2773 software" means an item listed in Subsection (118)(b) if that item is purchased or leased

2774 primarily for switching or routing:

- 2775 (i) an ancillary service;
- 2776 (ii) data communications;
- 2777 (iii) voice communications; or
- 2778 (iv) telecommunications service.

2779 (b) The following apply to Subsection (118)(a):

- 2780 (i) a bridge;
- 2781 (ii) a computer;
- 2782 (iii) a cross connect;
- 2783 (iv) a modem;
- 2784 (v) a multiplexer;
- 2785 (vi) plug in circuitry;
- 2786 (vii) a router;
- 2787 (viii) software;
- 2788 (ix) a switch; or

2789 (x) equipment, machinery, or software that functions similarly to an item listed in
2790 Subsections (118)(b)(i) through (ix) as determined by the commission by rule made in
2791 accordance with Subsection (118)(c).

2792 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2793 commission may by rule define what constitutes equipment, machinery, or software that
2794 functions similarly to an item listed in Subsections (118)(b)(i) through (ix).

2795 (119) (a) "Telecommunications transmission equipment, machinery, or software"
2796 means an item listed in Subsection (119)(b) if that item is purchased or leased primarily for
2797 sending, receiving, or transporting:

- 2798 (i) an ancillary service;
- 2799 (ii) data communications;
- 2800 (iii) voice communications; or
- 2801 (iv) telecommunications service.

2802 (b) The following apply to Subsection (119)(a):

- 2803 (i) an amplifier;
- 2804 (ii) a cable;

- 2805 (iii) a closure;
- 2806 (iv) a conduit;
- 2807 (v) a controller;
- 2808 (vi) a duplexer;
- 2809 (vii) a filter;
- 2810 (viii) an input device;
- 2811 (ix) an input/output device;
- 2812 (x) an insulator;
- 2813 (xi) microwave machinery or equipment;
- 2814 (xii) an oscillator;
- 2815 (xiii) an output device;
- 2816 (xiv) a pedestal;
- 2817 (xv) a power converter;
- 2818 (xvi) a power supply;
- 2819 (xvii) a radio channel;
- 2820 (xviii) a radio receiver;
- 2821 (xix) a radio transmitter;
- 2822 (xx) a repeater;
- 2823 (xxi) software;
- 2824 (xxii) a terminal;
- 2825 (xxiii) a timing unit;
- 2826 (xxiv) a transformer;
- 2827 (xxv) a wire; or
- 2828 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2829 Subsections (119)(b)(i) through (xxv) as determined by the commission by rule made in
- 2830 accordance with Subsection (119)(c).

2831 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2832 commission may by rule define what constitutes equipment, machinery, or software that
2833 functions similarly to an item listed in Subsections (119)(b)(i) through (xxv).

2834 (120) "Tobacco" means:

- 2835 (a) a cigarette;

- 2836 (b) a cigar;
- 2837 (c) chewing tobacco;
- 2838 (d) pipe tobacco; or
- 2839 (e) any other item that contains tobacco.

2840 (121) "Unassisted amusement device" means an amusement device, skill device, or
2841 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2842 the amusement device, skill device, or ride device.

2843 (122) (a) "Use" means the exercise of any right or power over tangible personal
2844 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2845 incident to the ownership or the leasing of that tangible personal property, product transferred
2846 electronically, or service.

2847 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2848 property, a product transferred electronically, or a service in the regular course of business and
2849 held for resale.

2850 (123) "Value-added nonvoice data service" means a service:

2851 (a) that otherwise meets the definition of a telecommunications service except that a
2852 computer processing application is used to act primarily for a purpose other than conveyance,
2853 routing, or transmission; and

2854 (b) with respect to which a computer processing application is used to act on data or
2855 information:

- 2856 (i) code;
- 2857 (ii) content;
- 2858 (iii) form; or
- 2859 (iv) protocol.

2860 (124) (a) Subject to Subsection (124)(b), "vehicle" means the following that are
2861 required to be titled, registered, or titled and registered:

- 2862 (i) an aircraft as defined in Section 72-10-102;
- 2863 (ii) a vehicle as defined in Section 41-1a-102;
- 2864 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2865 (iv) a vessel as defined in Section 41-1a-102.

2866 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2867 (i) a vehicle described in Subsection (124)(a); or
- 2868 (ii) (A) a locomotive;
- 2869 (B) a freight car;
- 2870 (C) railroad work equipment; or
- 2871 (D) other railroad rolling stock.
- 2872 (125) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 2873 exchanging a vehicle as defined in Subsection (124).
- 2874 (126) (a) "Vertical service" means an ancillary service that:
- 2875 (i) is offered in connection with one or more telecommunications services; and
- 2876 (ii) offers an advanced calling feature that allows a customer to:
- 2877 (A) identify a caller; and
- 2878 (B) manage multiple calls and call connections.
- 2879 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2880 conference bridging service.
- 2881 (127) (a) "Voice mail service" means an ancillary service that enables a customer to
- 2882 receive, send, or store a recorded message.
- 2883 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2884 to have in order to utilize a voice mail service.
- 2885 (128) (a) Except as provided in Subsection (128)(b), "waste energy facility" means a
- 2886 facility that generates electricity:
- 2887 (i) using as the primary source of energy waste materials that would be placed in a
- 2888 landfill or refuse pit if it were not used to generate electricity, including:
- 2889 (A) tires;
- 2890 (B) waste coal; or
- 2891 (C) oil shale; and
- 2892 (ii) in amounts greater than actually required for the operation of the facility.
- 2893 (b) "Waste energy facility" does not include a facility that incinerates:
- 2894 (i) municipal solid waste;
- 2895 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 2896 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2897 (129) "Watercraft" means a vessel as defined in Section 73-18-2.

2898 (130) "Wind energy" means wind used as the sole source of energy to produce
2899 electricity.

2900 (131) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2901 location by the United States Postal Service.

2902 Section 20. Section **59-12-103** is amended to read:

2903 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2904 **tax revenues.**

2905 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2906 charged for the following transactions:

2907 (a) retail sales of tangible personal property made within the state;

2908 (b) amounts paid for:

2909 (i) telecommunications service, other than mobile telecommunications service, that
2910 originates and terminates within the boundaries of this state;

2911 (ii) mobile telecommunications service that originates and terminates within the
2912 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2913 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2914 (iii) an ancillary service associated with a:

2915 (A) telecommunications service described in Subsection (1)(b)(i); or

2916 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2917 (c) sales of the following for commercial use:

2918 (i) gas;

2919 (ii) electricity;

2920 (iii) heat;

2921 (iv) coal;

2922 (v) fuel oil; or

2923 (vi) other fuels;

2924 (d) sales of the following for residential use:

2925 (i) gas;

2926 (ii) electricity;

2927 (iii) heat;

2928 (iv) coal;

- 2929 (v) fuel oil; or
- 2930 (vi) other fuels;
- 2931 (e) sales of prepared food;
- 2932 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2933 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2934 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2935 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2936 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2937 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2938 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2939 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2940 exhibition, cultural, or athletic activity;
- 2941 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2942 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2943 (i) the tangible personal property; and
- 2944 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2945 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 2946 of that tangible personal property;
- 2947 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 2948 assisted cleaning or washing of tangible personal property;
- 2949 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2950 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2951 (j) amounts paid or charged for laundry or dry cleaning services;
- 2952 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2953 this state the tangible personal property is:
- 2954 (i) stored;
- 2955 (ii) used; or
- 2956 (iii) otherwise consumed;
- 2957 (l) amounts paid or charged for tangible personal property if within this state the
- 2958 tangible personal property is:
- 2959 (i) stored;

2960 (ii) used; or

2961 (iii) consumed; and

2962 (m) amounts paid or charged for a sale:

2963 (i) (A) of a product that:

2964 (I) is transferred electronically; and

2965 (II) would be subject to a tax under this chapter if the product was transferred in a

2966 manner other than electronically; or

2967 (B) of a repair or renovation of a product that:

2968 (I) is transferred electronically; and

2969 (II) would be subject to a tax under this chapter if the product was transferred in a

2970 manner other than electronically; and

2971 (ii) regardless of whether the sale provides:

2972 (A) a right of permanent use of the product; or

2973 (B) a right to use the product that is less than a permanent use, including a right:

2974 (I) for a definite or specified length of time; and

2975 (II) that terminates upon the occurrence of a condition.

2976 (2) (a) Except as provided in [~~Subsections (2)(b) through (e)~~] Subsection (2)(b) or (c),

2977 a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the

2978 sum of:

2979 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2980 (A) 4.70%; and

2981 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

2982 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2983 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

2984 State Sales and Use Tax Act; and

2985 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

2986 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2987 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

2988 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2989 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

2990 transaction under this chapter other than this part.

2991 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c) or (d), a state tax and a local tax
2992 is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2993 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2994 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2995 transaction under this chapter other than this part.

2996 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
2997 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

2998 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2999 a tax rate of 1.75%; and]~~

3000 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3001 amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

3002 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and
3003 tangible personal property other than food and food ingredients, a state tax and a local tax is
3004 imposed on the entire bundled transaction equal to the sum of:]~~

3005 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

3006 ~~[(f) the tax rate described in Subsection (2)(a)(i)(A); and]~~

3007 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3008 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3009 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3010 Additional State Sales and Use Tax Act; and]~~

3011 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3012 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3013 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3014 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

3015 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3016 described in Subsection (2)(a)(ii).]~~

3017 ~~[(ii) (c) (i) Subject to Subsection (2)~~[(d)(iii)]~~(c)(ii), for a bundled transaction ~~[other
3018 than a bundled transaction described in Subsection (2)(d)(i)]:~~~~

3019 (A) if the sales price of the bundled transaction is attributable to tangible personal
3020 property, a product, or a service that is subject to taxation under this chapter and tangible
3021 personal property, a product, or service that is not subject to taxation under this chapter, the

3022 entire bundled transaction is subject to taxation under this chapter unless:

3023 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3024 personal property, product, or service that is not subject to taxation under this chapter from the
3025 books and records the seller keeps in the seller's regular course of business; or

3026 (II) state or federal law provides otherwise; or

3027 (B) if the sales price of a bundled transaction is attributable to two or more items of
3028 tangible personal property, products, or services that are subject to taxation under this chapter
3029 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3030 higher tax rate unless:

3031 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3032 personal property, product, or service that is subject to taxation under this chapter at the lower
3033 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3034 (II) state or federal law provides otherwise.

3035 ~~[(iii)]~~ (ii) For purposes of Subsection (2)~~[(d)(ii)]~~(c)(i), books and records that a seller
3036 keeps in the seller's regular course of business includes books and records the seller keeps in
3037 the regular course of business for nontax purposes.

3038 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f) and (g)]~~(e) and (f), a tax rate repeal or tax rate
3039 change for a tax rate imposed under the following shall take effect on the first day of a calendar
3040 quarter:

3041 (i) Subsection (2)(a)(i)(A); or

3042 (ii) Subsection (2)(b)(i)~~[:]~~.

3043 ~~[(iii) Subsection (2)(c)(i); or]~~

3044 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

3045 ~~[(f)]~~ (e) (i) A tax rate increase shall take effect on the first day of the first billing period
3046 that begins after the effective date of the tax rate increase if the billing period for the
3047 transaction begins before the effective date of a tax rate increase imposed under:

3048 (A) Subsection (2)(a)(i)(A); or

3049 (B) Subsection (2)(b)(i)~~[:]~~.

3050 ~~[(C) Subsection (2)(c)(i); or]~~

3051 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

3052 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3053 billing period that began before the effective date of the repeal of the tax or the tax rate
 3054 decrease if the billing period for the transaction begins before the effective date of the repeal of
 3055 the tax or the tax rate decrease imposed under:

3056 (A) Subsection (2)(a)(i)(A); or

3057 (B) Subsection (2)(b)(i)[~~;~~].

3058 [~~(C) Subsection (2)(c)(i); or~~]

3059 [~~(D) Subsection (2)(d)(i)(A)(I);~~]

3060 [~~(g)~~] (f) (i) For a tax rate described in Subsection (2)[~~(g)~~](f)(ii), if a tax due on a
 3061 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 3062 tax rate repeal or change in a tax rate takes effect:

3063 (A) on the first day of a calendar quarter; and

3064 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3065 (ii) Subsection (2)[~~(g)~~](f)(i) applies to the tax rates described in the following:

3066 (A) Subsection (2)(a)(i)(A); or

3067 (B) Subsection (2)(b)(i)[~~;~~].

3068 [~~(C) Subsection (2)(c)(i); or~~]

3069 [~~(D) Subsection (2)(d)(i)(A)(I);~~]

3070 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 3071 the commission may by rule define the term "catalogue sale."

3072 (3) (a) The following state taxes shall be deposited into the General Fund:

3073 (i) the tax imposed by Subsection (2)(a)(i)(A); and

3074 (ii) the tax imposed by Subsection (2)(b)(i)[~~;~~].

3075 [~~(iii) the tax imposed by Subsection (2)(c)(i); or~~]

3076 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I);~~]

3077 (b) The following local taxes shall be distributed to a county, city, or town as provided
 3078 in this chapter:

3079 (i) the tax imposed by Subsection (2)(a)(ii); and

3080 (ii) the tax imposed by Subsection (2)(b)(ii)[~~;~~].

3081 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]

3082 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B);~~]

3083 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

3084 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
3085 through (g):

3086 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
3087 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
3088 (B) for the fiscal year; or
3089 (ii) \$17,500,000.

3090 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3091 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3092 Department of Natural Resources to:

3093 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3094 protect sensitive plant and animal species; or
3095 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3096 act, to political subdivisions of the state to implement the measures described in Subsections
3097 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3098 (ii) Money transferred to the Department of Natural Resources under Subsection
3099 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3100 person to list or attempt to have listed a species as threatened or endangered under the
3101 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3102 (iii) At the end of each fiscal year:

3103 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3104 Conservation and Development Fund created in Section 73-10-24;

3105 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3106 Program Subaccount created in Section 73-10c-5; and

3107 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3108 Program Subaccount created in Section 73-10c-5.

3109 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3110 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3111 created in Section 4-18-6.

3112 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3113 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3114 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

3115 water rights.

3116 (ii) At the end of each fiscal year:

3117 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3118 Conservation and Development Fund created in Section 73-10-24;

3119 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3120 Program Subaccount created in Section 73-10c-5; and

3121 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3122 Program Subaccount created in Section 73-10c-5.

3123 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3124 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3125 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3126 (ii) In addition to the uses allowed of the Water Resources Conservation and
3127 Development Fund under Section 73-10-24, the Water Resources Conservation and
3128 Development Fund may also be used to:

3129 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3130 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3131 quantifying surface and ground water resources and describing the hydrologic systems of an
3132 area in sufficient detail so as to enable local and state resource managers to plan for and
3133 accommodate growth in water use without jeopardizing the resource;

3134 (B) fund state required dam safety improvements; and

3135 (C) protect the state's interest in interstate water compact allocations, including the
3136 hiring of technical and legal staff.

3137 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3138 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3139 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3140 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3141 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3142 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3143 (i) provide for the installation and repair of collection, treatment, storage, and
3144 distribution facilities for any public water system, as defined in Section 19-4-102;

3145 (ii) develop underground sources of water, including springs and wells; and

3146 (iii) develop surface water sources.

3147 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3148 2006, the difference between the following amounts shall be expended as provided in this
3149 Subsection (5), if that difference is greater than \$1:

3150 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3151 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
3152 (ii) \$17,500,000.

3153 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3154 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3155 credits; and
3156 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3157 restoration.

3158 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3159 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3160 created in Section 73-10-24.

3161 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3162 remaining difference described in Subsection (5)(a) shall be:

3163 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3164 credits; and
3165 (B) expended by the Division of Water Resources for cloud-seeding projects
3166 authorized by Title 73, Chapter 15, Modification of Weather.

3167 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3168 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3169 created in Section 73-10-24.

3170 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3171 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3172 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3173 Division of Water Resources for:

3174 (i) preconstruction costs:

3175 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3176 26, Bear River Development Act; and

3177 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3178 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3179 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3180 Chapter 26, Bear River Development Act;

3181 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3182 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3183 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3184 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3185 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
3186 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

3187 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
3188 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
3189 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3190 incurred for employing additional technical staff for the administration of water rights.

3191 (g) At the end of each fiscal year, any unexpended dedicated credits described in
3192 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
3193 Fund created in Section 73-10-24.

3194 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3195 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3196 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3197 the Transportation Fund created by Section 72-2-102.

3198 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
3199 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
3200 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
3201 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
3202 transactions under Subsection (1).

3203 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
3204 have been paid off and the highway projects completed that are intended to be paid from
3205 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
3206 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
3207 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section

3208 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
 3209 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3210 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in
 3211 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into
 3212 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the
 3213 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the
 3214 following taxes, which represents a portion of the approximately 17% of sales and use tax
 3215 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

3216 (i) the tax imposed by Subsection (2)(a)(i)(A); and

3217 (ii) the tax imposed by Subsection (2)(b)(i)[;].

3218 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

3219 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).~~]

3220 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
 3221 Subsection (7)(a), and until Subsection (8)(c) applies, for a fiscal year beginning on or after
 3222 July 1, 2011, the Division of Finance shall deposit into the Centennial Highway Fund
 3223 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
 3224 (3)(a) equal to [~~8.3%~~] 7.6% of the revenues collected from the following taxes, which
 3225 represents a portion of the approximately 17% of sales and use tax revenues generated annually
 3226 by the sales and use tax on vehicles and vehicle-related products:

3227 (i) the tax imposed by Subsection (2)(a)(i)(A); and

3228 (ii) the tax imposed by Subsection (2)(b)(i)[;].

3229 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

3230 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).~~]

3231 (c) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
 3232 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
 3233 highway projects completed that are intended to be paid from revenues deposited in the
 3234 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
 3235 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
 3236 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
 3237 listed under Subsection (3)(a) equal to [~~8.3%~~] 7.6% of the revenues collected from the
 3238 following taxes, which represents a portion of the approximately 17% of sales and use tax

3239 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

3240 (i) the tax imposed by Subsection (2)(a)(i)(A); and

3241 (ii) the tax imposed by Subsection (2)(b)(i)[;].

3242 [~~(iii) the tax imposed by Subsection (2)(c)(i); and~~]

3243 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

3244 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
3245 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
3246 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

3247 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
3248 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit
3249 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
3250 Critical Highway Needs Fund created by Section 72-2-125.

3251 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
3252 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
3253 have been paid off and the highway projects completed that are included in the prioritized
3254 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
3255 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
3256 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
3257 of 2005 created by Section 72-2-124.

3258 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3259 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3260 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

3261 (11) (a) [(†)] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~
3262 ~~(11)(a)(ii), and~~] until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
3263 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
3264 amount of tax revenue generated by a .025% tax rate on the transactions described in
3265 Subsection (1).

3266 [~~(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit~~
3267 ~~into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged~~
3268 ~~for food and food ingredients, except for tax revenue generated by a bundled transaction~~
3269 ~~attributable to food and food ingredients and tangible personal property other than food and~~

3270 ~~food ingredients described in Subsection (2)(e).]~~

3271 (b) ~~[(i)]~~ Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection~~
3272 ~~(11)(b)(i),]~~ and in addition to any amounts deposited under Subsections (7), (9), and (10),
3273 when the general obligation bonds authorized by Section 63B-16-101 have been paid off and
3274 the highway projects completed that are included in the prioritized project list under Subsection
3275 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance
3276 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
3277 amount of tax revenue generated by a .025% tax rate on the transactions described in
3278 Subsection (1).

3279 ~~[(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit~~
3280 ~~into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~
3281 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~
3282 ~~transaction attributable to food and food ingredients and tangible personal property other than~~
3283 ~~food and food ingredients described in Subsection (2)(e).]~~

3284 (12) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~
3285 ~~(12)(b),]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the
3286 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3287 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3288 chokepoints in construction management.

3289 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~
3290 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~
3291 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~
3292 ~~and food ingredients and tangible personal property other than food and food ingredients~~
3293 ~~described in Subsection (2)(e).]~~

3294 (13) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3295 Finance shall deposit into the School Equalization Fund created in Section 53A-21-602 7.5%
3296 of the revenues collected from the state sales and use taxes imposed under Subsections
3297 (2)(a)(i)(A) and (2)(b)(i).

3298 Section 21. Section **59-12-104.2** is amended to read:

3299 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
3300 **Nation.**

3301 (1) As used in this section "tribal taxing area" means the geographical area that:
3302 (a) is subject to the taxing authority of the Navajo Nation; and
3303 (b) consists of:
3304 (i) notwithstanding the issuance of a patent, all land:
3305 (A) within the limits of an Indian reservation under the jurisdiction of the federal
3306 government; and
3307 (B) including any rights-of-way running through the reservation; and
3308 (ii) all Indian allotments the Indian titles to which have not been extinguished,
3309 including any rights-of-way running through an Indian allotment.
3310 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
3311 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
3312 imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~] to the extent permitted under
3313 Subsection (2)(b) if:
3314 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
3315 provided within:
3316 (A) the state; and
3317 (B) a tribal taxing area;
3318 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
3319 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
3320 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
3321 regard to whether or not the purchaser that pays or is charged for the accommodations and
3322 services is an enrolled member of the Navajo Nation; and
3323 (iv) the requirements of Subsection (4) are met.
3324 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
3325 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
3326 Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(I)~~]:
3327 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
3328 if that difference is greater than \$0; and
3329 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
3330 if the difference described in Subsection (3) is equal to or less than \$0.
3331 (3) The difference described in Subsection (2)(b) is equal to the difference between:

3332 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~]
3333 on the amounts paid by or charged to a purchaser for accommodations and services described
3334 in Subsection 59-12-103(1)(i); less

3335 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
3336 charged to a purchaser for the accommodations and services described in Subsection
3337 59-12-103(1)(i).

3338 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
3339 imposed on amounts paid by or charged to a purchaser for accommodations and services
3340 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
3341 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
3342 calendar quarter after a 90-day period beginning on the date the commission receives notice
3343 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

3344 (b) The notice described in Subsection (4)(a) shall state:

3345 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
3346 amounts paid by or charged to a purchaser for accommodations and services described in
3347 Subsection 59-12-103(1)(i);

3348 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
3349 and

3350 (iii) the new rate of the tax described in Subsection (4)(b)(i).

3351 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

3352 (a) shall review the exemption provided for in this section one or more times every five
3353 years;

3354 (b) shall determine on or before the November interim meeting of the year in which the
3355 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
3356 whether the exemption should be:

3357 (i) continued;

3358 (ii) modified; or

3359 (iii) repealed; and

3360 (c) may review any other issue related to the exemption provided for in this section as
3361 determined by the Revenue and Taxation Interim Committee.

3362 Section 22. Section **59-12-108** is amended to read:

3363 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
3364 **Certain amounts allocated to local taxing jurisdictions.**

3365 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
3366 chapter of \$50,000 or more for the previous calendar year shall:

3367 (i) file a return with the commission:

3368 (A) monthly on or before the last day of the month immediately following the month
3369 for which the seller collects a tax under this chapter; and

3370 (B) for the month for which the seller collects a tax under this chapter; and

3371 (ii) except as provided in Subsection (1)(b), remit with the return required by
3372 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
3373 fee, or charge described in Subsection (1)(c):

3374 (A) if that seller's tax liability under this chapter for the previous calendar year is less
3375 than \$96,000, by any method permitted by the commission; or

3376 (B) if that seller's tax liability under this chapter for the previous calendar year is
3377 \$96,000 or more, by electronic funds transfer.

3378 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
3379 the amount the seller is required to remit to the commission for each tax, fee, or charge
3380 described in Subsection (1)(c) if that seller:

3381 (i) is required by Section 59-12-107 to file the return electronically; or

3382 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

3383 (B) files a simplified electronic return.

3384 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

3385 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3386 (ii) a fee under Section 19-6-716;

3387 (iii) a fee under Section 19-6-805;

3388 (iv) a charge under Section 69-2-5;

3389 (v) a charge under Section 69-2-5.5;

3390 (vi) a charge under Section 69-2-5.6; or

3391 (vii) a tax under this chapter.

3392 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
3393 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

3394 for making same-day payments other than by electronic funds transfer if making payments by
 3395 electronic funds transfer fails.

3396 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 3397 commission shall establish by rule procedures and requirements for determining the amount a
 3398 seller is required to remit to the commission under this Subsection (1).

3399 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
 3400 seller described in Subsection (4) may retain each month the amount allowed by this
 3401 Subsection (2).

3402 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
 3403 each month 1.31% of any amounts the seller is required to remit to the commission:

3404 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
 3405 and a local tax imposed in accordance with the following, for the month for which the seller is
 3406 filing a return in accordance with Subsection (1):

3407 (A) Subsection 59-12-103(2)(a); and

3408 (B) Subsection 59-12-103(2)(b); and

3409 [~~C~~] Subsection 59-12-103(2)(d); and]

3410 (ii) for an agreement sales and use tax.

3411 [~~(c)(i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
 3412 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
 3413 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
 3414 accordance with Subsection 59-12-103(2)(c):]~~

3415 [~~(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
 3416 equal to the sum of:]~~

3417 [~~(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~

3418 [~~(F) the state tax and the local tax imposed in accordance with Subsection
 3419 59-12-103(2)(c):]~~

3420 [~~(H) the month for which the seller is filing a return in accordance with Subsection (1);
 3421 and]~~

3422 [~~(HH) an agreement sales and use tax; and]~~

3423 [~~(B) 1.31% of the difference between:]~~

3424 [~~(I) the amounts the seller would have been required to remit to the commission:]~~

3425 ~~[(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been~~
3426 ~~subject to the state tax and the local tax imposed in accordance with Subsection~~
3427 ~~59-12-103(2)(a);]~~

3428 ~~[(Bb) for the month for which the seller is filing a return in accordance with Subsection~~
3429 ~~(1); and]~~

3430 ~~[(Cc) for an agreement sales and use tax; and]~~

3431 ~~[(H) the amounts the seller is required to remit to the commission for:]~~

3432 ~~[(Aa) the state tax and the local tax imposed in accordance with Subsection~~
3433 ~~59-12-103(2)(c);]~~

3434 ~~[(Bb) the month for which the seller is filing a return in accordance with Subsection (1);~~
3435 ~~and]~~

3436 ~~[(Cc) an agreement sales and use tax.]~~

3437 ~~[(d)]~~ (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may
3438 retain each month 1% of any amounts the seller is required to remit to the commission:

3439 (i) for the month for which the seller is filing a return in accordance with Subsection
3440 (1); and

3441 (ii) under:

3442 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3443 (B) Subsection 59-12-603(1)(a)(i)(A); or

3444 (C) Subsection 59-12-603(1)(a)(i)(B).

3445 (3) A state government entity that is required to remit taxes monthly in accordance
3446 with Subsection (1) may not retain any amount under Subsection (2).

3447 (4) A seller that has a tax liability under this chapter for the previous calendar year of
3448 less than \$50,000 may:

3449 (a) voluntarily meet the requirements of Subsection (1); and

3450 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
3451 amounts allowed by Subsection (2).

3452 (5) Penalties for late payment shall be as provided in Section 59-1-401.

3453 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
3454 to the commission under this part, the commission shall each month calculate an amount equal
3455 to the difference between:

3456 (i) the total amount retained for that month by all sellers had the [percentages]
 3457 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~] been 1.5%; and

3458 (ii) the total amount retained for that month by all sellers at the [percentages]
 3459 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~].

3460 (b) The commission shall each month allocate the amount calculated under Subsection
 3461 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
 3462 tax that the commission distributes to each county, city, and town for that month compared to
 3463 the total agreement sales and use tax that the commission distributes for that month to all
 3464 counties, cities, and towns.

3465 (c) The amount the commission calculates under Subsection (6)(a) may not include an
 3466 amount collected from a tax that:

3467 (i) the state imposes within a county, city, or town, including the unincorporated area
 3468 of a county; and

3469 (ii) is not imposed within the entire state.

3470 Section 23. Section **59-12-401** is amended to read:

3471 **59-12-401. Resort communities tax authority for cities, towns, and military**
 3472 **installation development authority -- Base -- Rate -- Collection fees.**

3473 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
 3474 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
 3475 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
 3476 the transactions described in Subsection 59-12-103(1) located within the city or town.

3477 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
 3478 section on:

3479 (i) the sale of:

3480 (A) a motor vehicle;

3481 (B) an aircraft;

3482 (C) a watercraft;

3483 (D) a modular home;

3484 (E) a manufactured home; or

3485 (F) a mobile home; or

3486 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses

3487 are exempt from taxation under Section 59-12-104[~~;~~ and].

3488 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
3489 ~~food ingredients.]~~

3490 (c) For purposes of this Subsection (1), the location of a transaction shall be
3491 determined in accordance with Sections 59-12-211 through 59-12-215.

3492 ~~[(d) A city or town imposing a tax under this section shall impose the tax on amounts~~
3493 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
3494 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
3495 ~~property other than food and food ingredients.]~~

3496 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3497 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3498 the state from its collection fees received in connection with the implementation of Subsection
3499 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3500 provided for in Subsection (1).

3501 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3502 those cities and towns according to the amount of revenue the respective cities and towns
3503 generate in that year through imposition of that tax.

3504 (3) (a) Subject to 63H-1-203, the military installation development authority created in
3505 Section 63H-1-201 may impose a tax under this section on the transactions described in
3506 Subsection 59-12-103(1) located within a project area described in a project area plan adopted
3507 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,
3508 as though the authority were a city or a town.

3509 (b) For purposes of calculating the permanent census population within a project area,
3510 the board as defined in Section 63H-1-102 shall:

- 3511 (i) count the population;
- 3512 (ii) adopt a resolution verifying the population number; and
- 3513 (iii) provide the commission any information required in Section 59-12-405.

3514 Section 24. Section **59-12-402** is amended to read:

3515 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
3516 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
3517 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**

3518 **development authority.**

3519 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
3520 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
3521 66% of the municipality's permanent census population may, in addition to the sales tax
3522 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
3523 amount that is less than or equal to .5% on the transactions described in Subsection
3524 59-12-103(1) located within the municipality.

3525 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
3526 impose a tax under this section on:

3527 (i) the sale of:

3528 (A) a motor vehicle;

3529 (B) an aircraft;

3530 (C) a watercraft;

3531 (D) a modular home;

3532 (E) a manufactured home; or

3533 (F) a mobile home; or

3534 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3535 are exempt from taxation under Section 59-12-104[~~;~~and].

3536 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
3537 ~~food ingredients.]~~

3538 (c) For purposes of this Subsection (1), the location of a transaction shall be
3539 determined in accordance with Sections 59-12-211 through 59-12-215.

3540 [~~(d) A municipality imposing a tax under this section shall impose the tax on amounts~~
3541 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
3542 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
3543 ~~property other than food and food ingredients.]~~

3544 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3545 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3546 the state from its collection fees received in connection with the implementation of Subsection
3547 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3548 provided for in Subsection (1).

3549 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3550 those cities and towns according to the amount of revenue the respective cities and towns
3551 generate in that year through imposition of that tax.

3552 (3) To impose an additional resort communities sales tax under this section, the
3553 governing body of the municipality shall:

3554 (a) pass a resolution approving the tax; and

3555 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
3556 in Subsection (4).

3557 (4) To obtain voter approval for an additional resort communities sales tax under
3558 Subsection (3)(b), a municipality shall:

3559 (a) hold the additional resort communities sales tax election during:

3560 (i) a regular general election; or

3561 (ii) a municipal general election; and

3562 (b) publish notice of the election:

3563 (i) 15 days or more before the day on which the election is held; and

3564 (ii) (A) in a newspaper of general circulation in the municipality; and

3565 (B) as required in Section 45-1-101.

3566 (5) An ordinance approving an additional resort communities sales tax under this
3567 section shall provide an effective date for the tax as provided in Section 59-12-403.

3568 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
3569 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
3570 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
3571 Section 10-1-203.

3572 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
3573 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
3574 one class of businesses based on gross receipts pursuant to Section 10-1-203.

3575 (7) A military installation development authority authorized to impose a resort
3576 communities tax under Section 59-12-401 may not impose an additional resort communities
3577 sales tax under this section.

3578 Section 25. Section **59-12-703** is amended to read:

3579 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**

3580 **tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3581 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
3582 that county, by majority vote of all members of the legislative body, so that each resident of the
3583 county, except residents in municipalities that have already imposed a sales and use tax under
3584 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3585 Organizations or Facilities, has an opportunity to express the resident's opinion on the
3586 imposition of a local sales and use tax of .1% on the transactions described in Subsection
3587 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
3588 cultural, and zoological organizations, and rural radio stations, in that county.

3589 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3590 tax under this section on:

3591 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3592 are exempt from taxation under Section 59-12-104; or

3593 (B) sales and uses within municipalities that have already imposed a sales and use tax
3594 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
3595 Zoological Organizations or Facilities[~~;~~ ~~and~~].

3596 [~~(C) except as provided in Subsection (1)(c), amounts paid or charged for food and~~
3597 ~~food ingredients.~~]

3598 (b) For purposes of this Subsection (1), the location of a transaction shall be
3599 determined in accordance with Sections 59-12-211 through 59-12-215.

3600 [~~(c) A county legislative body imposing a tax under this section shall impose the tax on~~
3601 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
3602 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
3603 ~~property other than food and food ingredients.]~~

3604 [~~(d)~~ (c) The election shall follow the procedures outlined in Title 11, Chapter 14,
3605 Local Government Bonding Act.

3606 (2) (a) If the county legislative body determines that a majority of the county's
3607 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3608 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
3609 majority vote of all members of the legislative body on the transactions:

3610 (i) described in Subsection (1); and

3611 (ii) within the county, including the cities and towns located in the county, except those
3612 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3613 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
3614 Facilities.

3615 (b) A county legislative body may revise county ordinances to reflect statutory changes
3616 to the distribution formula or eligible recipients of revenues generated from a tax imposed
3617 under Subsection (2)(a):

3618 (i) after the county legislative body submits an opinion question to residents of the
3619 county in accordance with Subsection (1) giving them the opportunity to express their opinion
3620 on the proposed revisions to county ordinances; and

3621 (ii) if the county legislative body determines that a majority of those voting on the
3622 opinion question have voted in favor of the revisions.

3623 (3) The money generated from any tax imposed under Subsection (2) shall be used for
3624 funding:

3625 (a) recreational and zoological facilities located within the county or a city or town
3626 located in the county, except a city or town that has already imposed a sales and use tax under
3627 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3628 Organizations or Facilities; and

3629 (b) ongoing operating expenses of:

3630 (i) recreational facilities described in Subsection (3)(a);

3631 (ii) botanical, cultural, and zoological organizations within the county; and

3632 (iii) rural radio stations within the county.

3633 (4) (a) A tax authorized under this part shall be:

3634 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3635 accordance with:

3636 (A) the same procedures used to administer, collect, and enforce the tax under:

3637 (I) Part 1, Tax Collection; or

3638 (II) Part 2, Local Sales and Use Tax Act; and

3639 (B) Chapter 1, General Taxation Policies; and

3640 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3641 period in accordance with this section.

- 3642 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3643 Subsections 59-12-205(2) through (6).
- 3644 (5) (a) For purposes of this Subsection (5):
- 3645 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3646 [~~Annexation to County~~], Part 2, County Annexation.
- 3647 (ii) "Annexing area" means an area that is annexed into a county.
- 3648 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3649 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 3650 (A) on the first day of a calendar quarter; and
- 3651 (B) after a 90-day period beginning on the date the commission receives notice meeting
3652 the requirements of Subsection (5)(b)(ii) from the county.
- 3653 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 3654 (A) that the county will enact or repeal a tax under this part;
- 3655 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 3656 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 3657 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3658 tax.
- 3659 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:
- 3660 (A) that begins after the effective date of the enactment of the tax; and
- 3661 (B) if the billing period for the transaction begins before the effective date of the
3662 enactment of the tax under this section.
- 3663 (ii) The repeal of a tax shall take effect on the first day of the last billing period:
- 3664 (A) that began before the effective date of the repeal of the tax; and
- 3665 (B) if the billing period for the transaction begins before the effective date of the repeal
3666 of the tax imposed under this section.
- 3667 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3668 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3669 Subsection (5)(b)(i) takes effect:
- 3670 (A) on the first day of a calendar quarter; and
- 3671 (B) beginning 60 days after the effective date of the enactment or repeal under
3672 Subsection (5)(b)(i).

3673 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3674 commission may by rule define the term "catalogue sale."

3675 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3676 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3677 part for an annexing area, the enactment or repeal shall take effect:

3678 (A) on the first day of a calendar quarter; and

3679 (B) after a 90-day period beginning on the date the commission receives notice meeting
3680 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3681 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3682 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3683 repeal of a tax under this part for the annexing area;

3684 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3685 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3686 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3687 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3688 (A) that begins after the effective date of the enactment of the tax; and

3689 (B) if the billing period for the transaction begins before the effective date of the
3690 enactment of the tax under this section.

3691 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3692 (A) that began before the effective date of the repeal of the tax; and

3693 (B) if the billing period for the transaction begins before the effective date of the repeal
3694 of the tax imposed under this section.

3695 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3696 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3697 Subsection (5)(e)(i) takes effect:

3698 (A) on the first day of a calendar quarter; and

3699 (B) beginning 60 days after the effective date of the enactment or repeal under
3700 Subsection (5)(e)(i).

3701 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3702 commission may by rule define the term "catalogue sale."

3703 Section 26. Section **59-12-802** is amended to read:

3704 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
3705 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

3706 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
3707 may impose a sales and use tax of up to 1%:

3708 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
3709 and

3710 (ii) subject to Subsection (3), to fund:

3711 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
3712 that county; or

3713 (B) for a county of the sixth class:

3714 (I) emergency medical services in that county;

3715 (II) federally qualified health centers in that county;

3716 (III) freestanding urgent care centers in that county;

3717 (IV) rural county health care facilities in that county;

3718 (V) rural health clinics in that county; or

3719 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

3720 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3721 tax under this section on:

3722 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3723 are exempt from taxation under Section 59-12-104; or

3724 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3725 a city that imposes a tax under Section 59-12-804~~[, and]~~.

3726 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
3727 ~~food ingredients.]~~

3728 (c) For purposes of this Subsection (1), the location of a transaction shall be
3729 determined in accordance with Sections 59-12-211 through 59-12-215.

3730 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~
3731 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
3732 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
3733 ~~property other than food and food ingredients.]~~

3734 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall

3735 obtain approval to impose the tax from a majority of the:
3736 (i) members of the county's legislative body; and
3737 (ii) county's registered voters voting on the imposition of the tax.
3738 (b) The county legislative body shall conduct the election according to the procedures
3739 and requirements of Title 11, Chapter 14, Local Government Bonding Act.
3740 (3) (a) The money generated by a tax imposed under Subsection (1) by a county
3741 legislative body of a county of the third, fourth, or fifth class may only be used for the
3742 financing of:
3743 (i) ongoing operating expenses of a rural county health care facility within that county;
3744 (ii) the acquisition of land for a rural county health care facility within that county; or
3745 (iii) the design, construction, equipping, or furnishing of a rural county health care
3746 facility within that county.
3747 (b) The money generated by a tax imposed under Subsection (1) by a county of the
3748 sixth class may only be used for the financing of:
3749 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3750 (1)(a)(ii)(B) within that county;
3751 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3752 (1)(a)(ii)(B) within that county;
3753 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3754 described in Subsection (1)(a)(ii)(B) within that county; or
3755 (iv) the provision of rural emergency medical services within that county.
3756 (4) (a) A tax under this section shall be:
3757 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3758 accordance with:
3759 (A) the same procedures used to administer, collect, and enforce the tax under:
3760 (I) Part 1, Tax Collection; or
3761 (II) Part 2, Local Sales and Use Tax Act; and
3762 (B) Chapter 1, General Taxation Policies; and
3763 (ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten-year~~]
3764 10-year period by the county legislative body as provided in Subsection (1).
3765 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to

3766 Subsections 59-12-205(2) through (6).

3767 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3768 under this section for the cost of administering this tax.

3769 Section 27. Section **59-12-804** is amended to read:

3770 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
3771 **collection, and enforcement of tax.**

3772 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3773 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

3774 and

3775 (ii) to fund rural city hospitals in that city.

3776 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax

3777 under this section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the

3778 sales and uses are exempt from taxation under Section 59-12-104~~[, and]~~.

3779 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~

3780 ~~food ingredients.]~~

3781 (c) For purposes of this Subsection (1), the location of a transaction shall be

3782 determined in accordance with Sections 59-12-211 through 59-12-215.

3783 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on~~

3784 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~

3785 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~

3786 ~~property other than food and food ingredients.]~~

3787 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall

3788 obtain approval to impose the tax from a majority of the:

3789 (i) members of the city legislative body; and

3790 (ii) city's registered voters voting on the imposition of the tax.

3791 (b) The city legislative body shall conduct the election according to the procedures and

3792 requirements of Title 11, Chapter 14, Local Government Bonding Act.

3793 (3) The money generated by a tax imposed under Subsection (1) may only be used for

3794 the financing of:

3795 (a) ongoing operating expenses of a rural city hospital;

3796 (b) the acquisition of land for a rural city hospital; or

- 3797 (c) the design, construction, equipping, or furnishing of a rural city hospital.
- 3798 (4) (a) A tax under this section shall be:
- 3799 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
- 3800 accordance with:
- 3801 (A) the same procedures used to administer, collect, and enforce the tax under:
- 3802 (I) Part 1, Tax Collection; or
- 3803 (II) Part 2, Local Sales and Use Tax Act; and
- 3804 (B) Chapter 1, General Taxation Policies; and
- 3805 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
- 3806 period by the city legislative body as provided in Subsection (1).
- 3807 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
- 3808 Subsections 59-12-205(2) through (6).
- 3809 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
- 3810 under this section for the cost of administering the tax.
- 3811 Section 28. Section **59-12-1201** is amended to read:
- 3812 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
- 3813 **collection, and enforcement of tax -- Administrative fee -- Deposits.**
- 3814 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
- 3815 short-term leases and rentals of motor vehicles not exceeding 30 days.
- 3816 (b) The tax imposed in this section is in addition to all other state, county, or municipal
- 3817 fees and taxes imposed on rentals of motor vehicles.
- 3818 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
- 3819 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.
- 3820 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
- 3821 take effect on the first day of the first billing period:
- 3822 (A) that begins after the effective date of the tax rate increase; and
- 3823 (B) if the billing period for the transaction begins before the effective date of a tax rate
- 3824 increase imposed under Subsection (1).
- 3825 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
- 3826 rate decrease shall take effect on the first day of the last billing period:
- 3827 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3828 and

3829 (B) if the billing period for the transaction begins before the effective date of the repeal
3830 of the tax or the tax rate decrease imposed under Subsection (1).

3831 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

3832 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

3833 (b) the motor vehicle is rented as a personal household goods moving van; or

3834 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
3835 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
3836 insurance agreement.

3837 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
3838 enforced in accordance with:

3839 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
3840 Tax Collection; and

3841 (B) Chapter 1, General Taxation Policies.

3842 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3843 Subsections 59-12-103(4) through [~~(12)~~] (13) or Section 59-12-107.1 or 59-12-123.

3844 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this
3845 section for the costs of rendering its services under this section.

3846 (c) Except as provided under Subsection (4)(b), all revenue received by the
3847 commission under this section shall be deposited daily with the state treasurer and credited
3848 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section
3849 72-2-117.

3850 Section 29. Section **59-12-1302** is amended to read:

3851 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
3852 **rate change -- Effective date -- Notice requirements.**

3853 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
3854 tax as provided in this part in an amount that does not exceed 1%.

3855 (2) A town may impose a tax as provided in this part if the town imposed a license fee
3856 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
3857 1996.

3858 (3) A town imposing a tax under this section shall:

3859 (a) except as provided in Subsection (4), impose the tax on the transactions described
3860 in Subsection 59-12-103(1) located within the town; and

3861 (b) provide an effective date for the tax as provided in Subsection (5).

3862 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
3863 section on~~[-(†)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
3864 uses are exempt from taxation under Section 59-12-104~~[-and]~~.

3865 ~~[(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and~~
3866 ~~food ingredients.]~~

3867 (b) For purposes of this Subsection (4), the location of a transaction shall be
3868 determined in accordance with Sections 59-12-211 through 59-12-215.

3869 ~~[(c) A town imposing a tax under this section shall impose the tax on amounts paid or~~
3870 ~~charged for food and food ingredients if the food and food ingredients are sold as part of a~~
3871 ~~bundled transaction attributable to food and food ingredients and tangible personal property~~
3872 ~~other than food and food ingredients.]~~

3873 (5) (a) For purposes of this Subsection (5):

3874 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3875 Annexation.

3876 (ii) "Annexing area" means an area that is annexed into a town.

3877 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3878 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3879 or change shall take effect:

3880 (A) on the first day of a calendar quarter; and

3881 (B) after a 90-day period beginning on the date the commission receives notice meeting
3882 the requirements of Subsection (5)(b)(ii) from the town.

3883 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3884 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3885 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3886 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3887 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3888 (5)(b)(ii)(A), the rate of the tax.

3889 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of

3890 the first billing period:

3891 (A) that begins after the effective date of the enactment of the tax or the tax rate
3892 increase; and

3893 (B) if the billing period for the transaction begins before the effective date of the
3894 enactment of the tax or the tax rate increase imposed under Subsection (1).

3895 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3896 billing period:

3897 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3898 and

3899 (B) if the billing period for the transaction begins before the effective date of the repeal
3900 of the tax or the tax rate decrease imposed under Subsection (1).

3901 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3902 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3903 a tax described in Subsection (5)(b)(i) takes effect:

3904 (A) on the first day of a calendar quarter; and

3905 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3906 rate of the tax under Subsection (5)(b)(i).

3907 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3908 commission may by rule define the term "catalogue sale."

3909 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3910 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3911 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3912 effect:

3913 (A) on the first day of a calendar quarter; and

3914 (B) after a 90-day period beginning on the date the commission receives notice meeting
3915 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3916 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3917 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
3918 repeal, or change in the rate of a tax under this part for the annexing area;

3919 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3920 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3921 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3922 (5)(e)(ii)(A), the rate of the tax.

3923 (f) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
3924 the first billing period:

3925 (A) that begins after the effective date of the enactment of the tax or the tax rate
3926 increase; and

3927 (B) if the billing period for the transaction begins before the effective date of the
3928 enactment of the tax or the tax rate increase imposed under Subsection (1).

3929 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3930 billing period:

3931 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3932 and

3933 (B) if the billing period for the transaction begins before the effective date of the repeal
3934 of the tax or the tax rate decrease imposed under Subsection (1).

3935 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3936 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3937 a tax described in Subsection (5)(e)(i) takes effect:

3938 (A) on the first day of a calendar quarter; and

3939 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3940 rate of the tax under Subsection (5)(e)(i).

3941 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3942 commission may by rule define the term "catalogue sale."

3943 (6) The commission shall:

3944 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
3945 under this section to the town imposing the tax;

3946 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
3947 authorized under this section in accordance with:

3948 (i) the same procedures used to administer, collect, and enforce the tax under:

3949 (A) Part 1, Tax Collection; or

3950 (B) Part 2, Local Sales and Use Tax Act; and

3951 (ii) Chapter 1, General Taxation Policies; and

3952 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
 3953 collecting the tax as provided in Section 59-12-206.

3954 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
 3955 Subsections 59-12-205(2) through (6).

3956 Section 30. Section **59-12-1402** is amended to read:

3957 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
 3958 **of tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3959 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
 3960 legislative body subject to this part may submit an opinion question to the residents of that city
 3961 or town, by majority vote of all members of the legislative body, so that each resident of the
 3962 city or town has an opportunity to express the resident's opinion on the imposition of a local
 3963 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
 3964 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
 3965 and zoological organizations in that city or town.

3966 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
 3967 impose a tax under this section:

3968 (A) if the county in which the city or town is located imposes a tax under Part 7,
 3969 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
 3970 Facilities; or

3971 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
 3972 uses are exempt from taxation under Section 59-12-104[~~;~~and].

3973 [~~(C) except as provided in Subsection (1)(c), on amounts paid or charged for food and~~
 3974 ~~food ingredients.]~~

3975 (b) For purposes of this Subsection (1), the location of a transaction shall be
 3976 determined in accordance with Sections 59-12-211 through 59-12-215.

3977 [~~(c) A city or town legislative body imposing a tax under this section shall impose the~~
 3978 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
 3979 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
 3980 ~~personal property other than food and food ingredients.]~~

3981 [~~(d)~~ (c) The election shall be held at a regular general election or a municipal general
 3982 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures

3983 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
3984 Subsection (6).

3985 (2) If the city or town legislative body determines that a majority of the city's or town's
3986 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3987 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
3988 by a majority vote of all members of the legislative body.

3989 (3) The money generated from any tax imposed under Subsection (2) shall be used for
3990 financing:

3991 (a) recreational and zoological facilities within the city or town or within the
3992 geographic area of entities that are parties to an interlocal agreement, to which the city or town
3993 is a party, providing for recreational or zoological facilities; and

3994 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
3995 within the city or town or within the geographic area of entities that are parties to an interlocal
3996 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
3997 or zoological organizations.

3998 (4) (a) A tax authorized under this part shall be:

3999 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
4000 accordance with:

4001 (A) the same procedures used to administer, collect, and enforce the tax under:

4002 (I) Part 1, Tax Collection; or

4003 (II) Part 2, Local Sales and Use Tax Act; and

4004 (B) Chapter 1, General Taxation Policies; and

4005 (ii) (A) levied for a period of eight years; and

4006 (B) may be reauthorized at the end of the eight-year period in accordance with this
4007 section.

4008 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4009 Subsections 59-12-205(2) through (6).

4010 (5) (a) For purposes of this Subsection (5):

4011 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4012 4, Annexation.

4013 (ii) "Annexing area" means an area that is annexed into a city or town.

4014 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
4015 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

4016 (A) on the first day of a calendar quarter; and

4017 (B) after a 90-day period beginning on the date the commission receives notice meeting
4018 the requirements of Subsection (5)(b)(ii) from the city or town.

4019 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4020 (A) that the city or town will enact or repeal a tax under this part;

4021 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4022 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4023 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
4024 the tax.

4025 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

4026 (A) that begins after the effective date of the enactment of the tax; and

4027 (B) if the billing period for the transaction begins before the effective date of the
4028 enactment of the tax under this section.

4029 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

4030 (A) that began before the effective date of the repeal of the tax; and

4031 (B) if the billing period for the transaction begins before the effective date of the repeal
4032 of the tax imposed under this section.

4033 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4034 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4035 Subsection (5)(b)(i) takes effect:

4036 (A) on the first day of a calendar quarter; and

4037 (B) beginning 60 days after the effective date of the enactment or repeal under
4038 Subsection (5)(b)(i).

4039 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4040 commission may by rule define the term "catalogue sale."

4041 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4042 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4043 part for an annexing area, the enactment or repeal shall take effect:

4044 (A) on the first day of a calendar quarter; and

4045 (B) after a 90-day period beginning on the date the commission receives notice meeting
4046 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

4047 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4048 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4049 repeal a tax under this part for the annexing area;

4050 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4051 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4052 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4053 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

4054 (A) that begins after the effective date of the enactment of the tax; and

4055 (B) if the billing period for the transaction begins before the effective date of the
4056 enactment of the tax under this section.

4057 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

4058 (A) that began before the effective date of the repeal of the tax; and

4059 (B) if the billing period for the transaction begins before the effective date of the repeal
4060 of the tax imposed under this section.

4061 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4062 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
4063 Subsection (5)(e)(i) takes effect:

4064 (A) on the first day of a calendar quarter; and

4065 (B) beginning 60 days after the effective date of the enactment or repeal under
4066 Subsection (5)(e)(i).

4067 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4068 commission may by rule define the term "catalogue sale."

4069 (6) (a) Before a city or town legislative body submits an opinion question to the
4070 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

4071 (i) submit to the county legislative body in which the city or town is located a written
4072 notice of the intent to submit the opinion question to the residents of the city or town; and

4073 (ii) receive from the county legislative body:

4074 (A) a written resolution passed by the county legislative body stating that the county
4075 legislative body is not seeking to impose a tax under Part 7, County Option Funding for

4076 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

4077 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
4078 opinion question submitted to the residents of the county under Part 7, County Option Funding
4079 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
4080 or town legislative body to submit the opinion question to the residents of the city or town in
4081 accordance with this part.

4082 (b) (i) Within 60 days after the day the county legislative body receives from a city or
4083 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
4084 opinion question to the residents of the city or town, the county legislative body shall provide
4085 the city or town legislative body:

4086 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

4087 (B) written notice that the county legislative body will submit an opinion question to
4088 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
4089 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
4090 that part.

4091 (ii) If the county legislative body provides the city or town legislative body the written
4092 notice that the county legislative body will submit an opinion question as provided in
4093 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
4094 later than, from the date the county legislative body sends the written notice, the later of:

4095 (A) a 12-month period;

4096 (B) the next regular primary election; or

4097 (C) the next regular general election.

4098 (iii) Within 30 days of the date of the canvass of the election at which the opinion
4099 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
4100 city or town legislative body described in Subsection (6)(a) written results of the opinion
4101 question submitted by the county legislative body under Part 7, County Option Funding for
4102 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

4103 (A) (I) the city or town legislative body may not impose a tax under this part because a
4104 majority of the county's registered voters voted in favor of the county imposing the tax and the
4105 county legislative body by a majority vote approved the imposition of the tax; or

4106 (II) for at least 12 months from the date the written results are submitted to the city or

4107 town legislative body, the city or town legislative body may not submit to the county legislative
4108 body a written notice of the intent to submit an opinion question under this part because a
4109 majority of the county's registered voters voted against the county imposing the tax and the
4110 majority of the registered voters who are residents of the city or town described in Subsection
4111 (6)(a) voted against the imposition of the county tax; or

4112 (B) the city or town legislative body may submit the opinion question to the residents
4113 of the city or town in accordance with this part because although a majority of the county's
4114 registered voters voted against the county imposing the tax, the majority of the registered voters
4115 who are residents of the city or town voted for the imposition of the county tax.

4116 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
4117 provide a city or town legislative body described in Subsection (6)(a) a written resolution
4118 passed by the county legislative body stating that the county legislative body is not seeking to
4119 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
4120 Zoological Organizations or Facilities, which permits the city or town legislative body to
4121 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

4122 Section 31. Section **59-12-2003** is amended to read:

4123 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
4124 **transit districts.**

4125 (1) Subject to the other provisions of this section and except as provided in Subsection
4126 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
4127 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
4128 area of a county of the first or second class if, on January 1, 2008, there is a public transit
4129 district within any portion of that county of the first or second class.

4130 (2) The state may not impose a tax under this part within a county of the first or second
4131 class if within all of the cities, towns, and the unincorporated area of the county of the first or
4132 second class there is imposed a sales and use tax of:

4133 (a) .30% under Section 59-12-2213;

4134 (b) .30% under Section 59-12-2215; or

4135 (c) .30% under Section 59-12-2216.

4136 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
4137 rate imposed within a city, town, or the unincorporated area of a county of the first or second

4138 class is a percentage equal to the difference between:

4139 (i) .30%; and

4140 (ii) (A) for a city within the county of the first or second class, the highest tax rate

4141 imposed within that city under:

4142 (I) Section 59-12-2213;

4143 (II) Section 59-12-2215; or

4144 (III) Section 59-12-2216;

4145 (B) for a town within the county of the first or second class, the highest tax rate

4146 imposed within that town under:

4147 (I) Section 59-12-2213;

4148 (II) Section 59-12-2215; or

4149 (III) Section 59-12-2216; or

4150 (C) for the unincorporated area of the county of the first or second class, the highest tax

4151 rate imposed within that unincorporated area under:

4152 (I) Section 59-12-2213;

4153 (II) Section 59-12-2215; or

4154 (III) Section 59-12-2216.

4155 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
4156 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,
4157 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the
4158 first or second class is .30%, the state may not impose a tax under this part within that city,
4159 town, or unincorporated area.

4160 (4) ~~[(a)]~~ The state may not impose a tax under this part on~~[(i)]~~ the sales and uses
4161 described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under
4162 Section 59-12-104~~[-or].~~

4163 ~~[(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and~~
4164 ~~food ingredients.]~~

4165 ~~[(b) The state shall impose a tax under this part on amounts paid or charged for food~~
4166 ~~and food ingredients if the food and food ingredients are sold as part of a bundled transaction~~
4167 ~~attributable to food and ingredients and tangible personal property other than food and food~~
4168 ~~ingredients.]~~

4169 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
4170 accordance with Sections 59-12-211 through 59-12-215.

4171 (6) The commission shall distribute the revenues the state collects from the sales and
4172 use tax under this part, after subtracting amounts a seller retains in accordance with Section
4173 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

4174 (a) within which the state imposes a tax under this part; and

4175 (b) in proportion to the revenues collected from the sales and use tax under this part
4176 within each city, town, and unincorporated area within which the state imposes a tax under this
4177 part.

4178 Section 32. Section **59-12-2103** is amended to read:

4179 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
4180 **from the tax -- Administration, collection, and enforcement of tax by commission --**
4181 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4182 (1) (a) Subject to the other provisions of this section and except as provided in
4183 Subsection (2), beginning on January 1, 2009, and ending on June 30, 2016, if a city or town
4184 receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or
4185 town would have received a tax revenue distribution of less than .75% of the taxable sales
4186 within the boundaries of the city or town but for Subsection 59-12-205(3)(a), the city or town
4187 legislative body may impose a sales and use tax of up to .20% on the transactions:

4188 (i) described in Subsection 59-12-103(1); and

4189 (ii) within the city or town.

4190 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
4191 expend the revenues collected from the tax for the same purposes for which the city or town
4192 may expend the city's or town's general fund revenues.

4193 (c) For purposes of this Subsection (1), the location of a transaction shall be
4194 determined in accordance with Sections 59-12-211 through 59-12-215.

4195 (2) ~~(a)~~ A city or town legislative body may not impose a tax under this section on:
4196 ~~(i)~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4197 exempt from taxation under Section 59-12-104 ~~and~~.

4198 ~~(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~
4199 ~~food ingredients.]~~

4200 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the~~
4201 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
4202 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
4203 ~~personal property other than food and food ingredients.]~~

4204 (3) To impose a tax under this part, a city or town legislative body shall obtain
4205 approval from a majority of the members of the city or town legislative body.

4206 (4) The commission shall transmit revenues collected within a city or town from a tax
4207 under this part:

4208 (a) to the city or town legislative body;

4209 (b) monthly; and

4210 (c) by electronic funds transfer.

4211 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
4212 collect, and enforce a tax under this part in accordance with:

4213 (i) the same procedures used to administer, collect, and enforce the tax under:

4214 (A) Part 1, Tax Collection; or

4215 (B) Part 2, Local Sales and Use Tax Act; and

4216 (ii) Chapter 1, General Taxation Policies.

4217 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

4218 (6) (a) The commission may retain an amount of tax collected under this part of not to
4219 exceed the lesser of:

4220 (i) 1.5%; or

4221 (ii) an amount equal to the cost to the commission of administering this part.

4222 (b) Any amount the commission retains under Subsection (6)(a) shall be:

4223 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

4224 (ii) used as provided in Subsection 59-12-206(2).

4225 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
4226 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
4227 repeal, or change shall take effect:

4228 (A) on the first day of a calendar quarter; and

4229 (B) after a 90-day period beginning on the date the commission receives notice meeting
4230 the requirements of Subsection (7)(a)~~(i)~~(ii) from the city or town.

- 4231 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
- 4232 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
- 4233 this part;
- 4234 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
- 4235 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
- 4236 (D) if the city or town enacts the tax or changes the rate of the tax described in
- 4237 Subsection (7)(a)(ii)(A), the rate of the tax.
- 4238 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
- 4239 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
- 4240 take effect on the first day of the first billing period that begins after the effective date of the
- 4241 enactment of the tax or the tax rate increase.
- 4242 (ii) If the billing period for a transaction begins before the effective date of the repeal
- 4243 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
- 4244 decrease shall take effect on the first day of the last billing period that began before the
- 4245 effective date of the repeal of the tax or the tax rate decrease.
- 4246 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
- 4247 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
- 4248 described in Subsection (7)(a)(i) takes effect:
- 4249 (A) on the first day of a calendar quarter; and
- 4250 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 4251 rate of the tax under Subsection (7)(a)(i).
- 4252 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4253 commission may by rule define the term "catalogue sale."
- 4254 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
- 4255 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
- 4256 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
- 4257 effect:
- 4258 (A) on the first day of a calendar quarter; and
- 4259 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 4260 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.
- 4261 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

4262 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
4263 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

4264 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

4265 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

4266 (D) if the city or town enacts the tax or changes the rate of the tax described in
4267 Subsection (7)(d)(ii)(A), the rate of the tax.

4268 (e) (i) If the billing period for a transaction begins before the effective date of the
4269 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
4270 rate increase shall take effect on the first day of the first billing period that begins after the
4271 effective date of the enactment of the tax or the tax rate increase.

4272 (ii) If the billing period for a transaction begins before the effective date of the repeal
4273 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
4274 decrease shall take effect on the first day of the last billing period that began before the
4275 effective date of the repeal of the tax or the tax rate decrease.

4276 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
4277 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
4278 described in Subsection (7)(d)(i) takes effect:

4279 (A) on the first day of a calendar quarter; and

4280 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
4281 Subsection (7)(d)(i).

4282 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4283 commission may by rule define the term "catalogue sale".

4284 Section 33. Section **59-12-2204** is amended to read:

4285 **59-12-2204. Transactions that may not be subject to taxation under this part.**

4286 [(+)] A county, city, or town may not impose a sales and use tax under this part on[:
4287 (a)] the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4288 exempt from taxation under Section 59-12-104[; and].

4289 [(b) except as provided in Subsection (2), amounts paid or charged for food and food
4290 ingredients;]

4291 [(2) A county, city, or town imposing a sales and use tax under this part shall impose
4292 the sales and use tax on amounts paid or charged for food and food ingredients if the food and

4293 ~~food ingredients are sold as part of a bundled transaction attributable to food and food~~
4294 ~~ingredients and tangible personal property other than food and food ingredients.]~~

4295 Section 34. **Effective dates.**

4296 (1) The amendments to the following sections take effect on January 1, 2012:

4297 (a) Section 59-2-404;

4298 (b) Section 59-2-405;

4299 (c) Section 59-2-405.1;

4300 (d) Section 59-2-405.2;

4301 (e) Section 59-2-405.3;

4302 (f) Section 59-2-919.3; and

4303 (g) Section 59-2-924.5.

4304 (2) The following sections take effect on January 1, 2012:

4305 (a) Section 53A-21-601;

4306 (b) Section 53A-21-602; and

4307 (c) Section 53A-21-603.

4308 (3) The amendments to the following sections take effect on July 1, 2012:

4309 (a) Section 10-1-405;

4310 (b) Section 11-41-102;

4311 (c) Section 53A-1a-513;

4312 (d) Section 53A-17a-133;

4313 (e) Section 53A-17a-134;

4314 (f) Section 53A-21-101.5;

4315 (g) Section 59-1-401;

4316 (h) Section 59-12-102;

4317 (i) Section 59-12-103;

4318 (j) Section 59-12-104.2;

4319 (k) Section 59-12-108;

4320 (l) Section 59-12-401;

4321 (m) Section 59-12-402;

4322 (n) Section 59-12-703;

4323 (o) Section 59-12-802;

- 4324 (p) Section 59-12-804;
- 4325 (q) Section 59-12-1201;
- 4326 (r) Section 59-12-1302;
- 4327 (s) Section 59-12-1402;
- 4328 (t) Section 59-12-2003;
- 4329 (u) Section 59-12-2103; and
- 4330 (v) Section 59-12-2204.

Legislative Review Note
as of 1-21-11 4:14 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 72

SHORT TITLE: Taxes and Related School Funding Provisions Amendments

SPONSOR: Noel, M.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

By increasing the sales tax on food, enactment of this bill increases revenue to the newly created "School Equalization Fund" by \$147,420,800 in FY 2013. It also reduces property taxes by an equal amount. The Tax Commission would require a one-time General Fund appropriation to send the updated sales tax information to 80,000 businesses with sales tax accounts. The bill increases revenue to the Transportation Investment Fund of 2005 and the Centennial Highway Fund by \$1,070,600 each.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Transportation Fund Restricted	\$0	\$0	\$2,142,200
Restricted Funds	\$0	\$0	\$147,420,800
Total Revenue	\$0	\$0	\$149,563,000
Expenditure:			
General Fund, One-Time	\$0	\$36,000	\$0
Total Expenditure	\$0	\$36,000	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$36,000)	\$149,563,000
Net Impact, General/Education Funds	\$0	(\$36,000)	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local governments can expect an increase in revenue of \$14,237,400.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Individuals can expect a property tax decrease of \$147,420,800 in FY 2013 and a corresponding increase in State sales tax of \$147,420,800. Due to the changes in the food base for local sales tax, individuals can also expect a local sales tax increase of \$14,240,000.

The uniform fee provision alters the distribution from variable to a fixed percentage. The total shift is \$7,951,000.