

SALES AND USE TAX CHANGES

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill makes amendments related to sales and use tax.

Highlighted Provisions:

This bill:

- ▶ adds a local option sales and use tax to the definition of "agreement sales and use tax"; and
- ▶ incorporates the defined terms "purchase price" and "sales price" into the sections that authorize imposition of a sales and use tax.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 59-12-102**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6
- 59-12-103**, as last amended by Laws of Utah 2016, Chapters 184, 291, 348 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 291
- 59-12-401**, as last amended by Laws of Utah 2013, Chapter 362
- 59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
- 59-12-402.1**, as enacted by Laws of Utah 2015, Chapter 182



- 28 [59-12-703](#), as last amended by Laws of Utah 2016, Chapters 344 and 364
- 29 [59-12-802](#), as last amended by Laws of Utah 2016, Chapter 364
- 30 [59-12-804](#), as last amended by Laws of Utah 2016, Chapter 364
- 31 [59-12-1302](#), as last amended by Laws of Utah 2016, Chapter 364
- 32 [59-12-1402](#), as last amended by Laws of Utah 2016, Chapter 364
- 33 [59-12-2003](#), as last amended by Laws of Utah 2010, Chapter 263
- 34 [59-12-2103](#), as last amended by Laws of Utah 2016, Chapter 364
- 35 [59-12-2204](#), as enacted by Laws of Utah 2010, Chapter 263

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

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

39 **59-12-102. Definitions.**

40 As used in this chapter:

41 (1) "800 service" means a telecommunications service that:

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

43 (b) is typically marketed:

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

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

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

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

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

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

50 Federal Communications Commission.

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

52 (i) a subscriber purchases;

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

55 (A) prerecorded announcement; or

56 (B) live service; and

57 (iii) is typically marketed:

58 (A) under the name 900 service; or

59 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
60 Communications Commission.

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

62 (i) a collection service a seller of a telecommunications service provides to a
63 subscriber; or

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

65 (A) a product; or

66 (B) a service.

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

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

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

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

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

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

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

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

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

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

80 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

81 (e) Section 59-12-204;

82 (f) Section 59-12-401;

83 (g) Section 59-12-402;

84 (h) Section 59-12-402.1;

85 (i) Section 59-12-703;

86 (j) Section 59-12-802;

87 (k) Section 59-12-804;

88 (l) Section 59-12-1102;

89 (m) Section 59-12-1302;

- 90 (n) Section [59-12-1402](#);
- 91 (o) Section [59-12-1802](#);
- 92 (p) Section [59-12-2003](#);
- 93 (q) Section [59-12-2103](#);
- 94 (r) Section [59-12-2213](#);
- 95 (s) Section [59-12-2214](#);
- 96 (t) Section [59-12-2215](#);
- 97 (u) Section [59-12-2216](#);
- 98 (v) Section [59-12-2217](#); [or]
- 99 (w) Section [59-12-2218](#)[;]; or
- 100 (x) Section [59-12-2219](#).
- 101 (7) "Aircraft" is as defined in Section [72-10-102](#).
- 102 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 103 (a) except for:
- 104 (i) an airline as defined in Section [59-2-102](#); or
- 105 (ii) an affiliated group, as defined in Section [59-7-101](#), except that "affiliated group"
- 106 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 107 state, of an airline; and
- 108 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 109 whether the business entity performs the following in this state:
- 110 (i) check, diagnose, overhaul, and repair:
- 111 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 112 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 113 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 114 engine;
- 115 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 116 aircraft:
- 117 (A) an inspection;
- 118 (B) a repair, including a structural repair or modification;
- 119 (C) changing landing gear; and
- 120 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

121 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
122 completely apply new paint to the fixed wing turbine powered aircraft; and

123 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
124 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
125 authority that certifies the fixed wing turbine powered aircraft.

126 (9) "Alcoholic beverage" means a beverage that:

- 127 (a) is suitable for human consumption; and
- 128 (b) contains .5% or more alcohol by volume.

129 (10) "Alternative energy" means:

- 130 (a) biomass energy;
- 131 (b) geothermal energy;
- 132 (c) hydroelectric energy;
- 133 (d) solar energy;
- 134 (e) wind energy; or
- 135 (f) energy that is derived from:
 - 136 (i) coal-to-liquids;
 - 137 (ii) nuclear fuel;
 - 138 (iii) oil-impregnated diatomaceous earth;
 - 139 (iv) oil sands;
 - 140 (v) oil shale;
 - 141 (vi) petroleum coke; or
 - 142 (vii) waste heat from:
 - 143 (A) an industrial facility; or
 - 144 (B) a power station in which an electric generator is driven through a process in which
145 water is heated, turns into steam, and spins a steam turbine.

146 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
147 facility" means a facility that:

- 148 (i) uses alternative energy to produce electricity; and
- 149 (ii) has a production capacity of two megawatts or greater.

150 (b) A facility is an alternative energy electricity production facility regardless of
151 whether the facility is:

152 (i) connected to an electric grid; or

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

154 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
155 provision of telecommunications service.

156 (b) "Ancillary service" includes:

157 (i) a conference bridging service;

158 (ii) a detailed communications billing service;

159 (iii) directory assistance;

160 (iv) a vertical service; or

161 (v) a voice mail service.

162 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).

163 (14) "Assisted amusement device" means an amusement device, skill device, or ride
164 device that is started and stopped by an individual:

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

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

169 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
170 washing of tangible personal property if the cleaning or washing labor is primarily performed
171 by an individual:

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

174 (b) at the direction of the seller of the cleaning or washing of the tangible personal
175 property.

176 (16) "Authorized carrier" means:

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

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

182 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

183 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
184 stock in more than one state.

185 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
186 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

190 (B) animal waste;

191 (C) waste vegetable oil;

192 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
193 wastewater residuals, or through the conversion of a waste material through a nonincineration,
194 thermal conversion process;

195 (E) aquatic plants; and

196 (F) agricultural products.

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

198 (i) black liquor; or

199 (ii) treated woods.

200 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
201 property, products, or services if the tangible personal property, products, or services are:

202 (i) distinct and identifiable; and

203 (ii) sold for one nonitemized price.

204 (b) "Bundled transaction" does not include:

205 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

206 the basis of the selection by the purchaser of the items of tangible personal property included in
207 the transaction;

208 (ii) the sale of real property;

209 (iii) the sale of services to real property;

210 (iv) the retail sale of tangible personal property and a service if:

211 (A) the tangible personal property:

212 (I) is essential to the use of the service; and

213 (II) is provided exclusively in connection with the service; and

- 214 (B) the service is the true object of the transaction;
- 215 (v) the retail sale of two services if:
 - 216 (A) one service is provided that is essential to the use or receipt of a second service;
 - 217 (B) the first service is provided exclusively in connection with the second service; and
 - 218 (C) the second service is the true object of the transaction;
- 219 (vi) a transaction that includes tangible personal property or a product subject to
- 220 taxation under this chapter and tangible personal property or a product that is not subject to
- 221 taxation under this chapter if the:
 - 222 (A) seller's purchase price of the tangible personal property or product subject to
 - 223 taxation under this chapter is de minimis; or
 - 224 (B) seller's sales price of the tangible personal property or product subject to taxation
 - 225 under this chapter is de minimis; and
 - 226 (vii) the retail sale of tangible personal property that is not subject to taxation under
 - 227 this chapter and tangible personal property that is subject to taxation under this chapter if:
 - 228 (A) that retail sale includes:
 - 229 (I) food and food ingredients;
 - 230 (II) a drug;
 - 231 (III) durable medical equipment;
 - 232 (IV) mobility enhancing equipment;
 - 233 (V) an over-the-counter drug;
 - 234 (VI) a prosthetic device; or
 - 235 (VII) a medical supply; and
 - 236 (B) subject to Subsection (18)(f):
 - 237 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 238 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 239 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 240 this chapter is 50% or less of the seller's total sales price of that retail sale.
 - 241 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
 - 242 service that is distinct and identifiable does not include:
 - 243 (A) packaging that:
 - 244 (I) accompanies the sale of the tangible personal property, product, or service; and

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

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

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

251 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
252 product, or a service is provided free of charge with the purchase of another item of tangible
253 personal property, a product, or a service if the sales price of the purchased item of tangible
254 personal property, product, or service does not vary depending on the inclusion of the tangible
255 personal property, product, or service provided free of charge.

256 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
257 does not include a price that is separately identified by tangible personal property, product, or
258 service on the following, regardless of whether the following is in paper format or electronic
259 format:

260 (A) a binding sales document; or

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

262 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
263 supporting sales-related document that is available to a purchaser includes:

264 (A) a bill of sale;

265 (B) a contract;

266 (C) an invoice;

267 (D) a lease agreement;

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

269 (F) a price list;

270 (G) a rate card;

271 (H) a receipt; or

272 (I) a service agreement.

273 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
274 property or a product subject to taxation under this chapter is de minimis if:

275 (A) the seller's purchase price of the tangible personal property or product is 10% or

276 less of the seller's total purchase price of the bundled transaction; or

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

279 (ii) For purposes of Subsection (18)(b)(vi), a seller:

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

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

286 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
287 contract to determine if the sales price of tangible personal property or a product is de minimis.

288 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
289 the seller's purchase price and the seller's sales price to determine if tangible personal property
290 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
291 price of that retail sale.

292 (19) "Certified automated system" means software certified by the governing board of
293 the agreement that:

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

296 (i) on a transaction; and

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

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

300 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

301 (20) "Certified service provider" means an agent certified:

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

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

306 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel

307 suitable for general use.

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

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

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

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

314 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
315 fuels that does not constitute industrial use under Subsection (56) or residential use under
316 Subsection (106).

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

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

322 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
323 Utah Administrative Rulemaking Act, the commission may make rules defining what
324 constitutes a person's place of employment.

325 (c) "Common carrier" does not include a person that provides transportation network
326 services, as defined in Section [13-51-102](#).

327 (25) "Component part" includes:

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

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

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

333 (d) feed, seeds, and seedlings.

334 (26) "Computer" means an electronic device that accepts information:

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

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

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

338 (27) "Computer software" means a set of coded instructions designed to cause:

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

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

341 (28) "Computer software maintenance contract" means a contract that obligates a seller

342 of computer software to provide a customer with:

343 (a) future updates or upgrades to computer software;

344 (b) support services with respect to computer software; or

345 (c) a combination of Subsections (28)(a) and (b).

346 (29) (a) "Conference bridging service" means an ancillary service that links two or
347 more participants of an audio conference call or video conference call.

348 (b) "Conference bridging service" may include providing a telephone number as part of
349 the ancillary service described in Subsection (29)(a).

350 (c) "Conference bridging service" does not include a telecommunications service used
351 to reach the ancillary service described in Subsection (29)(a).

352 (30) "Construction materials" means any tangible personal property that will be
353 converted into real property.

354 (31) "Delivered electronically" means delivered to a purchaser by means other than
355 tangible storage media.

356 (32) (a) "Delivery charge" means a charge:

357 (i) by a seller of:

358 (A) tangible personal property;

359 (B) a product transferred electronically; or

360 (C) services; and

361 (ii) for preparation and delivery of the tangible personal property, product transferred
362 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
363 purchaser.

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

365 (i) transportation;

366 (ii) shipping;

367 (iii) postage;

368 (iv) handling;

- 369 (v) crating; or
- 370 (vi) packing.
- 371 (33) "Detailed telecommunications billing service" means an ancillary service of
- 372 separately stating information pertaining to individual calls on a customer's billing statement.
- 373 (34) "Dietary supplement" means a product, other than tobacco, that:
- 374 (a) is intended to supplement the diet;
- 375 (b) contains one or more of the following dietary ingredients:
- 376 (i) a vitamin;
- 377 (ii) a mineral;
- 378 (iii) an herb or other botanical;
- 379 (iv) an amino acid;
- 380 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 381 dietary intake; or
- 382 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 383 described in Subsections (34)(b)(i) through (v);
- 384 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 385 (A) tablet form;
- 386 (B) capsule form;
- 387 (C) powder form;
- 388 (D) softgel form;
- 389 (E) gelcap form; or
- 390 (F) liquid form; or
- 391 (ii) if the product is not intended for ingestion in a form described in Subsections
- 392 (34)(c)(i)(A) through (F), is not represented:
- 393 (A) as conventional food; and
- 394 (B) for use as a sole item of:
- 395 (I) a meal; or
- 396 (II) the diet; and
- 397 (d) is required to be labeled as a dietary supplement:
- 398 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 399 (ii) as required by 21 C.F.R. Sec. 101.36.

400 (35) "Digital audio-visual work" means a series of related images which, when shown
401 in succession, imparts an impression of motion, together with accompanying sounds, if any.

402 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
403 musical, spoken, or other sounds.

404 (b) "Digital audio work" includes a ringtone.

405 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
406 sense as a book.

407 (38) (a) "Direct mail" means printed material delivered or distributed by United States
408 mail or other delivery service:

409 (i) to:

410 (A) a mass audience; or

411 (B) addressees on a mailing list provided:

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

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

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

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

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

419 (39) "Directory assistance" means an ancillary service of providing:

420 (a) address information; or

421 (b) telephone number information.

422 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
423 or supplies that:

424 (i) cannot withstand repeated use; and

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

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

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

428 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

429 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

- 431 (i) a drug;
- 432 (ii) durable medical equipment;
- 433 (iii) a hearing aid;
- 434 (iv) a hearing aid accessory;
- 435 (v) mobility enhancing equipment; or
- 436 (vi) tangible personal property used to correct impaired vision, including:
- 437 (A) eyeglasses; or
- 438 (B) contact lenses.
- 439 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 440 commission may by rule define what constitutes medical equipment or supplies.
- 441 (41) "Drilling equipment manufacturer" means a facility:
- 442 (a) located in the state;
- 443 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 444 consist of manufacturing component parts of drilling equipment;
- 445 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 446 manufacturing process; and
- 447 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 448 manufacturing process.
- 449 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 450 compound, substance, or preparation that is:
- 451 (i) recognized in:
- 452 (A) the official United States Pharmacopoeia;
- 453 (B) the official Homeopathic Pharmacopoeia of the United States;
- 454 (C) the official National Formulary; or
- 455 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 456 (ii) intended for use in the:
- 457 (A) diagnosis of disease;
- 458 (B) cure of disease;
- 459 (C) mitigation of disease;
- 460 (D) treatment of disease; or
- 461 (E) prevention of disease; or

- 462 (iii) intended to affect:
- 463 (A) the structure of the body; or
- 464 (B) any function of the body.
- 465 (b) "Drug" does not include:
- 466 (i) food and food ingredients;
- 467 (ii) a dietary supplement;
- 468 (iii) an alcoholic beverage; or
- 469 (iv) a prosthetic device.
- 470 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 471 equipment that:
- 472 (i) can withstand repeated use;
- 473 (ii) is primarily and customarily used to serve a medical purpose;
- 474 (iii) generally is not useful to a person in the absence of illness or injury; and
- 475 (iv) is not worn in or on the body.
- 476 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 477 equipment described in Subsection (43)(a).
- 478 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 479 (44) "Electronic" means:
- 480 (a) relating to technology; and
- 481 (b) having:
- 482 (i) electrical capabilities;
- 483 (ii) digital capabilities;
- 484 (iii) magnetic capabilities;
- 485 (iv) wireless capabilities;
- 486 (v) optical capabilities;
- 487 (vi) electromagnetic capabilities; or
- 488 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 489 (45) "Electronic financial payment service" means an establishment:
- 490 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 491 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 492 federal Executive Office of the President, Office of Management and Budget; and

- 493 (b) that performs electronic financial payment services.
- 494 (46) "Employee" is as defined in Section 59-10-401.
- 495 (47) "Fixed guideway" means a public transit facility that uses and occupies:
 - 496 (a) rail for the use of public transit; or
 - 497 (b) a separate right-of-way for the use of public transit.
- 498 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
 - 499 (a) is powered by turbine engines;
 - 500 (b) operates on jet fuel; and
 - 501 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 502 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 503 communication between fixed points.
- 504 (50) (a) "Food and food ingredients" means substances:
 - 505 (i) regardless of whether the substances are in:
 - 506 (A) liquid form;
 - 507 (B) concentrated form;
 - 508 (C) solid form;
 - 509 (D) frozen form;
 - 510 (E) dried form; or
 - 511 (F) dehydrated form; and
 - 512 (ii) that are:
 - 513 (A) sold for:
 - 514 (I) ingestion by humans; or
 - 515 (II) chewing by humans; and
 - 516 (B) consumed for the substance's:
 - 517 (I) taste; or
 - 518 (II) nutritional value.
- 519 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 520 (c) "Food and food ingredients" does not include:
 - 521 (i) an alcoholic beverage;
 - 522 (ii) tobacco; or
 - 523 (iii) prepared food.

524 (51) (a) "Fundraising sales" means sales:
525 (i) (A) made by a school; or
526 (B) made by a school student;
527 (ii) that are for the purpose of raising funds for the school to purchase equipment,
528 materials, or provide transportation; and
529 (iii) that are part of an officially sanctioned school activity.
530 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
531 means a school activity:
532 (i) that is conducted in accordance with a formal policy adopted by the school or school
533 district governing the authorization and supervision of fundraising activities;
534 (ii) that does not directly or indirectly compensate an individual teacher or other
535 educational personnel by direct payment, commissions, or payment in kind; and
536 (iii) the net or gross revenues from which are deposited in a dedicated account
537 controlled by the school or school district.
538 (52) "Geothermal energy" means energy contained in heat that continuously flows
539 outward from the earth that is used as the sole source of energy to produce electricity.
540 (53) "Governing board of the agreement" means the governing board of the agreement
541 that is:
542 (a) authorized to administer the agreement; and
543 (b) established in accordance with the agreement.
544 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
545 (i) the executive branch of the state, including all departments, institutions, boards,
546 divisions, bureaus, offices, commissions, and committees;
547 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
548 Office of the Court Administrator, and similar administrative units in the judicial branch;
549 (iii) the legislative branch of the state, including the House of Representatives, the
550 Senate, the Legislative Printing Office, the Office of Legislative Research and General
551 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
552 Analyst;
553 (iv) the National Guard;
554 (v) an independent entity as defined in Section 63E-1-102; or

- 555 (vi) a political subdivision as defined in Section [17B-1-102](#).
- 556 (b) "Governmental entity" does not include the state systems of public and higher
557 education, including:
 - 558 (i) an applied technology college within the Utah College of Applied Technology;
 - 559 (ii) a school;
 - 560 (iii) the State Board of Education;
 - 561 (iv) the State Board of Regents; or
 - 562 (v) an institution of higher education.
- 563 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
564 electricity.
- 565 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
566 other fuels:
 - 567 (a) in mining or extraction of minerals;
 - 568 (b) in agricultural operations to produce an agricultural product up to the time of
569 harvest or placing the agricultural product into a storage facility, including:
 - 570 (i) commercial greenhouses;
 - 571 (ii) irrigation pumps;
 - 572 (iii) farm machinery;
 - 573 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
574 under Title 41, Chapter 1a, Part 2, Registration; and
 - 575 (v) other farming activities;
 - 576 (c) in manufacturing tangible personal property at an establishment described in SIC
577 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
578 Executive Office of the President, Office of Management and Budget;
 - 579 (d) by a scrap recycler if:
 - 580 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
581 one or more of the following items into prepared grades of processed materials for use in new
582 products:
 - 583 (A) iron;
 - 584 (B) steel;
 - 585 (C) nonferrous metal;

586 (D) paper;
587 (E) glass;
588 (F) plastic;
589 (G) textile; or
590 (H) rubber; and
591 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
592 nonrecycled materials; or

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

595 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
596 for installing:

- 597 (i) tangible personal property; or
- 598 (ii) a product transferred electronically.
- 599 (b) "Installation charge" does not include a charge for:

- 600 (i) repairs or renovations of:
 - 601 (A) tangible personal property; or
 - 602 (B) a product transferred electronically; or
- 603 (ii) attaching tangible personal property or a product transferred electronically:
 - 604 (A) to other tangible personal property; and
 - 605 (B) as part of a manufacturing or fabrication process.

606 (58) "Institution of higher education" means an institution of higher education listed in
607 Section 53B-2-101.

608 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
609 personal property or a product transferred electronically for:

- 610 (i) (A) a fixed term; or
- 611 (B) an indeterminate term; and
- 612 (ii) consideration.

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

- 617 (c) "Lease" or "rental" does not include:
- 618 (i) a transfer of possession or control of property under a security agreement or
619 deferred payment plan that requires the transfer of title upon completion of the required
620 payments;
- 621 (ii) a transfer of possession or control of property under an agreement that requires the
622 transfer of title:
- 623 (A) upon completion of required payments; and
- 624 (B) if the payment of an option price does not exceed the greater of:
- 625 (I) \$100; or
- 626 (II) 1% of the total required payments; or
- 627 (iii) providing tangible personal property along with an operator for a fixed period of
628 time or an indeterminate period of time if the operator is necessary for equipment to perform as
629 designed.
- 630 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
631 perform as designed if the operator's duties exceed the:
- 632 (i) set-up of tangible personal property;
- 633 (ii) maintenance of tangible personal property; or
- 634 (iii) inspection of tangible personal property.
- 635 (60) "Life science establishment" means an establishment in this state that is classified
636 under the following NAICS codes of the 2007 North American Industry Classification System
637 of the federal Executive Office of the President, Office of Management and Budget:
- 638 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 639 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
640 Manufacturing; or
- 641 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 642 (61) "Life science research and development facility" means a facility owned, leased,
643 or rented by a life science establishment if research and development is performed in 51% or
644 more of the total area of the facility.
- 645 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
646 if the tangible storage media is not physically transferred to the purchaser.
- 647 (63) "Local taxing jurisdiction" means a:

- 648 (a) county that is authorized to impose an agreement sales and use tax;
- 649 (b) city that is authorized to impose an agreement sales and use tax; or
- 650 (c) town that is authorized to impose an agreement sales and use tax.
- 651 (64) "Manufactured home" is as defined in Section [15A-1-302](#).
- 652 (65) "Manufacturing facility" means:
 - 653 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
 - 654 Industrial Classification Manual of the federal Executive Office of the President, Office of
 - 655 Management and Budget;
 - 656 (b) a scrap recycler if:
 - 657 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 658 one or more of the following items into prepared grades of processed materials for use in new
 - 659 products:
 - 660 (A) iron;
 - 661 (B) steel;
 - 662 (C) nonferrous metal;
 - 663 (D) paper;
 - 664 (E) glass;
 - 665 (F) plastic;
 - 666 (G) textile; or
 - 667 (H) rubber; and
 - 668 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
 - 669 nonrecycled materials; or
 - 670 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
 - 671 placed in service on or after May 1, 2006.
- 672 (66) "Member of the immediate family of the producer" means a person who is related
- 673 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
 - 674 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 675 (i) an adopted child or adopted stepchild; or
 - 676 (ii) a foster child or foster stepchild;
 - 677 (b) grandchild or stepgrandchild;
 - 678 (c) grandparent or stepgrandparent;

- 679 (d) nephew or stepnephew;
- 680 (e) niece or stepniece;
- 681 (f) parent or stepparent;
- 682 (g) sibling or stepsibling;
- 683 (h) spouse;
- 684 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

685 or

- 686 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 687 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 688 Administrative Rulemaking Act.

689 (67) "Mobile home" is as defined in Section [15A-1-302](#).

690 (68) "Mobile telecommunications service" is as defined in the Mobile

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

692 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of

693 the technology used, if:

- 694 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 695 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 696 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
- 697 described in Subsection (69)(a)(ii) are not fixed.

698 (b) "Mobile wireless service" includes a telecommunications service that is provided

699 by a commercial mobile radio service provider.

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

701 commission may by rule define "commercial mobile radio service provider."

702 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"

703 means equipment that is:

704 (i) primarily and customarily used to provide or increase the ability to move from one

705 place to another;

706 (ii) appropriate for use in a:

707 (A) home; or

708 (B) motor vehicle; and

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

710 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
711 the equipment described in Subsection (70)(a).

712 (c) "Mobility enhancing equipment" does not include:

713 (i) a motor vehicle;

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

716 (iii) durable medical equipment; or

717 (iv) a prosthetic device.

718 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
719 certified service provider as the seller's agent to perform all of the seller's sales and use tax
720 functions for agreement sales and use taxes other than the seller's obligation under Section
721 [59-12-124](#) to remit a tax on the seller's own purchases.

722 (72) "Model 2 seller" means a seller registered under the agreement that:

723 (a) except as provided in Subsection (72)(b), has selected a certified automated system
724 to perform the seller's sales tax functions for agreement sales and use taxes; and

725 (b) retains responsibility for remitting all of the sales tax:

726 (i) collected by the seller; and

727 (ii) to the appropriate local taxing jurisdiction.

728 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
729 the agreement that has:

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

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

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

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

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

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

736 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
737 sellers using the same proprietary system.

738 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
739 model 1 seller, model 2 seller, or model 3 seller.

740 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

- 741 (76) "Motor vehicle" is as defined in Section [41-1a-102](#).
- 742 (77) "Oil sands" means impregnated bituminous sands that:
- 743 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 744 other hydrocarbons, or otherwise treated;
- 745 (b) yield mixtures of liquid hydrocarbon; and
- 746 (c) require further processing other than mechanical blending before becoming finished
- 747 petroleum products.
- 748 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 749 material that yields petroleum upon heating and distillation.
- 750 (79) "Optional computer software maintenance contract" means a computer software
- 751 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 752 sale of computer software.
- 753 (80) (a) "Other fuels" means products that burn independently to produce heat or
- 754 energy.
- 755 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 756 personal property.
- 757 (81) (a) "Paging service" means a telecommunications service that provides
- 758 transmission of a coded radio signal for the purpose of activating a specific pager.
- 759 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
- 760 includes a transmission by message or sound.
- 761 (82) "Pawnbroker" is as defined in Section [13-32a-102](#).
- 762 (83) "Pawn transaction" is as defined in Section [13-32a-102](#).
- 763 (84) (a) "Permanently attached to real property" means that for tangible personal
- 764 property attached to real property:
- 765 (i) the attachment of the tangible personal property to the real property:
- 766 (A) is essential to the use of the tangible personal property; and
- 767 (B) suggests that the tangible personal property will remain attached to the real
- 768 property in the same place over the useful life of the tangible personal property; or
- 769 (ii) if the tangible personal property is detached from the real property, the detachment
- 770 would:
- 771 (A) cause substantial damage to the tangible personal property; or

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

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

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

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

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

778 (ii) a temporary detachment of tangible personal property from real property for a

779 repair or renovation if the repair or renovation is performed where the tangible personal

780 property and real property are located; or

781 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

782 Subsection (84)(c)(iii) or (iv).

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

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

786 (A) convenience;

787 (B) stability; or

788 (C) for an obvious temporary purpose;

789 (ii) the detachment of tangible personal property from real property except for the

790 detachment described in Subsection (84)(b)(ii);

791 (iii) an attachment of the following tangible personal property to real property if the

792 attachment to real property is only through a line that supplies water, electricity, gas,

793 telecommunications, cable, or supplies a similar item as determined by the commission by rule

794 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

795 (A) a computer;

796 (B) a telephone;

797 (C) a television; or

798 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as

799 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

800 Administrative Rulemaking Act; or

801 (iv) an item listed in Subsection (125)(c).

802 (85) "Person" includes any individual, firm, partnership, joint venture, association,

803 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
804 municipality, district, or other local governmental entity of the state, or any group or
805 combination acting as a unit.

806 (86) "Place of primary use":

807 (a) for telecommunications service other than mobile telecommunications service,
808 means the street address representative of where the customer's use of the telecommunications
809 service primarily occurs, which shall be:

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

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

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

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

814 (87) (a) "Postpaid calling service" means a telecommunications service a person
815 obtains by making a payment on a call-by-call basis:

816 (i) through the use of a:

817 (A) bank card;

818 (B) credit card;

819 (C) debit card; or

820 (D) travel card; or

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

823 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
824 service, that would be a prepaid wireless calling service if the service were exclusively a
825 telecommunications service.

826 (88) "Postproduction" means an activity related to the finishing or duplication of a
827 medium described in Subsection [59-12-104\(54\)\(a\)](#).

828 (89) "Prepaid calling service" means a telecommunications service:

829 (a) that allows a purchaser access to telecommunications service that is exclusively
830 telecommunications service;

831 (b) that:

832 (i) is paid for in advance; and

833 (ii) enables the origination of a call using an:

- 834 (A) access number; or
- 835 (B) authorization code;
- 836 (c) that is dialed:
- 837 (i) manually; or
- 838 (ii) electronically; and
- 839 (d) sold in predetermined units or dollars that decline:
- 840 (i) by a known amount; and
- 841 (ii) with use.
- 842 (90) "Prepaid wireless calling service" means a telecommunications service:
- 843 (a) that provides the right to utilize:
- 844 (i) mobile wireless service; and
- 845 (ii) other service that is not a telecommunications service, including:
- 846 (A) the download of a product transferred electronically;
- 847 (B) a content service; or
- 848 (C) an ancillary service;
- 849 (b) that:
- 850 (i) is paid for in advance; and
- 851 (ii) enables the origination of a call using an:
- 852 (A) access number; or
- 853 (B) authorization code;
- 854 (c) that is dialed:
- 855 (i) manually; or
- 856 (ii) electronically; and
- 857 (d) sold in predetermined units or dollars that decline:
- 858 (i) by a known amount; and
- 859 (ii) with use.
- 860 (91) (a) "Prepared food" means:
- 861 (i) food:
- 862 (A) sold in a heated state; or
- 863 (B) heated by a seller;
- 864 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

865 item; or
866 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
867 by the seller, including a:
868 (A) plate;
869 (B) knife;
870 (C) fork;
871 (D) spoon;
872 (E) glass;
873 (F) cup;
874 (G) napkin; or
875 (H) straw.
876 (b) "Prepared food" does not include:
877 (i) food that a seller only:
878 (A) cuts;
879 (B) repackages; or
880 (C) pasteurizes; or
881 (ii) (A) the following:
882 (I) raw egg;
883 (II) raw fish;
884 (III) raw meat;
885 (IV) raw poultry; or
886 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
887 and
888 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
889 Food and Drug Administration's Food Code that a consumer cook the items described in
890 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
891 (iii) the following if sold without eating utensils provided by the seller:
892 (A) food and food ingredients sold by a seller if the seller's proper primary
893 classification under the 2002 North American Industry Classification System of the federal
894 Executive Office of the President, Office of Management and Budget, is manufacturing in
895 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

896 Manufacturing;

897 (B) food and food ingredients sold in an unheated state:

898 (I) by weight or volume; and

899 (II) as a single item; or

900 (C) a bakery item, including:

901 (I) a bagel;

902 (II) a bar;

903 (III) a biscuit;

904 (IV) bread;

905 (V) a bun;

906 (VI) a cake;

907 (VII) a cookie;

908 (VIII) a croissant;

909 (IX) a danish;

910 (X) a donut;

911 (XI) a muffin;

912 (XII) a pastry;

913 (XIII) a pie;

914 (XIV) a roll;

915 (XV) a tart;

916 (XVI) a torte; or

917 (XVII) a tortilla.

918 (c) An eating utensil provided by the seller does not include the following used to
919 transport the food:

920 (i) a container; or

921 (ii) packaging.

922 (92) "Prescription" means an order, formula, or recipe that is issued:

923 (a) (i) orally;

924 (ii) in writing;

925 (iii) electronically; or

926 (iv) by any other manner of transmission; and

- 927 (b) by a licensed practitioner authorized by the laws of a state.
- 928 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
929 software" means computer software that is not designed and developed:
- 930 (i) by the author or other creator of the computer software; and
931 (ii) to the specifications of a specific purchaser.
- 932 (b) "Prewritten computer software" includes:
- 933 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
934 software is not designed and developed:
- 935 (A) by the author or other creator of the computer software; and
936 (B) to the specifications of a specific purchaser;
- 937 (ii) computer software designed and developed by the author or other creator of the
938 computer software to the specifications of a specific purchaser if the computer software is sold
939 to a person other than the purchaser; or
- 940 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
941 prewritten portion of prewritten computer software:
- 942 (A) that is modified or enhanced to any degree; and
943 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
944 designed and developed to the specifications of a specific purchaser.
- 945 (c) "Prewritten computer software" does not include a modification or enhancement
946 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 947 (i) reasonable; and
948 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
949 invoice or other statement of price provided to the purchaser at the time of sale or later, as
950 demonstrated by:
- 951 (A) the books and records the seller keeps at the time of the transaction in the regular
952 course of business, including books and records the seller keeps at the time of the transaction in
953 the regular course of business for nontax purposes;
- 954 (B) a preponderance of the facts and circumstances at the time of the transaction; and
955 (C) the understanding of all of the parties to the transaction.
- 956 (94) (a) "Private communications service" means a telecommunications service:
- 957 (i) that entitles a customer to exclusive or priority use of one or more communications

958 channels between or among termination points; and

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

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

963 (i) an extension line;

964 (ii) a station;

965 (iii) switching capacity; or

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

968 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
969 means a product transferred electronically that would be subject to a tax under this chapter if
970 that product was transferred in a manner other than electronically.

971 (b) "Product transferred electronically" does not include:

972 (i) an ancillary service;

973 (ii) computer software; or

974 (iii) a telecommunications service.

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

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

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

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

979 (b) "Prosthetic device" includes:

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

981 (ii) replacement parts for a prosthetic device;

982 (iii) a dental prosthesis; or

983 (iv) a hearing aid.

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

985 (i) corrective eyeglasses; or

986 (ii) contact lenses.

987 (97) (a) "Protective equipment" means an item:

988 (i) for human wear; and

- 989 (ii) that is:
- 990 (A) designed as protection:
- 991 (I) to the wearer against injury or disease; or
- 992 (II) against damage or injury of other persons or property; and
- 993 (B) not suitable for general use.
- 994 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 995 commission shall make rules:
- 996 (i) listing the items that constitute "protective equipment"; and
- 997 (ii) that are consistent with the list of items that constitute "protective equipment"
- 998 under the agreement.
- 999 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1000 printed matter, other than a photocopy:
- 1001 (i) regardless of:
- 1002 (A) characteristics;
- 1003 (B) copyright;
- 1004 (C) form;
- 1005 (D) format;
- 1006 (E) method of reproduction; or
- 1007 (F) source; and
- 1008 (ii) made available in printed or electronic format.
- 1009 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1010 commission may by rule define the term "photocopy."
- 1011 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1012 (i) valued in money; and
- 1013 (ii) for which tangible personal property, a product transferred electronically, or
- 1014 services are:
- 1015 (A) sold;
- 1016 (B) leased; or
- 1017 (C) rented.
- 1018 (b) "Purchase price" and "sales price" include:
- 1019 (i) the seller's cost of the tangible personal property, a product transferred

1020 electronically, or services sold;

1021 (ii) expenses of the seller, including:

1022 (A) the cost of materials used;

1023 (B) a labor cost;

1024 (C) a service cost;

1025 (D) interest;

1026 (E) a loss;

1027 (F) the cost of transportation to the seller; or

1028 (G) a tax imposed on the seller;

1029 (iii) a charge by the seller for any service necessary to complete the sale; or

1030 (iv) consideration a seller receives from a person other than the purchaser if:

1031 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1032 and

1033 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a

1034 price reduction or discount on the sale;

1035 (B) the seller has an obligation to pass the price reduction or discount through to the

1036 purchaser;

1037 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1038 the seller at the time of the sale to the purchaser; and

1039 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

1040 seller to claim a price reduction or discount; and

1041 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1042 coupon, or other documentation with the understanding that the person other than the seller

1043 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1044 (II) the purchaser identifies that purchaser to the seller as a member of a group or

1045 organization allowed a price reduction or discount, except that a preferred customer card that is

1046 available to any patron of a seller does not constitute membership in a group or organization

1047 allowed a price reduction or discount; or

1048 (III) the price reduction or discount is identified as a third party price reduction or

1049 discount on the:

1050 (Aa) invoice the purchaser receives; or

- 1051 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1052 (c) "Purchase price" and "sales price" do not include:
- 1053 (i) a discount:
- 1054 (A) in a form including:
- 1055 (I) cash;
- 1056 (II) term; or
- 1057 (III) coupon;
- 1058 (B) that is allowed by a seller;
- 1059 (C) taken by a purchaser on a sale; and
- 1060 (D) that is not reimbursed by a third party; or
- 1061 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 1062 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1063 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1064 transaction in the regular course of business, including books and records the seller keeps at the
- 1065 time of the transaction in the regular course of business for nontax purposes, by a
- 1066 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1067 understanding of all of the parties to the transaction:
- 1068 (A) the following from credit extended on the sale of tangible personal property or
- 1069 services:
- 1070 (I) a carrying charge;
- 1071 (II) a financing charge; or
- 1072 (III) an interest charge;
- 1073 (B) a delivery charge;
- 1074 (C) an installation charge;
- 1075 (D) a manufacturer rebate on a motor vehicle; or
- 1076 (E) a tax or fee legally imposed directly on the consumer.
- 1077 (100) "Purchaser" means a person to whom:
- 1078 (a) a sale of tangible personal property is made;
- 1079 (b) a product is transferred electronically; or
- 1080 (c) a service is furnished.
- 1081 (101) "Qualifying enterprise data center" means an establishment that will:

1082 (a) own and operate a data center facility that will house a group of networked server
1083 computers in one physical location in order to centralize the dissemination, management, and
1084 storage of data and information;

1085 (b) be located in the state;

1086 (c) be a new operation constructed on or after July 1, 2016;

1087 (d) consist of one or more buildings that total 150,000 or more square feet;

1088 (e) be owned or leased by:

1089 (i) the establishment; or

1090 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1091 establishment; and

1092 (f) be located on one or more parcels of land that are owned or leased by:

1093 (i) the establishment; or

1094 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1095 establishment.

1096 (102) "Regularly rented" means:

1097 (a) rented to a guest for value three or more times during a calendar year; or

1098 (b) advertised or held out to the public as a place that is regularly rented to guests for
1099 value.

1100 (103) "Rental" is as defined in Subsection (59).

1101 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1102 personal property" means:

1103 (i) a repair or renovation of tangible personal property that is not permanently attached
1104 to real property; or

1105 (ii) attaching tangible personal property or a product transferred electronically to other
1106 tangible personal property or detaching tangible personal property or a product transferred
1107 electronically from other tangible personal property if:

1108 (A) the other tangible personal property to which the tangible personal property or
1109 product transferred electronically is attached or from which the tangible personal property or
1110 product transferred electronically is detached is not permanently attached to real property; and

1111 (B) the attachment of tangible personal property or a product transferred electronically
1112 to other tangible personal property or detachment of tangible personal property or a product

1113 transferred electronically from other tangible personal property is made in conjunction with a
1114 repair or replacement of tangible personal property or a product transferred electronically.

1115 (b) "Repairs or renovations of tangible personal property" does not include:

1116 (i) attaching prewritten computer software to other tangible personal property if the
1117 other tangible personal property to which the prewritten computer software is attached is not
1118 permanently attached to real property; or

1119 (ii) detaching prewritten computer software from other tangible personal property if the
1120 other tangible personal property from which the prewritten computer software is detached is
1121 not permanently attached to real property.

1122 (105) "Research and development" means the process of inquiry or experimentation
1123 aimed at the discovery of facts, devices, technologies, or applications and the process of
1124 preparing those devices, technologies, or applications for marketing.

1125 (106) (a) "Residential telecommunications services" means a telecommunications
1126 service or an ancillary service that is provided to an individual for personal use:

1127 (i) at a residential address; or

1128 (ii) at an institution, including a nursing home or a school, if the telecommunications
1129 service or ancillary service is provided to and paid for by the individual residing at the
1130 institution rather than the institution.

1131 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1132 (i) apartment; or

1133 (ii) other individual dwelling unit.

1134 (107) "Residential use" means the use in or around a home, apartment building,
1135 sleeping quarters, and similar facilities or accommodations.

1136 (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1137 than:

1138 (a) resale;

1139 (b) sublease; or

1140 (c) subrent.

1141 (109) (a) "Retailer" means any person engaged in a regularly organized business in
1142 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1143 who is selling to the user or consumer and not for resale.

1144 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1145 engaged in the business of selling to users or consumers within the state.

1146 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1147 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1148 Subsection 59-12-103(1), for consideration.

1149 (b) "Sale" includes:

1150 (i) installment and credit sales;

1151 (ii) any closed transaction constituting a sale;

1152 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1153 chapter;

1154 (iv) any transaction if the possession of property is transferred but the seller retains the
1155 title as security for the payment of the price; and

1156 (v) any transaction under which right to possession, operation, or use of any article of
1157 tangible personal property is granted under a lease or contract and the transfer of possession
1158 would be taxable if an outright sale were made.

1159 (111) "Sale at retail" is as defined in Subsection (108).

1160 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1161 personal property or a product transferred electronically that is subject to a tax under this
1162 chapter is transferred:

1163 (a) by a purchaser-lessee;

1164 (b) to a lessor;

1165 (c) for consideration; and

1166 (d) if:

1167 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1168 of the tangible personal property or product transferred electronically;

1169 (ii) the sale of the tangible personal property or product transferred electronically to the
1170 lessor is intended as a form of financing:

1171 (A) for the tangible personal property or product transferred electronically; and

1172 (B) to the purchaser-lessee; and

1173 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1174 is required to:

1175 (A) capitalize the tangible personal property or product transferred electronically for
1176 financial reporting purposes; and

1177 (B) account for the lease payments as payments made under a financing arrangement.

1178 (113) "Sales price" is as defined in Subsection (99).

1179 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1180 amounts charged by a school:

1181 (i) sales that are directly related to the school's educational functions or activities
1182 including:

1183 (A) the sale of:

1184 (I) textbooks;

1185 (II) textbook fees;

1186 (III) laboratory fees;

1187 (IV) laboratory supplies; or

1188 (V) safety equipment;

1189 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1190 that:

1191 (I) a student is specifically required to wear as a condition of participation in a
1192 school-related event or school-related activity; and

1193 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1194 place of ordinary clothing;

1195 (C) sales of the following if the net or gross revenues generated by the sales are
1196 deposited into a school district fund or school fund dedicated to school meals:

1197 (I) food and food ingredients; or

1198 (II) prepared food; or

1199 (D) transportation charges for official school activities; or

1200 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1201 event or school-related activity.

1202 (b) "Sales relating to schools" does not include:

1203 (i) bookstore sales of items that are not educational materials or supplies;

1204 (ii) except as provided in Subsection (114)(a)(i)(B):

1205 (A) clothing;

- 1206 (B) clothing accessories or equipment;
- 1207 (C) protective equipment; or
- 1208 (D) sports or recreational equipment; or
- 1209 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1210 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1211 (A) other than a:
- 1212 (I) school;
- 1213 (II) nonprofit organization authorized by a school board or a governing body of a
- 1214 private school to organize and direct a competitive secondary school activity; or
- 1215 (III) nonprofit association authorized by a school board or a governing body of a
- 1216 private school to organize and direct a competitive secondary school activity; and
- 1217 (B) that is required to collect sales and use taxes under this chapter.
- 1218 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1219 commission may make rules defining the term "passed through."
- 1220 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1221 (a) means:
- 1222 (i) an elementary school or a secondary school that:
- 1223 (A) is a:
- 1224 (I) public school; or
- 1225 (II) private school; and
- 1226 (B) provides instruction for one or more grades kindergarten through 12; or
- 1227 (ii) a public school district; and
- 1228 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1229 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1230 (a) tangible personal property;
- 1231 (b) a product transferred electronically; or
- 1232 (c) a service.
- 1233 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1234 means tangible personal property or a product transferred electronically if the tangible personal
- 1235 property or product transferred electronically is:
- 1236 (i) used primarily in the process of:

- 1237 (A) (I) manufacturing a semiconductor;
- 1238 (II) fabricating a semiconductor; or
- 1239 (III) research or development of a:
- 1240 (Aa) semiconductor; or
- 1241 (Bb) semiconductor manufacturing process; or
- 1242 (B) maintaining an environment suitable for a semiconductor; or
- 1243 (ii) consumed primarily in the process of:
- 1244 (A) (I) manufacturing a semiconductor;
- 1245 (II) fabricating a semiconductor; or
- 1246 (III) research or development of a:
- 1247 (Aa) semiconductor; or
- 1248 (Bb) semiconductor manufacturing process; or
- 1249 (B) maintaining an environment suitable for a semiconductor.
- 1250 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1251 includes:
- 1252 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1253 transferred electronically described in Subsection (117)(a); or
- 1254 (ii) a chemical, catalyst, or other material used to:
- 1255 (A) produce or induce in a semiconductor a:
- 1256 (I) chemical change; or
- 1257 (II) physical change;
- 1258 (B) remove impurities from a semiconductor; or
- 1259 (C) improve the marketable condition of a semiconductor.
- 1260 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 1261 services to the aged as defined in Section [62A-3-101](#).
- 1262 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 1263 means tangible personal property that:
- 1264 (i) a business that provides accommodations and services described in Subsection
- 1265 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 1266 to a purchaser;
- 1267 (ii) is intended to be consumed by the purchaser; and

- 1268 (iii) is:
- 1269 (A) included in the purchase price of the accommodations and services; and
- 1270 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1271 to the purchaser.
- 1272 (b) "Short-term lodging consumable" includes:
- 1273 (i) a beverage;
- 1274 (ii) a brush or comb;
- 1275 (iii) a cosmetic;
- 1276 (iv) a hair care product;
- 1277 (v) lotion;
- 1278 (vi) a magazine;
- 1279 (vii) makeup;
- 1280 (viii) a meal;
- 1281 (ix) mouthwash;
- 1282 (x) nail polish remover;
- 1283 (xi) a newspaper;
- 1284 (xii) a notepad;
- 1285 (xiii) a pen;
- 1286 (xiv) a pencil;
- 1287 (xv) a razor;
- 1288 (xvi) saline solution;
- 1289 (xvii) a sewing kit;
- 1290 (xviii) shaving cream;
- 1291 (xix) a shoe shine kit;
- 1292 (xx) a shower cap;
- 1293 (xxi) a snack item;
- 1294 (xxii) soap;
- 1295 (xxiii) toilet paper;
- 1296 (xxiv) a toothbrush;
- 1297 (xxv) toothpaste; or
- 1298 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may

- 1299 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1300 Rulemaking Act.
- 1301 (c) "Short-term lodging consumable" does not include:
- 1302 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1303 property to be reused; or
- 1304 (ii) a product transferred electronically.
- 1305 (120) "Simplified electronic return" means the electronic return:
- 1306 (a) described in Section 318(C) of the agreement; and
- 1307 (b) approved by the governing board of the agreement.
- 1308 (121) "Solar energy" means the sun used as the sole source of energy for producing
1309 electricity.
- 1310 (122) (a) "Sports or recreational equipment" means an item:
- 1311 (i) designed for human use; and
- 1312 (ii) that is:
- 1313 (A) worn in conjunction with:
- 1314 (I) an athletic activity; or
- 1315 (II) a recreational activity; and
- 1316 (B) not suitable for general use.
- 1317 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1318 commission shall make rules:
- 1319 (i) listing the items that constitute "sports or recreational equipment"; and
- 1320 (ii) that are consistent with the list of items that constitute "sports or recreational
1321 equipment" under the agreement.
- 1322 (123) "State" means the state of Utah, its departments, and agencies.
- 1323 (124) "Storage" means any keeping or retention of tangible personal property or any
1324 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
1325 sale in the regular course of business.
- 1326 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
1327 means personal property that:
- 1328 (i) may be:
- 1329 (A) seen;

- 1330 (B) weighed;
- 1331 (C) measured;
- 1332 (D) felt; or
- 1333 (E) touched; or
- 1334 (ii) is in any manner perceptible to the senses.
- 1335 (b) "Tangible personal property" includes:
- 1336 (i) electricity;
- 1337 (ii) water;
- 1338 (iii) gas;
- 1339 (iv) steam; or
- 1340 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1341 computer software is transferred.
- 1342 (c) "Tangible personal property" includes the following regardless of whether the item
- 1343 is attached to real property:
- 1344 (i) a dishwasher;
- 1345 (ii) a dryer;
- 1346 (iii) a freezer;
- 1347 (iv) a microwave;
- 1348 (v) a refrigerator;
- 1349 (vi) a stove;
- 1350 (vii) a washer; or
- 1351 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 1352 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1353 Rulemaking Act.
- 1354 (d) "Tangible personal property" does not include a product that is transferred
- 1355 electronically.
- 1356 (e) "Tangible personal property" does not include the following if attached to real
- 1357 property, regardless of whether the attachment to real property is only through a line that
- 1358 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1359 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1360 Rulemaking Act:

- 1361 (i) a hot water heater;
- 1362 (ii) a water filtration system; or
- 1363 (iii) a water softener system.
- 1364 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1365 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
- 1366 primarily to enable or facilitate one or more of the following to function:
- 1367 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1368 (ii) telecommunications transmission equipment, machinery, or software.
- 1369 (b) The following apply to Subsection (126)(a):
- 1370 (i) a pole;
- 1371 (ii) software;
- 1372 (iii) a supplementary power supply;
- 1373 (iv) temperature or environmental equipment or machinery;
- 1374 (v) test equipment;
- 1375 (vi) a tower; or
- 1376 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1377 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
- 1378 accordance with Subsection (126)(c).
- 1379 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1380 commission may by rule define what constitutes equipment, machinery, or software that
- 1381 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).
- 1382 (127) "Telecommunications equipment, machinery, or software required for 911
- 1383 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
- 1384 Sec. 20.18.
- 1385 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
- 1386 means equipment, machinery, or software purchased or leased primarily to maintain or repair
- 1387 one or more of the following, regardless of whether the equipment, machinery, or software is
- 1388 purchased or leased as a spare part or as an upgrade or modification to one or more of the
- 1389 following:
- 1390 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1391 (b) telecommunications switching or routing equipment, machinery, or software; or

- 1392 (c) telecommunications transmission equipment, machinery, or software.
- 1393 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
- 1394 transmission of audio, data, video, voice, or any other information or signal to a point, or
- 1395 among or between points.
- 1396 (b) "Telecommunications service" includes:
- 1397 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 1398 processing application is used to act:
- 1399 (A) on the code, form, or protocol of the content;
- 1400 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1401 (C) regardless of whether the service:
- 1402 (I) is referred to as voice over Internet protocol service; or
- 1403 (II) is classified by the Federal Communications Commission as enhanced or value
- 1404 added;
- 1405 (ii) an 800 service;
- 1406 (iii) a 900 service;
- 1407 (iv) a fixed wireless service;
- 1408 (v) a mobile wireless service;
- 1409 (vi) a postpaid calling service;
- 1410 (vii) a prepaid calling service;
- 1411 (viii) a prepaid wireless calling service; or
- 1412 (ix) a private communications service.
- 1413 (c) "Telecommunications service" does not include:
- 1414 (i) advertising, including directory advertising;
- 1415 (ii) an ancillary service;
- 1416 (iii) a billing and collection service provided to a third party;
- 1417 (iv) a data processing and information service if:
- 1418 (A) the data processing and information service allows data to be:
- 1419 (I) (Aa) acquired;
- 1420 (Bb) generated;
- 1421 (Cc) processed;
- 1422 (Dd) retrieved; or

- 1423 (Ee) stored; and
- 1424 (II) delivered by an electronic transmission to a purchaser; and
- 1425 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1426 or information;
- 1427 (v) installation or maintenance of the following on a customer's premises:
- 1428 (A) equipment; or
- 1429 (B) wiring;
- 1430 (vi) Internet access service;
- 1431 (vii) a paging service;
- 1432 (viii) a product transferred electronically, including:
- 1433 (A) music;
- 1434 (B) reading material;
- 1435 (C) a ring tone;
- 1436 (D) software; or
- 1437 (E) video;
- 1438 (ix) a radio and television audio and video programming service:
- 1439 (A) regardless of the medium; and
- 1440 (B) including:
- 1441 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1442 programming service by a programming service provider;
- 1443 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1444 (III) audio and video programming services delivered by a commercial mobile radio
- 1445 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1446 (x) a value-added nonvoice data service; or
- 1447 (xi) tangible personal property.
- 1448 (130) (a) "Telecommunications service provider" means a person that:
- 1449 (i) owns, controls, operates, or manages a telecommunications service; and
- 1450 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
- 1451 resale to any person of the telecommunications service.
- 1452 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 1453 whether or not the Public Service Commission of Utah regulates:

1454 (i) that person; or

1455 (ii) the telecommunications service that the person owns, controls, operates, or
1456 manages.

1457 (131) (a) "Telecommunications switching or routing equipment, machinery, or
1458 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
1459 primarily for switching or routing:

1460 (i) an ancillary service;

1461 (ii) data communications;

1462 (iii) voice communications; or

1463 (iv) telecommunications service.

1464 (b) The following apply to Subsection (131)(a):

1465 (i) a bridge;

1466 (ii) a computer;

1467 (iii) a cross connect;

1468 (iv) a modem;

1469 (v) a multiplexer;

1470 (vi) plug in circuitry;

1471 (vii) a router;

1472 (viii) software;

1473 (ix) a switch; or

1474 (x) equipment, machinery, or software that functions similarly to an item listed in
1475 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
1476 accordance with Subsection (131)(c).

1477 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1478 commission may by rule define what constitutes equipment, machinery, or software that
1479 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1480 (132) (a) "Telecommunications transmission equipment, machinery, or software"
1481 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
1482 sending, receiving, or transporting:

1483 (i) an ancillary service;

1484 (ii) data communications;

- 1485 (iii) voice communications; or
- 1486 (iv) telecommunications service.
- 1487 (b) The following apply to Subsection (132)(a):
- 1488 (i) an amplifier;
- 1489 (ii) a cable;
- 1490 (iii) a closure;
- 1491 (iv) a conduit;
- 1492 (v) a controller;
- 1493 (vi) a duplexer;
- 1494 (vii) a filter;
- 1495 (viii) an input device;
- 1496 (ix) an input/output device;
- 1497 (x) an insulator;
- 1498 (xi) microwave machinery or equipment;
- 1499 (xii) an oscillator;
- 1500 (xiii) an output device;
- 1501 (xiv) a pedestal;
- 1502 (xv) a power converter;
- 1503 (xvi) a power supply;
- 1504 (xvii) a radio channel;
- 1505 (xviii) a radio receiver;
- 1506 (xix) a radio transmitter;
- 1507 (xx) a repeater;
- 1508 (xxi) software;
- 1509 (xxii) a terminal;
- 1510 (xxiii) a timing unit;
- 1511 (xxiv) a transformer;
- 1512 (xxv) a wire; or
- 1513 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1514 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 1515 accordance with Subsection (132)(c).

1516 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1517 commission may by rule define what constitutes equipment, machinery, or software that
1518 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1519 (133) (a) "Textbook for a higher education course" means a textbook or other printed
1520 material that is required for a course:

1521 (i) offered by an institution of higher education; and

1522 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1523 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1524 (134) "Tobacco" means:

1525 (a) a cigarette;

1526 (b) a cigar;

1527 (c) chewing tobacco;

1528 (d) pipe tobacco; or

1529 (e) any other item that contains tobacco.

1530 (135) "Unassisted amusement device" means an amusement device, skill device, or
1531 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1532 the amusement device, skill device, or ride device.

1533 (136) (a) "Use" means the exercise of any right or power over tangible personal
1534 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1535 incident to the ownership or the leasing of that tangible personal property, product transferred
1536 electronically, or service.

1537 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1538 property, a product transferred electronically, or a service in the regular course of business and
1539 held for resale.

1540 (137) "Value-added nonvoice data service" means a service:

1541 (a) that otherwise meets the definition of a telecommunications service except that a
1542 computer processing application is used to act primarily for a purpose other than conveyance,
1543 routing, or transmission; and

1544 (b) with respect to which a computer processing application is used to act on data or
1545 information:

1546 (i) code;

- 1547 (ii) content;
- 1548 (iii) form; or
- 1549 (iv) protocol.
- 1550 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
- 1551 required to be titled, registered, or titled and registered:
- 1552 (i) an aircraft as defined in Section 72-10-102;
- 1553 (ii) a vehicle as defined in Section 41-1a-102;
- 1554 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1555 (iv) a vessel as defined in Section 41-1a-102.
- 1556 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1557 (i) a vehicle described in Subsection (138)(a); or
- 1558 (ii) (A) a locomotive;
- 1559 (B) a freight car;
- 1560 (C) railroad work equipment; or
- 1561 (D) other railroad rolling stock.
- 1562 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1563 exchanging a vehicle as defined in Subsection (138).
- 1564 (140) (a) "Vertical service" means an ancillary service that:
- 1565 (i) is offered in connection with one or more telecommunications services; and
- 1566 (ii) offers an advanced calling feature that allows a customer to:
- 1567 (A) identify a caller; and
- 1568 (B) manage multiple calls and call connections.
- 1569 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1570 conference bridging service.
- 1571 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1572 receive, send, or store a recorded message.
- 1573 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1574 to have in order to utilize a voice mail service.
- 1575 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 1576 facility that generates electricity:
- 1577 (i) using as the primary source of energy waste materials that would be placed in a

1578 landfill or refuse pit if it were not used to generate electricity, including:

1579 (A) tires;

1580 (B) waste coal;

1581 (C) oil shale; or

1582 (D) municipal solid waste; and

1583 (ii) in amounts greater than actually required for the operation of the facility.

1584 (b) "Waste energy facility" does not include a facility that incinerates:

1585 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1586 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1587 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1588 (144) "Wind energy" means wind used as the sole source of energy to produce
1589 electricity.

1590 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1591 location by the United States Postal Service.

1592 Section 2. Section **59-12-103** is amended to read:

1593 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1594 **tax revenues.**

1595 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
1596 sales price for amounts paid or charged for the following transactions:

1597 (a) retail sales of tangible personal property made within the state;

1598 (b) amounts paid for:

1599 (i) telecommunications service, other than mobile telecommunications service, that
1600 originates and terminates within the boundaries of this state;

1601 (ii) mobile telecommunications service that originates and terminates within the
1602 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1603 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1604 (iii) an ancillary service associated with a:

1605 (A) telecommunications service described in Subsection (1)(b)(i); or

1606 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1607 (c) sales of the following for commercial use:

1608 (i) gas;

- 1609 (ii) electricity;
- 1610 (iii) heat;
- 1611 (iv) coal;
- 1612 (v) fuel oil; or
- 1613 (vi) other fuels;
- 1614 (d) sales of the following for residential use:
- 1615 (i) gas;
- 1616 (ii) electricity;
- 1617 (iii) heat;
- 1618 (iv) coal;
- 1619 (v) fuel oil; or
- 1620 (vi) other fuels;
- 1621 (e) sales of prepared food;
- 1622 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 1623 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1624 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1625 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1626 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1627 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1628 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1629 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1630 exhibition, cultural, or athletic activity;
- 1631 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1632 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:
- 1633 (i) the tangible personal property; and
- 1634 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1635 in Subsection (1)(g)(i), regardless of whether:
- 1636 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 1637 property; or
- 1638 (B) the particular parts used in the repairs or renovations of that tangible personal
- 1639 property are exempt from a tax under this chapter;

1640 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1641 assisted cleaning or washing of tangible personal property;

1642 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1643 accommodations and services that are regularly rented for less than 30 consecutive days;

1644 (j) amounts paid or charged for laundry or dry cleaning services;

1645 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1646 this state the tangible personal property is:

1647 (i) stored;

1648 (ii) used; or

1649 (iii) otherwise consumed;

1650 (l) amounts paid or charged for tangible personal property if within this state the
1651 tangible personal property is:

1652 (i) stored;

1653 (ii) used; or

1654 (iii) consumed; and

1655 (m) amounts paid or charged for a sale:

1656 (i) (A) of a product transferred electronically; or
1657 (B) of a repair or renovation of a product transferred electronically; and

1658 (ii) regardless of whether the sale provides:

1659 (A) a right of permanent use of the product; or
1660 (B) a right to use the product that is less than a permanent use, including a right:
1661 (I) for a definite or specified length of time; and
1662 (II) that terminates upon the occurrence of a condition.

1663 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
1664 is imposed on a transaction described in Subsection (1) equal to the sum of:

1665 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1666 (A) 4.70%; and

1667 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1668 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1669 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
1670 State Sales and Use Tax Act; and

1671 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1672 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1673 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
1674 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1675 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1676 transaction under this chapter other than this part.

1677 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1678 on a transaction described in Subsection (1)(d) equal to the sum of:

1679 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1680 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1681 transaction under this chapter other than this part.

1682 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1683 on amounts paid or charged for food and food ingredients equal to the sum of:

1684 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1685 a tax rate of 1.75%; and

1686 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1687 amounts paid or charged for food and food ingredients under this chapter other than this part.

1688 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1689 tangible personal property other than food and food ingredients, a state tax and a local tax is
1690 imposed on the entire bundled transaction equal to the sum of:

1691 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1692 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1693 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1694 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1695 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1696 Additional State Sales and Use Tax Act; and

1697 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1698 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1699 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1700 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1701 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

1702 described in Subsection (2)(a)(ii).

1703 (ii) If an optional computer software maintenance contract is a bundled transaction that
1704 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1705 similar billing document, the purchase of the optional computer software maintenance contract
1706 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1707 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
1708 transaction described in Subsection (2)(d)(i) or (ii):

1709 (A) if the sales price of the bundled transaction is attributable to tangible personal
1710 property, a product, or a service that is subject to taxation under this chapter and tangible
1711 personal property, a product, or service that is not subject to taxation under this chapter, the
1712 entire bundled transaction is subject to taxation under this chapter unless:

1713 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1714 personal property, product, or service that is not subject to taxation under this chapter from the
1715 books and records the seller keeps in the seller's regular course of business; or

1716 (II) state or federal law provides otherwise; or

1717 (B) if the sales price of a bundled transaction is attributable to two or more items of
1718 tangible personal property, products, or services that are subject to taxation under this chapter
1719 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1720 higher tax rate unless:

1721 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1722 personal property, product, or service that is subject to taxation under this chapter at the lower
1723 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1724 (II) state or federal law provides otherwise.

1725 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
1726 seller's regular course of business includes books and records the seller keeps in the regular
1727 course of business for nontax purposes.

1728 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
1729 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1730 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
1731 of tangible personal property, other property, a product, or a service that is not subject to
1732 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless

1733 the seller, at the time of the transaction:

1734 (A) separately states the portion of the transaction that is not subject to taxation under
1735 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1736 (B) is able to identify by reasonable and verifiable standards, from the books and
1737 records the seller keeps in the seller's regular course of business, the portion of the transaction
1738 that is not subject to taxation under this chapter.

1739 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1740 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1741 the transaction that is not subject to taxation under this chapter was not separately stated on an
1742 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1743 ignorance of the law; and

1744 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1745 and records the seller keeps in the seller's regular course of business, the portion of the
1746 transaction that is not subject to taxation under this chapter.

1747 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
1748 in the seller's regular course of business includes books and records the seller keeps in the
1749 regular course of business for nontax purposes.

1750 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
1751 personal property, products, or services that are subject to taxation under this chapter at
1752 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1753 unless the seller, at the time of the transaction:

1754 (A) separately states the items subject to taxation under this chapter at each of the
1755 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1756 (B) is able to identify by reasonable and verifiable standards the tangible personal
1757 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1758 from the books and records the seller keeps in the seller's regular course of business.

1759 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
1760 seller's regular course of business includes books and records the seller keeps in the regular
1761 course of business for nontax purposes.

1762 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
1763 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 1764 (i) Subsection (2)(a)(i)(A);
- 1765 (ii) Subsection (2)(b)(i);
- 1766 (iii) Subsection (2)(c)(i); or
- 1767 (iv) Subsection (2)(d)(i)(A)(I).
- 1768 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
- 1769 begins on or after the effective date of the tax rate increase if the billing period for the
- 1770 transaction begins before the effective date of a tax rate increase imposed under:
 - 1771 (A) Subsection (2)(a)(i)(A);
 - 1772 (B) Subsection (2)(b)(i);
 - 1773 (C) Subsection (2)(c)(i); or
 - 1774 (D) Subsection (2)(d)(i)(A)(I).
- 1775 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 1776 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 1777 or the tax rate decrease imposed under:
 - 1778 (A) Subsection (2)(a)(i)(A);
 - 1779 (B) Subsection (2)(b)(i);
 - 1780 (C) Subsection (2)(c)(i); or
 - 1781 (D) Subsection (2)(d)(i)(A)(I).
- 1782 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 1783 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 1784 change in a tax rate takes effect:
 - 1785 (A) on the first day of a calendar quarter; and
 - 1786 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1787 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 1788 (A) Subsection (2)(a)(i)(A);
 - 1789 (B) Subsection (2)(b)(i);
 - 1790 (C) Subsection (2)(c)(i); or
 - 1791 (D) Subsection (2)(d)(i)(A)(I).
- 1792 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1793 the commission may by rule define the term "catalogue sale."
- 1794 (3) (a) The following state taxes shall be deposited into the General Fund:

- 1795 (i) the tax imposed by Subsection (2)(a)(i)(A);
1796 (ii) the tax imposed by Subsection (2)(b)(i);
1797 (iii) the tax imposed by Subsection (2)(c)(i); or
1798 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 1799 (b) The following local taxes shall be distributed to a county, city, or town as provided
1800 in this chapter:
- 1801 (i) the tax imposed by Subsection (2)(a)(ii);
1802 (ii) the tax imposed by Subsection (2)(b)(ii);
1803 (iii) the tax imposed by Subsection (2)(c)(ii); and
1804 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 1805 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1806 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
1807 through (g):
- 1808 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1809 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
1810 (B) for the fiscal year; or
1811 (ii) \$17,500,000.
- 1812 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1813 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1814 Department of Natural Resources to:
- 1815 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1816 protect sensitive plant and animal species; or
1817 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1818 act, to political subdivisions of the state to implement the measures described in Subsections
1819 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 1820 (ii) Money transferred to the Department of Natural Resources under Subsection
1821 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1822 person to list or attempt to have listed a species as threatened or endangered under the
1823 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 1824 (iii) At the end of each fiscal year:
1825 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1826 Conservation and Development Fund created in Section 73-10-24;

1827 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1828 Program Subaccount created in Section 73-10c-5; and

1829 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1830 Program Subaccount created in Section 73-10c-5.

1831 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

1832 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

1833 created in Section 4-18-106.

1834 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

1835 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

1836 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

1837 water rights.

1838 (ii) At the end of each fiscal year:

1839 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1840 Conservation and Development Fund created in Section 73-10-24;

1841 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1842 Program Subaccount created in Section 73-10c-5; and

1843 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1844 Program Subaccount created in Section 73-10c-5.

1845 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

1846 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

1847 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1848 (ii) In addition to the uses allowed of the Water Resources Conservation and

1849 Development Fund under Section 73-10-24, the Water Resources Conservation and

1850 Development Fund may also be used to:

1851 (A) conduct hydrologic and geotechnical investigations by the Division of Water

1852 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

1853 quantifying surface and ground water resources and describing the hydrologic systems of an

1854 area in sufficient detail so as to enable local and state resource managers to plan for and

1855 accommodate growth in water use without jeopardizing the resource;

1856 (B) fund state required dam safety improvements; and

1857 (C) protect the state's interest in interstate water compact allocations, including the
1858 hiring of technical and legal staff.

1859 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1860 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
1861 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1862 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1863 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
1864 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1865 (i) provide for the installation and repair of collection, treatment, storage, and
1866 distribution facilities for any public water system, as defined in Section 19-4-102;

1867 (ii) develop underground sources of water, including springs and wells; and

1868 (iii) develop surface water sources.

1869 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1870 2006, the difference between the following amounts shall be expended as provided in this
1871 Subsection (5), if that difference is greater than \$1:

1872 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1873 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1874 (ii) \$17,500,000.

1875 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1876 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1877 credits; and

1878 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1879 restoration.

1880 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1881 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1882 created in Section 73-10-24.

1883 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1884 remaining difference described in Subsection (5)(a) shall be:

1885 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1886 credits; and

1887 (B) expended by the Division of Water Resources for cloud-seeding projects

1888 authorized by Title 73, Chapter 15, Modification of Weather.

1889 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1890 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1891 created in Section 73-10-24.

1892 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1893 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1894 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1895 Division of Water Resources for:

1896 (i) preconstruction costs:

1897 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1898 26, Bear River Development Act; and

1899 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1900 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1901 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1902 Chapter 26, Bear River Development Act;

1903 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1904 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1905 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
1906 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1907 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1908 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
1909 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1910 incurred for employing additional technical staff for the administration of water rights.

1911 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1912 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1913 Fund created in Section 73-10-24.

1914 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
1915 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
1916 (1) for the fiscal year shall be deposited as follows:

1917 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
1918 shall be deposited into the Transportation Investment Fund of 2005 created by Section

- 1919 72-2-124;
- 1920 (b) for fiscal year 2017-18 only:
- 1921 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
- 1922 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 1923 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
- 1924 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 1925 (c) for fiscal year 2018-19 only:
- 1926 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
- 1927 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 1928 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
- 1929 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 1930 (d) for fiscal year 2019-20 only:
- 1931 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
- 1932 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 1933 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
- 1934 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 1935 (e) for fiscal year 2020-21 only:
- 1936 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
- 1937 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 1938 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
- 1939 Water Infrastructure Restricted Account created by Section 73-10g-103; and
- 1940 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
- 1941 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
- 1942 created by Section 73-10g-103.
- 1943 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
- 1944 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
- 1945 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
- 1946 created by Section 72-2-124:
- 1947 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
- 1948 the revenues collected from the following taxes, which represents a portion of the
- 1949 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

1950 on vehicles and vehicle-related products:

1951 (A) the tax imposed by Subsection (2)(a)(i)(A);

1952 (B) the tax imposed by Subsection (2)(b)(i);

1953 (C) the tax imposed by Subsection (2)(c)(i); and

1954 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1955 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

1956 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through

1957 (D) that exceeds the amount collected from the sales and use taxes described in Subsections

1958 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

1959 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of

1960 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

1961 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)

1962 generated in the current fiscal year than the total percentage of sales and use taxes deposited in

1963 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection

1964 (7)(a) equal to the product of:

1965 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the

1966 previous fiscal year; and

1967 (B) the total sales and use tax revenue generated by the taxes described in Subsections

1968 (7)(a)(i)(A) through (D) in the current fiscal year.

1969 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under

1970 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes

1971 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of

1972 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in

1973 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

1974 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected

1975 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited

1976 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues

1977 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the

1978 current fiscal year under Subsection (7)(a).

1979 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited

1980 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall

1981 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
1982 the Transportation Investment Fund of 2005 created by Section 72-2-124.

1983 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
1984 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
1985 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
1986 Transportation Investment Fund of 2005 created by Section 72-2-124.

1987 (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
1988 Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of
1989 Finance shall annually deposit into the Transportation Investment Fund of 2005 created by
1990 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to
1991 3.68% of the revenues collected from the following taxes:

- 1992 (i) the tax imposed by Subsection (2)(a)(i)(A);
1993 (ii) the tax imposed by Subsection (2)(b)(i);
1994 (iii) the tax imposed by Subsection (2)(c)(i); and
1995 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1996 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
1997 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
1998 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

1999 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
2000 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
2001 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2002 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
2003 the transactions described in Subsection (1).

2004 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
2005 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
2006 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2007 amount of revenue described as follows:

- 2008 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
2009 tax rate on the transactions described in Subsection (1);
2010 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
2011 tax rate on the transactions described in Subsection (1);

2012 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
2013 tax rate on the transactions described in Subsection (1);

2014 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2015 .05% tax rate on the transactions described in Subsection (1); and

2016 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2017 tax rate on the transactions described in Subsection (1).

2018 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
2019 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
2020 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
2021 transaction attributable to food and food ingredients and tangible personal property other than
2022 food and food ingredients described in Subsection (2)(d).

2023 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2024 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2025 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2026 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2027 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2028 created in Section 63N-2-512.

2029 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
2030 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2031 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2032 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2033 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2034 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2035 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
2036 or deposited in accordance with Subsections (4) through (12) may not include an amount the
2037 Division of Finance deposits in accordance with Section 59-12-103.2.

2038 Section 3. Section 59-12-401 is amended to read:

2039 **59-12-401. Resort communities tax authority for cities, towns, and military**
2040 **installation development authority -- Base -- Rate -- Collection fees.**

2041 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
2042 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the

2043 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
2044 the transactions described in Subsection 59-12-103(1) located within the city or town.

2045 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
2046 section on:

2047 (i) the sale of:

2048 (A) a motor vehicle;

2049 (B) an aircraft;

2050 (C) a watercraft;

2051 (D) a modular home;

2052 (E) a manufactured home; or

2053 (F) a mobile home;

2054 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2055 are exempt from taxation under Section 59-12-104; and

2056 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2057 food ingredients.

2058 (c) For purposes of this Subsection (1), the location of a transaction shall be
2059 determined in accordance with Sections 59-12-211 through 59-12-215.

2060 (d) A city or town imposing a tax under this section shall impose the tax on the
2061 purchase price or the sales price for amounts paid or charged for food and food ingredients if
2062 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2063 food ingredients and tangible personal property other than food and food ingredients.

2064 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2065 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2066 the state from its collection fees received in connection with the implementation of Subsection
2067 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2068 provided for in Subsection (1).

2069 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2070 those cities and towns according to the amount of revenue the respective cities and towns
2071 generate in that year through imposition of that tax.

2072 (3) (a) Subject to Section 63H-1-203, the military installation development authority
2073 created in Section 63H-1-201 may impose a tax under this section on the transactions described

2074 in Subsection 59-12-103(1) located within a project area described in a project area plan
2075 adopted by the authority under Title 63H, Chapter 1, Military Installation Development
2076 Authority Act, as though the authority were a city or a town.

2077 (b) For purposes of calculating the permanent census population within a project area,
2078 the board as defined in Section 63H-1-102 shall:

2079 (i) use the actual number of permanent residents within the project area as determined
2080 by the board;

2081 (ii) adopt a resolution verifying the population number; and

2082 (iii) provide the commission any information required in Section 59-12-405.

2083 (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may
2084 impose the sales and use tax under this section if there are no permanent residents.

2085 Section 4. Section 59-12-402 is amended to read:

2086 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
2087 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
2088 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**
2089 **development authority.**

2090 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
2091 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
2092 66% of the municipality's permanent census population may, in addition to the sales tax
2093 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
2094 amount that is less than or equal to .5% on the transactions described in Subsection
2095 59-12-103(1) located within the municipality.

2096 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
2097 impose a tax under this section on:

2098 (i) the sale of:

2099 (A) a motor vehicle;

2100 (B) an aircraft;

2101 (C) a watercraft;

2102 (D) a modular home;

2103 (E) a manufactured home; or

2104 (F) a mobile home;

2105 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2106 are exempt from taxation under Section 59-12-104; and

2107 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2108 food ingredients.

2109 (c) For purposes of this Subsection (1), the location of a transaction shall be
2110 determined in accordance with Sections 59-12-211 through 59-12-215.

2111 (d) A municipality imposing a tax under this section shall impose the tax on the
2112 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2113 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2114 ingredients and tangible personal property other than food and food ingredients.

2115 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2116 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2117 the state from its collection fees received in connection with the implementation of Subsection
2118 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2119 provided for in Subsection (1).

2120 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2121 those cities and towns according to the amount of revenue the respective cities and towns
2122 generate in that year through imposition of that tax.

2123 (3) To impose an additional resort communities sales tax under this section, the
2124 governing body of the municipality shall:

2125 (a) pass a resolution approving the tax; and

2126 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2127 in Subsection (4).

2128 (4) To obtain voter approval for an additional resort communities sales tax under
2129 Subsection (3)(b), a municipality shall:

2130 (a) hold the additional resort communities sales tax election during:

2131 (i) a regular general election; or

2132 (ii) a municipal general election; and

2133 (b) publish notice of the election:

2134 (i) 15 days or more before the day on which the election is held; and

2135 (ii) (A) in a newspaper of general circulation in the municipality; and

2136 (B) as required in Section 45-1-101.

2137 (5) An ordinance approving an additional resort communities sales tax under this
2138 section shall provide an effective date for the tax as provided in Section 59-12-403.

2139 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2140 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2141 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
2142 Section 10-1-203.

2143 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2144 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2145 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2146 (7) A military installation development authority authorized to impose a resort
2147 communities tax under Section 59-12-401 may not impose an additional resort communities
2148 sales tax under this section.

2149 Section 5. Section 59-12-402.1 is amended to read:

2150 **59-12-402.1. State correctional facility sales and use tax -- Base -- Rate --**
2151 **Collection fees -- Imposition -- Prohibition of military installation development authority**
2152 **imposition of tax.**

2153 (1) As used in this section, "new state correctional facility" means a new prison in the
2154 state:

- 2155 (a) that is operated by the Department of Corrections;
- 2156 (b) the construction of which begins on or after May 12, 2015; and
- 2157 (c) that provides a capacity of 2,500 or more inmate beds.

2158 (2) Subject to the other provisions of this part, a city or town legislative body may
2159 impose a tax under this section if the construction of a new state correctional facility has begun
2160 within the boundaries of the city or town.

2161 (3) For purposes of this section, the tax rate may not exceed .5%.

2162 (4) Except as provided in Subsection (5), a tax under this section shall be imposed on
2163 the transactions described in Subsection 59-12-103(1) within the city or town.

2164 (5) A city or town may not impose a tax under this section on:

- 2165 (a) the sale of:
 - 2166 (i) a motor vehicle;

- 2167 (ii) an aircraft;
- 2168 (iii) a watercraft;
- 2169 (iv) a modular home;
- 2170 (v) a manufactured home; or
- 2171 (vi) a mobile home;
- 2172 (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses
- 2173 are exempt under Section 59-12-104; and
- 2174 (c) except as provided in Subsection (7), amounts paid or charged for food and food
- 2175 ingredients.
- 2176 (6) For purposes of this section, the location of a transaction shall be determined in
- 2177 accordance with Sections 59-12-211 through 59-12-215.
- 2178 (7) A city or town that imposes a tax under this section shall impose the tax on the
- 2179 purchase price or sales price for amounts paid or charged for food and food ingredients if the
- 2180 food and food ingredients are sold as part of a bundled transaction attributable to food and food
- 2181 ingredients and tangible personal property other than food and food ingredients.
- 2182 (8) A city or town may impose a tax under this section by majority vote of the
- 2183 members of the city or town legislative body.
- 2184 (9) A city or town that imposes a tax under this section is not subject to Section
- 2185 59-12-405.
- 2186 (10) A military installation development authority may not impose a tax under this
- 2187 section.
- 2188 Section 6. Section 59-12-703 is amended to read:
- 2189 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**
- 2190 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**
- 2191 **-- Notice requirements.**
- 2192 (1) (a) Subject to the other provisions of this section, a county legislative body may
- 2193 submit an opinion question to the residents of that county, by majority vote of all members of
- 2194 the legislative body, so that each resident of the county, except residents in municipalities that
- 2195 have already imposed a sales and use tax under Part 14, City or Town Option Funding for
- 2196 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
- 2197 opportunity to express the resident's opinion on the imposition of a local sales and use tax of

2198 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

2199 (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical
2200 organizations, cultural organizations, and zoological organizations, and rural radio stations, in
2201 that county; or

2202 (ii) provide funding for a botanical organization, cultural organization, or zoological
2203 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
2204 furtherance of the botanical organization's, cultural organization's, or zoological organization's
2205 primary purpose.

2206 (b) The opinion question required by this section shall state:

2207 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
2208 use tax for (list the purposes for which the revenue collected from the sales and use tax shall be
2209 expended)?"

2210 (c) A county legislative body may not impose a tax under this section on:

2211 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2212 are exempt from taxation under Section 59-12-104;

2213 (ii) sales and uses within a municipality that has already imposed a sales and use tax
2214 under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and
2215 Zoological Organizations or Facilities; and

2216 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
2217 food ingredients.

2218 (d) For purposes of this Subsection (1), the location of a transaction shall be
2219 determined in accordance with Sections 59-12-211 through 59-12-215.

2220 (e) A county legislative body imposing a tax under this section shall impose the tax on
2221 the purchase price or sales price for amounts paid or charged for food and food ingredients if
2222 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2223 food ingredients and tangible personal property other than food and food ingredients.

2224 (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
2225 Government Bonding Act.

2226 (2) (a) If the county legislative body determines that a majority of the county's
2227 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2228 the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a

2229 majority vote of all members of the legislative body on the transactions:
2230 (i) described in Subsection (1); and
2231 (ii) within the county, including the cities and towns located in the county, except those
2232 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
2233 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
2234 Facilities.
2235 (b) A county legislative body may revise county ordinances to reflect statutory changes
2236 to the distribution formula or eligible recipients of revenue generated from a tax imposed under
2237 Subsection (2)(a) without submitting an opinion question to residents of the county.
2238 (3) Subject to Section 59-12-704, revenue collected from a tax imposed under
2239 Subsection (2) shall be expended:
2240 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
2241 within the county or a city or town located in the county, except a city or town that has already
2242 imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical,
2243 Cultural, Recreational, and Zoological Organizations or Facilities;
2244 (b) to fund ongoing operating expenses of:
2245 (i) recreational facilities described in Subsection (3)(a);
2246 (ii) botanical organizations, cultural organizations, and zoological organizations within
2247 the county; and
2248 (iii) rural radio stations within the county; and
2249 (c) as stated in the opinion question described in Subsection (1).
2250 (4) (a) A tax authorized under this part shall be:
2251 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2252 accordance with:
2253 (A) the same procedures used to administer, collect, and enforce the tax under:
2254 (I) Part 1, Tax Collection; or
2255 (II) Part 2, Local Sales and Use Tax Act; and
2256 (B) Chapter 1, General Taxation Policies; and
2257 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2258 period in accordance with this section.
2259 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2260 (5) (a) For purposes of this Subsection (5):
2261 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
2262 County Annexation.
2263 (ii) "Annexing area" means an area that is annexed into a county.
2264 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2265 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
2266 (A) on the first day of a calendar quarter; and
2267 (B) after a 90-day period beginning on the date the commission receives notice meeting
2268 the requirements of Subsection (5)(b)(ii) from the county.
2269 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
2270 (A) that the county will enact or repeal a tax under this part;
2271 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
2272 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
2273 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
2274 tax.
2275 (c) (i) If the billing period for a transaction begins before the effective date of the
2276 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2277 the first billing period that begins on or after the effective date of the enactment of the tax.
2278 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2279 period is produced on or after the effective date of the repeal of the tax imposed under this
2280 section.
2281 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2282 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2283 Subsection (5)(b)(i) takes effect:
2284 (A) on the first day of a calendar quarter; and
2285 (B) beginning 60 days after the effective date of the enactment or repeal under
2286 Subsection (5)(b)(i).
2287 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2288 commission may by rule define the term "catalogue sale."
2289 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2290 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

2291 part for an annexing area, the enactment or repeal shall take effect:

2292 (A) on the first day of a calendar quarter; and

2293 (B) after a 90-day period beginning on the date the commission receives notice meeting
2294 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

2295 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

2296 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
2297 repeal of a tax under this part for the annexing area;

2298 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

2299 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

2300 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

2301 (f) (i) If the billing period for a transaction begins before the effective date of the
2302 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2303 the first billing period that begins on or after the effective date of the enactment of the tax.

2304 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2305 period is rendered on or after the effective date of the repeal of the tax imposed under this
2306 section.

2307 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2308 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2309 Subsection (5)(e)(i) takes effect:

2310 (A) on the first day of a calendar quarter; and

2311 (B) beginning 60 days after the effective date of the enactment or repeal under
2312 Subsection (5)(e)(i).

2313 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2314 commission may by rule define the term "catalogue sale."

2315 Section 7. Section **59-12-802** is amended to read:

2316 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
2317 **tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax --**
2318 **Administrative charge.**

2319 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
2320 may impose a sales and use tax of up to 1% on the transactions described in Subsection
2321 [59-12-103\(1\)](#) located within the county.

2322 (b) Subject to Subsection (3), the money collected from a tax under this section may be
2323 used to fund:

2324 (i) for a county of the third or fourth class, rural county health care facilities in that
2325 county; or

2326 (ii) for a county of the fifth or sixth class:

2327 (A) rural emergency medical services in that county;

2328 (B) federally qualified health centers in that county;

2329 (C) freestanding urgent care centers in that county;

2330 (D) rural county health care facilities in that county;

2331 (E) rural health clinics in that county; or

2332 (F) a combination of Subsections (1)(b)(ii)(A) through (E).

2333 (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
2334 under this section on:

2335 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2336 are exempt from taxation under Section 59-12-104;

2337 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
2338 a city that imposes a tax under Section 59-12-804; and

2339 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
2340 food ingredients.

2341 (d) For purposes of this Subsection (1), the location of a transaction shall be
2342 determined in accordance with Sections 59-12-211 through 59-12-215.

2343 (e) A county legislative body imposing a tax under this section shall impose the tax on
2344 the purchase price or sales price for amounts paid or charged for food and food ingredients if
2345 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2346 food ingredients and tangible personal property other than food and food ingredients.

2347 (2) (a) Before imposing a tax under Subsection (1), a county legislative body shall
2348 obtain approval to impose the tax from a majority of the:

2349 (i) members of the county's legislative body; and

2350 (ii) county's registered voters voting on the imposition of the tax.

2351 (b) The county legislative body shall conduct the election according to the procedures
2352 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

- 2353 (3) (a) The money collected from a tax imposed under Subsection (1) by a county
2354 legislative body of a county of the third or fourth class may only be used for the financing of:
2355 (i) ongoing operating expenses of a rural county health care facility within that county;
2356 (ii) the acquisition of land for a rural county health care facility within that county; or
2357 (iii) the design, construction, equipping, or furnishing of a rural county health care
2358 facility within that county.
- 2359 (b) The money collected from a tax imposed under Subsection (1) by a county of the
2360 fifth or sixth class may only be used to fund:
- 2361 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
2362 (1)(b)(ii) within that county;
- 2363 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
2364 (1)(b)(ii) within that county;
- 2365 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
2366 described in Subsection (1)(b)(ii) within that county; or
2367 (iv) rural emergency medical services within that county.
- 2368 (4) (a) A tax under this section shall be:
- 2369 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2370 accordance with:
- 2371 (A) the same procedures used to administer, collect, and enforce the tax under:
2372 (I) Part 1, Tax Collection; or
2373 (II) Part 2, Local Sales and Use Tax Act; and
2374 (B) Chapter 1, General Taxation Policies; and
2375 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2376 period by the county legislative body as provided in Subsection (1).
- 2377 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).
- 2378 (c) A county legislative body shall distribute money collected from a tax under this
2379 section quarterly.
- 2380 (5) The commission shall retain and deposit an administrative charge in accordance
2381 with Section 59-1-306 from the revenue the commission collects from a tax under this section.
2382 Section 8. Section 59-12-804 is amended to read:
2383 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**

2384 **collection, and enforcement of tax -- Administrative charge.**

2385 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

2386 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

2387 and

2388 (ii) to fund rural city hospitals in that city.

2389 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax

2390 under this section on:

2391 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

2392 are exempt from taxation under Section 59-12-104; and

2393 (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food

2394 ingredients.

2395 (c) For purposes of this Subsection (1), the location of a transaction shall be

2396 determined in accordance with Sections 59-12-211 through 59-12-215.

2397 (d) A city legislative body imposing a tax under this section shall impose the tax on the

2398 purchase price or sales price for amounts paid or charged for food and food ingredients if the

2399 food and food ingredients are sold as part of a bundled transaction attributable to food and food

2400 ingredients and tangible personal property other than food and food ingredients.

2401 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall

2402 obtain approval to impose the tax from a majority of the:

2403 (i) members of the city legislative body; and

2404 (ii) city's registered voters voting on the imposition of the tax.

2405 (b) The city legislative body shall conduct the election according to the procedures and

2406 requirements of Title 11, Chapter 14, Local Government Bonding Act.

2407 (3) The money collected from a tax imposed under Subsection (1) may only be used to

2408 fund:

2409 (a) ongoing operating expenses of a rural city hospital;

2410 (b) the acquisition of land for a rural city hospital; or

2411 (c) the design, construction, equipping, or furnishing of a rural city hospital.

2412 (4) (a) A tax under this section shall be:

2413 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

2414 accordance with:

- 2415 (A) the same procedures used to administer, collect, and enforce the tax under:
2416 (I) Part 1, Tax Collection; or
2417 (II) Part 2, Local Sales and Use Tax Act; and
2418 (B) Chapter 1, General Taxation Policies; and
2419 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2420 period by the city legislative body as provided in Subsection (1).
- 2421 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).
2422 (5) The commission shall retain and deposit an administrative charge in accordance
2423 with Section 59-1-306 from the revenue the commission collects from a tax under this section.
2424 Section 9. Section 59-12-1302 is amended to read:
- 2425 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
2426 **rate change -- Effective date -- Notice requirements -- Administration, collection, and**
2427 **enforcement of tax -- Administrative charge.**
- 2428 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
2429 tax as provided in this part in an amount that does not exceed 1%.
- 2430 (2) A town may impose a tax as provided in this part if the town imposed a license fee
2431 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
2432 1996.
- 2433 (3) A town imposing a tax under this section shall:
- 2434 (a) except as provided in Subsection (4), impose the tax on the transactions described
2435 in Subsection 59-12-103(1) located within the town; and
2436 (b) provide an effective date for the tax as provided in Subsection (5).
- 2437 (4) (a) A town may not impose a tax under this section on:
- 2438 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2439 are exempt from taxation under Section 59-12-104; and
2440 (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food
2441 ingredients.
- 2442 (b) For purposes of this Subsection (4), the location of a transaction shall be
2443 determined in accordance with Sections 59-12-211 through 59-12-215.
- 2444 (c) A town imposing a tax under this section shall impose the tax on the purchase price
2445 or sales price for amounts paid or charged for food and food ingredients if the food and food

2446 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
2447 and tangible personal property other than food and food ingredients.

2448 (5) (a) For purposes of this Subsection (5):

2449 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
2450 Annexation.

2451 (ii) "Annexing area" means an area that is annexed into a town.

2452 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2453 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
2454 or change shall take effect:

2455 (A) on the first day of a calendar quarter; and

2456 (B) after a 90-day period beginning on the date the commission receives notice meeting
2457 the requirements of Subsection (5)(b)(ii) from the town.

2458 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

2459 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

2460 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

2461 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

2462 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
2463 (5)(b)(ii)(A), the rate of the tax.

2464 (c) (i) If the billing period for the transaction begins before the effective date of the
2465 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
2466 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
2467 on or after the effective date of the enactment of the tax or the tax rate increase.

2468 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
2469 statement for the billing period is produced on or after the effective date of the repeal of the tax
2470 or the tax rate decrease imposed under Subsection (1).

2471 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2472 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
2473 a tax described in Subsection (5)(b)(i) takes effect:

2474 (A) on the first day of a calendar quarter; and

2475 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2476 rate of the tax under Subsection (5)(b)(i).

2477 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2478 commission may by rule define the term "catalogue sale."

2479 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2480 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
2481 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2482 effect:

2483 (A) on the first day of a calendar quarter; and

2484 (B) after a 90-day period beginning on the date the commission receives notice meeting
2485 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

2486 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

2487 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
2488 repeal, or change in the rate of a tax under this part for the annexing area;

2489 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

2490 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

2491 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
2492 (5)(e)(ii)(A), the rate of the tax.

2493 (f) (i) If the billing period for a transaction begins before the effective date of the
2494 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
2495 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
2496 on or after the effective date of the enactment of the tax or the tax rate increase.

2497 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
2498 statement for the billing period is produced on or after the effective date of the repeal of the tax
2499 or the tax rate decrease imposed under Subsection (1).

2500 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2501 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
2502 a tax described in Subsection (5)(e)(i) takes effect:

2503 (A) on the first day of a calendar quarter; and

2504 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2505 rate of the tax under Subsection (5)(e)(i).

2506 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2507 commission may by rule define the term "catalogue sale."

2508 (6) The commission shall:

2509 (a) distribute the revenue generated by the tax under this section to the town imposing

2510 the tax; and

2511 (b) except as provided in Subsection (8), administer, collect, and enforce the tax

2512 authorized under this section in accordance with:

2513 (i) the same procedures used to administer, collect, and enforce the tax under:

2514 (A) Part 1, Tax Collection; or

2515 (B) Part 2, Local Sales and Use Tax Act; and

2516 (ii) Chapter 1, General Taxation Policies.

2517 (7) The commission shall retain and deposit an administrative charge in accordance

2518 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

2519 (8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

2520 Section 10. Section 59-12-1402 is amended to read:

2521 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**

2522 **Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice**

2523 **requirements.**

2524 (1) (a) Subject to the other provisions of this section, a city or town legislative body

2525 subject to this part may submit an opinion question to the residents of that city or town, by

2526 majority vote of all members of the legislative body, so that each resident of the city or town

2527 has an opportunity to express the resident's opinion on the imposition of a local sales and use

2528 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or

2529 town, to:

2530 (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical

2531 organizations, cultural organizations, and zoological organizations in that city or town; or

2532 (ii) provide funding for a botanical organization, cultural organization, or zoological

2533 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in

2534 furtherance of the botanical organization's, cultural organization's, or zoological organization's

2535 primary purpose.

2536 (b) The opinion question required by this section shall state:

2537 "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales

2538 and use tax for (list the purposes for which the revenue collected from the sales and use tax

2539 shall be expended)?"

2540 (c) A city or town legislative body may not impose a tax under this section:

2541 (i) if the county in which the city or town is located imposes a tax under Part 7, County
2542 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
2543 Facilities;

2544 (ii) on the sales and uses described in Section 59-12-104 to the extent the sales and
2545 uses are exempt from taxation under Section 59-12-104; and

2546 (iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and
2547 food ingredients.

2548 (d) For purposes of this Subsection (1), the location of a transaction shall be
2549 determined in accordance with Sections 59-12-211 through 59-12-215.

2550 (e) A city or town legislative body imposing a tax under this section shall impose the
2551 tax on the purchase price or sales price for amounts paid or charged for food and food
2552 ingredients if the food and food ingredients are sold as part of a bundled transaction attributable
2553 to food and food ingredients and tangible personal property other than food and food
2554 ingredients.

2555 (f) Except as provided in Subsection (6), the election shall be held at a regular general
2556 election or a municipal general election, as those terms are defined in Section 20A-1-102, and
2557 shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

2558 (2) If the city or town legislative body determines that a majority of the city's or town's
2559 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2560 the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by
2561 a majority vote of all members of the legislative body.

2562 (3) Subject to Section 59-12-1403, revenue collected from a tax imposed under
2563 Subsection (2) shall be expended:

2564 (a) to finance cultural facilities, recreational facilities, and zoological facilities within
2565 the city or town or within the geographic area of entities that are parties to an interlocal
2566 agreement, to which the city or town is a party, providing for cultural facilities, recreational
2567 facilities, or zoological facilities;

2568 (b) to finance ongoing operating expenses of:

2569 (i) recreational facilities described in Subsection (3)(a) within the city or town or

2570 within the geographic area of entities that are parties to an interlocal agreement, to which the
2571 city or town is a party, providing for recreational facilities; or

2572 (ii) botanical organizations, cultural organizations, and zoological organizations within
2573 the city or town or within the geographic area of entities that are parties to an interlocal
2574 agreement, to which the city or town is a party, providing for the support of botanical
2575 organizations, cultural organizations, or zoological organizations; and

2576 (c) as stated in the opinion question described in Subsection (1).

2577 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall
2578 be:

2579 (i) administered, collected, and enforced in accordance with:

2580 (A) the same procedures used to administer, collect, and enforce the tax under:

2581 (I) Part 1, Tax Collection; or

2582 (II) Part 2, Local Sales and Use Tax Act; and

2583 (B) Chapter 1, General Taxation Policies; and

2584 (ii) (A) levied for a period of eight years; and

2585 (B) may be reauthorized at the end of the eight-year period in accordance with this
2586 section.

2587 (b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the
2588 tax shall be levied for a period of 10 years.

2589 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or
2590 after July 1, 2011, the tax shall be reauthorized for a ten-year period.

2591 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

2592 (5) (a) For purposes of this Subsection (5):

2593 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
2594 4, Annexation.

2595 (ii) "Annexing area" means an area that is annexed into a city or town.

2596 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
2597 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2598 (A) on the first day of a calendar quarter; and

2599 (B) after a 90-day period beginning on the date the commission receives notice meeting
2600 the requirements of Subsection (5)(b)(ii) from the city or town.

- 2601 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 2602 (A) that the city or town will enact or repeal a tax under this part;
- 2603 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 2604 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 2605 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
- 2606 the tax.
- 2607 (c) (i) If the billing period for a transaction begins before the effective date of the
- 2608 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
- 2609 the first billing period that begins on or after the effective date of the enactment of the tax.
- 2610 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
- 2611 period is produced on or after the effective date of the repeal of the tax imposed under this
- 2612 section.
- 2613 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
- 2614 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
- 2615 Subsection (5)(b)(i) takes effect:
- 2616 (A) on the first day of a calendar quarter; and
- 2617 (B) beginning 60 days after the effective date of the enactment or repeal under
- 2618 Subsection (5)(b)(i).
- 2619 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2620 commission may by rule define the term "catalogue sale."
- 2621 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
- 2622 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 2623 part for an annexing area, the enactment or repeal shall take effect:
- 2624 (A) on the first day of a calendar quarter; and
- 2625 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 2626 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
- 2627 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 2628 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
- 2629 repeal a tax under this part for the annexing area;
- 2630 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 2631 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

2632 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

2633 (f) (i) If the billing period for a transaction begins before the effective date of the
2634 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2635 the first billing period that begins on or after the effective date of the enactment of the tax.

2636 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2637 period is produced on or after the effective date of the repeal of the tax imposed under this
2638 section.

2639 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2640 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2641 Subsection (5)(e)(i) takes effect:

2642 (A) on the first day of a calendar quarter; and

2643 (B) beginning 60 days after the effective date of the enactment or repeal under
2644 Subsection (5)(e)(i).

2645 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2646 commission may by rule define the term "catalogue sale."

2647 (6) (a) Before a city or town legislative body submits an opinion question to the
2648 residents of the city or town under Subsection (1), the city or town legislative body shall:

2649 (i) submit to the county legislative body in which the city or town is located a written
2650 notice of the intent to submit the opinion question to the residents of the city or town; and

2651 (ii) receive from the county legislative body:

2652 (A) a written resolution passed by the county legislative body stating that the county
2653 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
2654 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

2655 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
2656 opinion question submitted to the residents of the county under Part 7, County Option Funding
2657 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
2658 or town legislative body to submit the opinion question to the residents of the city or town in
2659 accordance with this part.

2660 (b) (i) Within 60 days after the day the county legislative body receives from a city or
2661 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
2662 opinion question to the residents of the city or town, the county legislative body shall provide

2663 the city or town legislative body:

2664 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

2665 (B) written notice that the county legislative body will submit an opinion question to
2666 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
2667 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
2668 that part.

2669 (ii) If the county legislative body provides the city or town legislative body the written
2670 notice that the county legislative body will submit an opinion question as provided in
2671 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
2672 later than, from the date the county legislative body sends the written notice, the later of:

2673 (A) a 12-month period;

2674 (B) the next regular primary election; or

2675 (C) the next regular general election.

2676 (iii) Within 30 days of the date of the canvass of the election at which the opinion
2677 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
2678 city or town legislative body described in Subsection (6)(a) written results of the opinion
2679 question submitted by the county legislative body under Part 7, County Option Funding for
2680 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

2681 (A) (I) the city or town legislative body may not impose a tax under this part because a
2682 majority of the county's registered voters voted in favor of the county imposing the tax and the
2683 county legislative body by a majority vote approved the imposition of the tax; or

2684 (II) for at least 12 months from the date the written results are submitted to the city or
2685 town legislative body, the city or town legislative body may not submit to the county legislative
2686 body a written notice of the intent to submit an opinion question under this part because a
2687 majority of the county's registered voters voted against the county imposing the tax and the
2688 majority of the registered voters who are residents of the city or town described in Subsection
2689 (6)(a) voted against the imposition of the county tax; or

2690 (B) the city or town legislative body may submit the opinion question to the residents
2691 of the city or town in accordance with this part because although a majority of the county's
2692 registered voters voted against the county imposing the tax, the majority of the registered voters
2693 who are residents of the city or town voted for the imposition of the county tax.

2694 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
2695 provide a city or town legislative body described in Subsection (6)(a) a written resolution
2696 passed by the county legislative body stating that the county legislative body is not seeking to
2697 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
2698 Zoological Organizations or Facilities, which permits the city or town legislative body to
2699 submit under Subsection (1) an opinion question to the city's or town's residents.

2700 Section 11. Section **59-12-2003** is amended to read:

2701 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
2702 **transit districts.**

2703 (1) Subject to the other provisions of this section and except as provided in Subsection
2704 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
2705 transactions described in Subsection [59-12-103\(1\)](#) within a city, town, or the unincorporated
2706 area of a county of the first or second class if, on January 1, 2008, there is a public transit
2707 district within any portion of that county of the first or second class.

2708 (2) The state may not impose a tax under this part within a county of the first or second
2709 class if within all of the cities, towns, and the unincorporated area of the county of the first or
2710 second class there is imposed a sales and use tax of:

2711 (a) .30% under Section [59-12-2213](#);

2712 (b) .30% under Section [59-12-2215](#); or

2713 (c) .30% under Section [59-12-2216](#).

2714 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
2715 rate imposed within a city, town, or the unincorporated area of a county of the first or second
2716 class is a percentage equal to the difference between:

2717 (i) .30%; and

2718 (ii) (A) for a city within the county of the first or second class, the highest tax rate
2719 imposed within that city under:

2720 (I) Section [59-12-2213](#);

2721 (II) Section [59-12-2215](#); or

2722 (III) Section [59-12-2216](#);

2723 (B) for a town within the county of the first or second class, the highest tax rate
2724 imposed within that town under:

- 2725 (I) Section 59-12-2213;
- 2726 (II) Section 59-12-2215; or
- 2727 (III) Section 59-12-2216; or
- 2728 (C) for the unincorporated area of the county of the first or second class, the highest tax
- 2729 rate imposed within that unincorporated area under:
- 2730 (I) Section 59-12-2213;
- 2731 (II) Section 59-12-2215; or
- 2732 (III) Section 59-12-2216.
- 2733 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of
- 2734 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,
- 2735 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the
- 2736 first or second class is .30%, the state may not impose a tax under this part within that city,
- 2737 town, or unincorporated area.
- 2738 (4) (a) The state may not impose a tax under this part on:
- 2739 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
- 2740 are exempt from taxation under Section 59-12-104; or
- 2741 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food
- 2742 ingredients.
- 2743 (b) The state shall impose a tax under this part on the purchase price or sales price for
- 2744 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
- 2745 as part of a bundled transaction attributable to food and ingredients and tangible personal
- 2746 property other than food and food ingredients.
- 2747 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
- 2748 accordance with Sections 59-12-211 through 59-12-215.
- 2749 (6) The commission shall distribute the revenues the state collects from the sales and
- 2750 use tax under this part, after subtracting amounts a seller retains in accordance with Section
- 2751 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:
- 2752 (a) within which the state imposes a tax under this part; and
- 2753 (b) in proportion to the revenues collected from the sales and use tax under this part
- 2754 within each city, town, and unincorporated area within which the state imposes a tax under this
- 2755 part.

2756 Section 12. Section **59-12-2103** is amended to read:

2757 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected**
2758 **from the tax -- Administration, collection, and enforcement of tax by commission --**
2759 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

2760 (1) (a) Subject to the other provisions of this section and except as provided in
2761 Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or
2762 town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the
2763 city or town would have received a tax revenue distribution of less than .75% of the taxable
2764 sales within the boundaries of the city or town but for Subsection **59-12-205(4)(a)**, the city or
2765 town legislative body may impose a sales and use tax of up to .20% on the transactions:

2766 (i) described in Subsection **59-12-103(1)**; and

2767 (ii) within the city or town.

2768 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
2769 expend the revenue collected from the tax for the same purposes for which the city or town
2770 may expend the city's or town's general fund revenue.

2771 (c) For purposes of this Subsection (1), the location of a transaction shall be
2772 determined in accordance with Sections **59-12-211** through **59-12-215**.

2773 (2) (a) A city or town legislative body may not impose a tax under this section on:

2774 (i) the sales and uses described in Section **59-12-104** to the extent the sales and uses
2775 are exempt from taxation under Section **59-12-104**; and

2776 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
2777 ingredients.

2778 (b) A city or town legislative body imposing a tax under this section shall impose the
2779 tax on the purchase price or sales price for amounts paid or charged for food and food
2780 ingredients if the food and food ingredients are sold as part of a bundled transaction attributable
2781 to food and food ingredients and tangible personal property other than food and food
2782 ingredients.

2783 (3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax
2784 under this part, a city or town legislative body shall obtain approval from a majority of the
2785 members of the city or town legislative body.

2786 (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or

2787 town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

2788 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or
2789 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before
2790 March 31, 2016, the city or town legislative body obtains approval from a majority vote of the
2791 members of the city or town legislative body to continue to impose the tax.

2792 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of
2793 the members of the city or town legislative body to continue to impose a tax under this part on
2794 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

2795 (4) The commission shall transmit revenue collected within a city or town from a tax
2796 under this part:

2797 (a) to the city or town legislative body;

2798 (b) monthly; and

2799 (c) by electronic funds transfer.

2800 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
2801 collect, and enforce a tax under this part in accordance with:

2802 (i) the same procedures used to administer, collect, and enforce the tax under:

2803 (A) Part 1, Tax Collection; or

2804 (B) Part 2, Local Sales and Use Tax Act; and

2805 (ii) Chapter 1, General Taxation Policies.

2806 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2807 (6) The commission shall retain and deposit an administrative charge in accordance
2808 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

2809 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
2810 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
2811 repeal, or change shall take effect:

2812 (A) on the first day of a calendar quarter; and

2813 (B) after a 90-day period beginning on the date the commission receives notice meeting
2814 the requirements of Subsection (7)(a)(i) from the city or town.

2815 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

2816 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
2817 this part;

2818 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

2819 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

2820 (D) if the city or town enacts the tax or changes the rate of the tax described in

2821 Subsection (7)(a)(ii)(A), the rate of the tax.

2822 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
2823 the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes
2824 effect on the first day of the first billing period that begins on or after the effective date of the
2825 enactment of the tax or the tax rate increase.

2826 (ii) If the billing period for a transaction begins before the effective date of the repeal
2827 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2828 rate decrease applies to a billing period if the billing statement for the billing period is rendered
2829 on or after the effective date of the repeal of the tax or the tax rate decrease.

2830 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2831 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2832 described in Subsection (7)(a)(i) takes effect:

2833 (A) on the first day of a calendar quarter; and

2834 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2835 rate of the tax under Subsection (7)(a)(i).

2836 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2837 commission may by rule define the term "catalogue sale."

2838 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
2839 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
2840 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2841 effect:

2842 (A) on the first day of a calendar quarter; and

2843 (B) after a 90-day period beginning on the date the commission receives notice meeting
2844 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

2845 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2846 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
2847 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

2848 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2849 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

2850 (D) if the city or town enacts the tax or changes the rate of the tax described in

2851 Subsection (7)(d)(ii)(A), the rate of the tax.

2852 (e) (i) If the billing period for a transaction begins before the effective date of the
2853 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
2854 rate increase takes effect on the first day of the first billing period that begins on or after the
2855 effective date of the enactment of the tax or the tax rate increase.

2856 (ii) If the billing period for a transaction begins before the effective date of the repeal
2857 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
2858 rate decrease applies to a billing period if the billing statement for the billing period is rendered
2859 on or after the effective date of the repeal of the tax or the tax rate decrease.

2860 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2861 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2862 described in Subsection (7)(d)(i) takes effect:

2863 (A) on the first day of a calendar quarter; and

2864 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
2865 Subsection (7)(d)(i).

2866 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2867 commission may by rule define the term "catalogue sale."

2868 Section 13. Section **59-12-2204** is amended to read:

2869 **59-12-2204. Transactions that may not be subject to taxation under this part --**
2870 **Exception for food and food ingredients sold as part of a bundled transaction.**

2871 (1) A county, city, or town may not impose a sales and use tax under this part on:

2872 (a) the sales and uses described in Section [59-12-104](#) to the extent the sales and uses
2873 are exempt from taxation under Section [59-12-104](#); and

2874 (b) except as provided in Subsection (2), amounts paid or charged for food and food
2875 ingredients.

2876 (2) A county, city, or town imposing a sales and use tax under this part shall impose
2877 the sales and use tax on the purchase price or sales price for amounts paid or charged for food
2878 and food ingredients if the food and food ingredients are sold as part of a bundled transaction
2879 attributable to food and food ingredients and tangible personal property other than food and

2880 food ingredients.

2881 Section 14. **Retrospective operation.**

2882 This bill has retrospective operation to January 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel