

1 **SALES AND USE TAX AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Howard A. Stephenson**

5 House Sponsor: Daniel McCay

6 Cosponsor:

7 Curtis S. Bramble

8

9 **LONG TITLE**

10 **General Description:**

11 This bill creates sales and use tax exemptions relating to a purchase or lease of
12 machinery, equipment, normal operating repair or replacement parts, and materials.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ amends sales and use tax definitions;
- 16 ▶ repeals the economic life provision of the sales and use tax exemption for the
17 purchase or lease of machinery, equipment, or normal operating repair or
18 replacement parts by a manufacturing facility, certain mining establishments, or a
19 web search portal for use in certain business activities;

- 20 ▶ creates a sales and use tax exemption for the purchase or lease of materials, except
21 office equipment and office supplies, by a manufacturing facility, certain mining
22 establishments, or a web search portal that are used or consumed in certain business
23 activities;

- 24 ▶ creates a sales and use tax exemption for the purchase or lease of machinery,
25 equipment, normal operating repair or replacement parts, or materials, except office
26 equipment or office supplies, by a medical laboratory;

- 27 ▶ makes the expansion of the exemption for a manufacturing facility, certain mining
28 operations, or a web search portal and the new exemption for a medical laboratory

- 29 effective upon the state collecting a certain amount of revenue from remote sales;
- 30 ▶ modifies the use of revenue in the Remote Sales Restricted Account; and
- 31 ▶ makes technical and conforming changes.

32 Money Appropriated in this Bill:

33 None

34 Other Special Clauses:

35 This bill provides a special effective date.

36 Utah Code Sections Affected:

37 AMENDS:

- 38 **10-1-405**, as last amended by Laws of Utah 2012, Chapter 424
- 39 **19-6-714**, as last amended by Laws of Utah 2011, Chapter 297
- 40 **19-6-808**, as last amended by Laws of Utah 2011, Chapter 309
- 41 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 42 **59-12-103.1**, as last amended by Laws of Utah 2016, Chapter 135
- 43 **59-12-103.2**, as last amended by Laws of Utah 2013, Chapter 150
- 44 **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268
- 45 **59-12-106**, as last amended by Laws of Utah 2011, Chapter 285
- 46 **59-12-107**, as last amended by Laws of Utah 2017, Chapter 430
- 47 **59-12-204**, as last amended by Laws of Utah 2014, Chapter 258
- 48 **59-12-401**, as last amended by Laws of Utah 2017, Chapter 422
- 49 **59-12-402**, as last amended by Laws of Utah 2017, Chapter 422
- 50 **59-12-402.1**, as last amended by Laws of Utah 2017, Chapter 422
- 51 **59-12-703**, as last amended by Laws of Utah 2017, Chapters 181 and 422
- 52 **59-12-802**, as last amended by Laws of Utah 2017, Chapter 422
- 53 **59-12-804**, as last amended by Laws of Utah 2017, Chapter 422
- 54 **59-12-1102**, as last amended by Laws of Utah 2016, Chapter 364
- 55 **59-12-1302**, as last amended by Laws of Utah 2017, Chapter 422
- 56 **59-12-1402**, as last amended by Laws of Utah 2017, Chapter 422

57 **59-12-1802**, as last amended by Laws of Utah 2008, Chapter 384
58 **59-12-2003**, as last amended by Laws of Utah 2017, Chapter 422
59 **59-12-2103**, as last amended by Laws of Utah 2017, Chapter 422
60 **59-12-2204**, as last amended by Laws of Utah 2017, Chapter 422
61 **63I-2-210**, as last amended by Laws of Utah 2017, Chapters 181 and further amended
62 by Revisor Instructions, Laws of Utah 2017, Chapters 448, 448, 452 and last
63 amended by Coordination Clause, Laws of Utah 2017, Chapter 448
64 **63I-2-259**, as last amended by Laws of Utah 2017, Chapter 181

65 ENACTS:

66 **59-12-104.8**, Utah Code Annotated 1953

67 REPEALS:

68 **59-12-104.7**, as enacted by Laws of Utah 2017, Chapter 268

69 **63N-1-302**, as enacted by Laws of Utah 2017, Chapter 268



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

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

73 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
74 **Administrative charge -- Rulemaking authority.**

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

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

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

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

82 (A) except for:

83 (I) Subsection **59-12-103(2)(i)**;

84 (II) Section **59-12-104**;

85 (III) Section 59-12-104.1;

86 (IV) Section 59-12-104.2;

87 (V) Section 59-12-104.3;

88 (VI) Section 59-12-104.8;

89 [~~(VII)~~] (VII) Section 59-12-107.1; and

90 [~~(VIII)~~] (VIII) Section 59-12-123; and

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

94 (b) a uniform interlocal agreement between the municipality that imposes the
95 municipal telecommunications license tax and the commission:

96 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

97 (ii) that complies with Subsection (2)(a); and

98 (iii) that is developed by rule in accordance with Subsection (2)(b).

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

101 (i) transmit money collected under this part monthly by electronic funds transfer by the
102 commission to the municipality;

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

104 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306
105 from revenues the commission collects from a tax under this part; and

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

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

112 (3) If a telecommunications provider pays a municipal telecommunications license tax

113 to the commission, the telecommunications provider shall pay the municipal
114 telecommunications license tax to the commission:

115 (a) monthly on or before the last day of the month immediately following the last day
116 of the previous month if:

117 (i) the telecommunications provider is required to file a sales and use tax return with
118 the commission monthly under Section 59-12-108; or

119 (ii) the telecommunications provider is not required to file a sales and use tax return
120 under Title 59, Chapter 12, Sales and Use Tax Act; or

121 (b) quarterly on or before the last day of the month immediately following the last day
122 of the previous quarter if the telecommunications provider is required to file a sales and use tax
123 return with the commission quarterly under Section 59-12-108.

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

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

128 (i) within the municipality;

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

130 (iii) from a telecommunications provider required to pay the municipal
131 telecommunications license tax on or after July 1, 2007; and

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

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

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

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

141 Section 2. Section **19-6-714** is amended to read:

142 **19-6-714. Recycling fee on sale of oil.**

143 (1) On and after October 1, 1993, a recycling fee of \$.04 per quart or \$.16 per gallon is
144 imposed upon the first sale in Utah by a lubricating oil vendor of lubricating oil. The
145 lubricating oil vendor shall collect the fee at the time the lubricating oil is sold.

146 (2) A fee under this section may not be collected on sales of lubricating oil:

147 (a) shipped outside the state;

148 (b) purchased in five-gallon or smaller containers and used solely in underground
149 mining operations; or

150 (c) in bulk containers of 55 gallons or more.

151 (3) This fee is in addition to all other state, county, or municipal fees and taxes
152 imposed on the sale of lubricating oil.

153 (4) (a) The exemptions from sales and use tax provided in Section [59-12-104](#) do not
154 apply to this part.

155 (b) The exemptions from sales and use tax provided in Section [59-12-104.8](#) do not
156 apply to this part.

157 (5) The commission may make rules to implement and enforce the provisions of this
158 section.

159 Section 3. Section **19-6-808** is amended to read:

160 **19-6-808. Payment of recycling fee -- Administrative charge.**

161 (1) A tire retailer shall pay the recycling fee to the commission:

162 (a) monthly on or before the last day of the month immediately following the last day
163 of the previous month if:

164 (i) the tire retailer is required to file a sales and use tax return with the commission
165 monthly under Section [59-12-108](#); or

166 (ii) the tire retailer is not required to file a sales and use tax return under Title 59,
167 Chapter 12, Sales and Use Tax Act; or

168 (b) quarterly on or before the last day of the month immediately following the last day

169 of the previous quarter if the tire retailer is required to file a sales and use tax return with the
170 commission quarterly under Section 59-12-108.

171 (2) The payment shall be accompanied by a form prescribed by the commission.

172 (3) (a) The proceeds of the fee shall be transferred by the commission to the fund for
173 payment of partial reimbursement.

174 (b) The commission shall retain and deposit an administrative charge in accordance
175 with Section 59-1-306 from the revenues the commission collects from a fee under Section
176 19-6-805.

177 (4) (a) The commission shall administer, collect, and enforce the fee authorized under
178 this part in accordance with the same procedures used in the administration, collection, and
179 enforcement of the state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
180 and Title 59, Chapter 1, General Taxation Policies.

181 (b) A tire retailer may retain 2-1/2% of the recycling fee collected under this part for
182 the cost of collecting the fee.

183 (c) (i) The exemptions provided in Section 59-12-104 do not apply to this part.

184 (ii) The exemptions from sales and use tax provided in Section 59-12-104.8 do not
185 apply to this part.

186 (5) The fee imposed by this part is in addition to all other state, county, or municipal
187 fees and taxes imposed on the sale of new tires.

188 Section 4. Section 59-12-102 is amended to read:

189 **59-12-102. Definitions.**

190 As used in this chapter:

191 (1) "800 service" means a telecommunications service that:

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

193 (b) is typically marketed:

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

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

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

- 197 (iv) under the name 877 toll-free calling;
- 198 (v) under the name 888 toll-free calling; or
- 199 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
200 Federal Communications Commission.
- 201 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 202 (i) a subscriber purchases;
- 203 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
204 the subscriber's:
- 205 (A) prerecorded announcement; or
- 206 (B) live service; and
- 207 (iii) is typically marketed:
- 208 (A) under the name 900 service; or
- 209 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
210 Communications Commission.
- 211 (b) "900 service" does not include a charge for:
- 212 (i) a collection service a seller of a telecommunications service provides to a
213 subscriber; or
- 214 (ii) the following a subscriber sells to the subscriber's customer:
- 215 (A) a product; or
- 216 (B) a service.
- 217 (3) (a) "Admission or user fees" includes season passes.
- 218 (b) "Admission or user fees" does not include annual membership dues to private
219 organizations.
- 220 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
221 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
222 Agreement after November 12, 2002.
- 223 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 224 (a) listed under Subsection (6); and

- 225 (b) that are imposed within a local taxing jurisdiction.
- 226 (6) "Agreement sales and use tax" means a tax imposed under:
- 227 (a) Subsection 59-12-103(2)(a)(i)(A);
- 228 (b) Subsection 59-12-103(2)(b)(i);
- 229 (c) Subsection 59-12-103(2)(c)(i);
- 230 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 231 (e) Section 59-12-204;
- 232 (f) Section 59-12-401;
- 233 (g) Section 59-12-402;
- 234 (h) Section 59-12-402.1;
- 235 (i) Section 59-12-703;
- 236 (j) Section 59-12-802;
- 237 (k) Section 59-12-804;
- 238 (l) Section 59-12-1102;
- 239 (m) Section 59-12-1302;
- 240 (n) Section 59-12-1402;
- 241 (o) Section 59-12-1802;
- 242 (p) Section 59-12-2003;
- 243 (q) Section 59-12-2103;
- 244 (r) Section 59-12-2213;
- 245 (s) Section 59-12-2214;
- 246 (t) Section 59-12-2215;
- 247 (u) Section 59-12-2216;
- 248 (v) Section 59-12-2217;
- 249 (w) Section 59-12-2218; or
- 250 (x) Section 59-12-2219.
- 251 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 252 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- 253 (a) except for:
- 254 (i) an airline as defined in Section 59-2-102; or
- 255 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 256 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 257 state, of an airline; and
- 258 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 259 whether the business entity performs the following in this state:
- 260 (i) check, diagnose, overhaul, and repair:
- 261 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 262 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 263 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 264 engine;
- 265 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 266 aircraft:
- 267 (A) an inspection;
- 268 (B) a repair, including a structural repair or modification;
- 269 (C) changing landing gear; and
- 270 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 271 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 272 completely apply new paint to the fixed wing turbine powered aircraft; and
- 273 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 274 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 275 authority that certifies the fixed wing turbine powered aircraft.
- 276 (9) "Alcoholic beverage" means a beverage that:
- 277 (a) is suitable for human consumption; and
- 278 (b) contains .5% or more alcohol by volume.
- 279 (10) "Alternative energy" means:
- 280 (a) biomass energy;

- 281 (b) geothermal energy;
- 282 (c) hydroelectric energy;
- 283 (d) solar energy;
- 284 (e) wind energy; or
- 285 (f) energy that is derived from:
 - 286 (i) coal-to-liquids;
 - 287 (ii) nuclear fuel;
 - 288 (iii) oil-impregnated diatomaceous earth;
 - 289 (iv) oil sands;
 - 290 (v) oil shale;
 - 291 (vi) petroleum coke; or
 - 292 (vii) waste heat from:
 - 293 (A) an industrial facility; or
 - 294 (B) a power station in which an electric generator is driven through a process in which
 - 295 water is heated, turns into steam, and spins a steam turbine.
- 296 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 297 facility" means a facility that:
 - 298 (i) uses alternative energy to produce electricity; and
 - 299 (ii) has a production capacity of two megawatts or greater.
- 300 (b) A facility is an alternative energy electricity production facility regardless of
- 301 whether the facility is:
 - 302 (i) connected to an electric grid; or
 - 303 (ii) located on the premises of an electricity consumer.
- 304 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 305 provision of telecommunications service.
 - 306 (b) "Ancillary service" includes:
 - 307 (i) a conference bridging service;
 - 308 (ii) a detailed communications billing service;

309 (iii) directory assistance;

310 (iv) a vertical service; or

311 (v) a voice mail service.

312 (13) "Area agency on aging" means the same as that term is defined in Section

313 [62A-3-101](#).

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

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

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

320 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
321 washing of tangible personal property if the cleaning or washing labor is primarily performed
322 by an individual:

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

325 (b) at the direction of the seller of the cleaning or washing of the tangible personal
326 property.

327 (16) "Authorized carrier" means:

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

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

333 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
334 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
335 stock in more than one state.

336 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the

- 337 following that is used as the primary source of energy to produce fuel or electricity:
- 338 (i) material from a plant or tree; or
- 339 (ii) other organic matter that is available on a renewable basis, including:
- 340 (A) slash and brush from forests and woodlands;
- 341 (B) animal waste;
- 342 (C) waste vegetable oil;
- 343 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 344 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 345 thermal conversion process;
- 346 (E) aquatic plants; and
- 347 (F) agricultural products.
- 348 (b) "Biomass energy" does not include:
- 349 (i) black liquor; or
- 350 (ii) treated woods.
- 351 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 352 property, products, or services if the tangible personal property, products, or services are:
- 353 (i) distinct and identifiable; and
- 354 (ii) sold for one nonitemized price.
- 355 (b) "Bundled transaction" does not include:
- 356 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 357 the basis of the selection by the purchaser of the items of tangible personal property included in
- 358 the transaction;
- 359 (ii) the sale of real property;
- 360 (iii) the sale of services to real property;
- 361 (iv) the retail sale of tangible personal property and a service if:
- 362 (A) the tangible personal property:
- 363 (I) is essential to the use of the service; and
- 364 (II) is provided exclusively in connection with the service; and

- 365 (B) the service is the true object of the transaction;
- 366 (v) the retail sale of two services if:
 - 367 (A) one service is provided that is essential to the use or receipt of a second service;
 - 368 (B) the first service is provided exclusively in connection with the second service; and
 - 369 (C) the second service is the true object of the transaction;
- 370 (vi) a transaction that includes tangible personal property or a product subject to
- 371 taxation under this chapter and tangible personal property or a product that is not subject to
- 372 taxation under this chapter if the:
 - 373 (A) seller's purchase price of the tangible personal property or product subject to
 - 374 taxation under this chapter is de minimis; or
 - 375 (B) seller's sales price of the tangible personal property or product subject to taxation
 - 376 under this chapter is de minimis; and
 - 377 (vii) the retail sale of tangible personal property that is not subject to taxation under
 - 378 this chapter and tangible personal property that is subject to taxation under this chapter if:
 - 379 (A) that retail sale includes:
 - 380 (I) food and food ingredients;
 - 381 (II) a drug;
 - 382 (III) durable medical equipment;
 - 383 (IV) mobility enhancing equipment;
 - 384 (V) an over-the-counter drug;
 - 385 (VI) a prosthetic device; or
 - 386 (VII) a medical supply; and
 - 387 (B) subject to Subsection (18)(f):
 - 388 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 389 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 390 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 391 this chapter is 50% or less of the seller's total sales price of that retail sale.
 - 392 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a

393 service that is distinct and identifiable does not include:

394 (A) packaging that:

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

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

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

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

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

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

411 (A) a binding sales document; or

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

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

415 (A) a bill of sale;

416 (B) a contract;

417 (C) an invoice;

418 (D) a lease agreement;

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

420 (F) a price list;

421 (G) a rate card;

422 (H) a receipt; or

423 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

447 (i) on a transaction; and

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

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

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

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

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

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

457 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
458 suitable for general use.

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

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

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

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

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

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

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

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

476 (c) "Common carrier" does not include a person that provides transportation network

477 services, as defined in Section 13-51-102.

478 (25) "Component part" includes:

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

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

481 (c) fuel used for providing temperature control of orchards and commercial

482 greenhouses doing a majority of their business in wholesale sales, and for providing power for

483 off-highway type farm machinery; and

484 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

493 of computer software to provide a customer with:

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

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

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

497 (29) (a) "Conference bridging service" means an ancillary service that links two or

498 more participants of an audio conference call or video conference call.

499 (b) "Conference bridging service" may include providing a telephone number as part of

500 the ancillary service described in Subsection (29)(a).

501 (c) "Conference bridging service" does not include a telecommunications service used

502 to reach the ancillary service described in Subsection (29)(a).

503 (30) "Construction materials" means any tangible personal property that will be

504 converted into real property.

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

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

508 (i) by a seller of:

509 (A) tangible personal property;

510 (B) a product transferred electronically; or

511 (C) services; and

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

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

516 (i) transportation;

517 (ii) shipping;

518 (iii) postage;

519 (iv) handling;

520 (v) crating; or

521 (vi) packing.

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

524 (34) "Dietary supplement" means a product, other than tobacco, that:

525 (a) is intended to supplement the diet;

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

527 (i) a vitamin;

528 (ii) a mineral;

529 (iii) an herb or other botanical;

530 (iv) an amino acid;

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

533 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
534 described in Subsections (34)(b)(i) through (v);

535 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

536 (A) tablet form;

537 (B) capsule form;

538 (C) powder form;

539 (D) softgel form;

540 (E) gelcap form; or

541 (F) liquid form; or

542 (ii) if the product is not intended for ingestion in a form described in Subsections
543 (34)(c)(i)(A) through (F), is not represented:

544 (A) as conventional food; and

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

546 (I) a meal; or

547 (II) the diet; and

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

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

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

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

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

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

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

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

560 (i) to:

- 561 (A) a mass audience; or
- 562 (B) addressees on a mailing list provided:
 - 563 (I) by a purchaser of the mailing list; or
 - 564 (II) at the discretion of the purchaser of the mailing list; and
 - 565 (ii) if the cost of the printed material is not billed directly to the recipients.
- 566 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 567 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 568 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 569 single address.
- 570 (39) "Directory assistance" means an ancillary service of providing:
 - 571 (a) address information; or
 - 572 (b) telephone number information.
- 573 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 574 or supplies that:
 - 575 (i) cannot withstand repeated use; and
 - 576 (ii) are purchased by, for, or on behalf of a person other than:
 - 577 (A) a health care facility as defined in Section [26-21-2](#);
 - 578 (B) a health care provider as defined in Section [78B-3-403](#);
 - 579 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
 - 580 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
 - 581 (b) "Disposable home medical equipment or supplies" does not include:
 - 582 (i) a drug;
 - 583 (ii) durable medical equipment;
 - 584 (iii) a hearing aid;
 - 585 (iv) a hearing aid accessory;
 - 586 (v) mobility enhancing equipment; or
 - 587 (vi) tangible personal property used to correct impaired vision, including:
 - 588 (A) eyeglasses; or

- 589 (B) contact lenses.
- 590 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
591 commission may by rule define what constitutes medical equipment or supplies.
- 592 (41) "Drilling equipment manufacturer" means a facility:
- 593 (a) located in the state;
- 594 (b) with respect to which 51% or more of the manufacturing activities of the facility
595 consist of manufacturing component parts of drilling equipment;
- 596 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
597 manufacturing process; and
- 598 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
599 manufacturing process.
- 600 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
601 compound, substance, or preparation that is:
- 602 (i) recognized in:
- 603 (A) the official United States Pharmacopoeia;
- 604 (B) the official Homeopathic Pharmacopoeia of the United States;
- 605 (C) the official National Formulary; or
- 606 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 607 (ii) intended for use in the:
- 608 (A) diagnosis of disease;
- 609 (B) cure of disease;
- 610 (C) mitigation of disease;
- 611 (D) treatment of disease; or
- 612 (E) prevention of disease; or
- 613 (iii) intended to affect:
- 614 (A) the structure of the body; or
- 615 (B) any function of the body.
- 616 (b) "Drug" does not include:

617 (i) food and food ingredients;

618 (ii) a dietary supplement;

619 (iii) an alcoholic beverage; or

620 (iv) a prosthetic device.

621 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
622 equipment that:

623 (i) can withstand repeated use;

624 (ii) is primarily and customarily used to serve a medical purpose;

625 (iii) generally is not useful to a person in the absence of illness or injury; and

626 (iv) is not worn in or on the body.

627 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
628 equipment described in Subsection (43)(a).

629 (c) "Durable medical equipment" does not include mobility enhancing equipment.

630 (44) "Electronic" means:

631 (a) relating to technology; and

632 (b) having:

633 (i) electrical capabilities;

634 (ii) digital capabilities;

635 (iii) magnetic capabilities;

636 (iv) wireless capabilities;

637 (v) optical capabilities;

638 (vi) electromagnetic capabilities; or

639 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

640 (45) "Electronic financial payment service" means an establishment:

641 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
642 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
643 federal Executive Office of the President, Office of Management and Budget; and

644 (b) that performs electronic financial payment services.

- 645 (46) "Employee" means the same as that term is defined in Section 59-10-401.
- 646 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 647 (a) rail for the use of public transit; or
- 648 (b) a separate right-of-way for the use of public transit.
- 649 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 650 (a) is powered by turbine engines;
- 651 (b) operates on jet fuel; and
- 652 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 653 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 654 communication between fixed points.
- 655 (50) (a) "Food and food ingredients" means substances:
- 656 (i) regardless of whether the substances are in:
- 657 (A) liquid form;
- 658 (B) concentrated form;
- 659 (C) solid form;
- 660 (D) frozen form;
- 661 (E) dried form; or
- 662 (F) dehydrated form; and
- 663 (ii) that are:
- 664 (A) sold for:
- 665 (I) ingestion by humans; or
- 666 (II) chewing by humans; and
- 667 (B) consumed for the substance's:
- 668 (I) taste; or
- 669 (II) nutritional value.
- 670 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 671 (c) "Food and food ingredients" does not include:
- 672 (i) an alcoholic beverage;

673 (ii) tobacco; or
674 (iii) prepared food.
675 (51) (a) "Fundraising sales" means sales:
676 (i) (A) made by a school; or
677 (B) made by a school student;
678 (ii) that are for the purpose of raising funds for the school to purchase equipment,
679 materials, or provide transportation; and
680 (iii) that are part of an officially sanctioned school activity.
681 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
682 means a school activity:
683 (i) that is conducted in accordance with a formal policy adopted by the school or school
684 district governing the authorization and supervision of fundraising activities;
685 (ii) that does not directly or indirectly compensate an individual teacher or other
686 educational personnel by direct payment, commissions, or payment in kind; and
687 (iii) the net or gross revenues from which are deposited in a dedicated account
688 controlled by the school or school district.
689 (52) "Geothermal energy" means energy contained in heat that continuously flows
690 outward from the earth that is used as the sole source of energy to produce electricity.
691 (53) "Governing board of the agreement" means the governing board of the agreement
692 that is:
693 (a) authorized to administer the agreement; and
694 (b) established in accordance with the agreement.
695 (54) (a) For purposes of Subsection [59-12-104](#)(41), "governmental entity" means:
696 (i) the executive branch of the state, including all departments, institutions, boards,
697 divisions, bureaus, offices, commissions, and committees;
698 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
699 Office of the Court Administrator, and similar administrative units in the judicial branch;
700 (iii) the legislative branch of the state, including the House of Representatives, the

701 Senate, the Legislative Printing Office, the Office of Legislative Research and General
702 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
703 Analyst;

- 704 (iv) the National Guard;
- 705 (v) an independent entity as defined in Section 63E-1-102; or
- 706 (vi) a political subdivision as defined in Section 17B-1-102.

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

- 709 (i) a school;
- 710 (ii) the State Board of Education;
- 711 (iii) the State Board of Regents; or
- 712 (iv) an institution of higher education described in Section 53B-1-102.

713 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
714 electricity.

715 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
716 other fuels:

- 717 (a) in mining or extraction of minerals;
- 718 (b) in agricultural operations to produce an agricultural product up to the time of
719 harvest or placing the agricultural product into a storage facility, including:

- 720 (i) commercial greenhouses;
- 721 (ii) irrigation pumps;
- 722 (iii) farm machinery;
- 723 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
724 under Title 41, Chapter 1a, Part 2, Registration; and

725 (v) other farming activities;

726 (c) in manufacturing tangible personal property at an establishment described in:

727 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
728 the federal Executive Office of the President, Office of Management and Budget; or

729 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
730 American Industry Classification System of the federal Executive Office of the President,
731 Office of Management and Budget;

732 (d) by a scrap recycler if:

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

736 (A) iron;

737 (B) steel;

738 (C) nonferrous metal;

739 (D) paper;

740 (E) glass;

741 (F) plastic;

742 (G) textile; or

743 (H) rubber; and

744 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
745 nonrecycled materials; or

746 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
747 cogeneration facility as defined in Section 54-2-1.

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

750 (i) tangible personal property; or

751 (ii) a product transferred electronically.

752 (b) "Installation charge" does not include a charge for:

753 (i) repairs or renovations of:

754 (A) tangible personal property; or

755 (B) a product transferred electronically; or

756 (ii) attaching tangible personal property or a product transferred electronically:

757 (A) to other tangible personal property; and
758 (B) as part of a manufacturing or fabrication process.

759 (58) "Institution of higher education" means an institution of higher education listed in
760 Section [53B-2-101](#).

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

- 763 (i) (A) a fixed term; or
- 764 (B) an indeterminate term; and
- 765 (ii) consideration.

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

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

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

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

- 776 (A) upon completion of required payments; and
- 777 (B) if the payment of an option price does not exceed the greater of:
 - 778 (I) \$100; or
 - 779 (II) 1% of the total required payments; or

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

783 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
784 perform as designed if the operator's duties exceed the:

- 785 (i) set-up of tangible personal property;
- 786 (ii) maintenance of tangible personal property; or
- 787 (iii) inspection of tangible personal property.
- 788 (60) "Life science establishment" means an establishment in this state that is classified
- 789 under the following NAICS codes of the 2007 North American Industry Classification System
- 790 of the federal Executive Office of the President, Office of Management and Budget:
- 791 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 792 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 793 Manufacturing; or
- 794 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 795 (61) "Life science research and development facility" means a facility owned, leased,
- 796 or rented by a life science establishment if research and development is performed in 51% or
- 797 more of the total area of the facility.
- 798 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 799 if the tangible storage media is not physically transferred to the purchaser.
- 800 (63) "Local taxing jurisdiction" means a:
- 801 (a) county that is authorized to impose an agreement sales and use tax;
- 802 (b) city that is authorized to impose an agreement sales and use tax; or
- 803 (c) town that is authorized to impose an agreement sales and use tax.
- 804 (64) "Manufactured home" means the same as that term is defined in Section
- 805 [15A-1-302](#).
- 806 (65) "Manufacturing facility" means:
- 807 (a) an establishment described in:
- 808 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 809 the federal Executive Office of the President, Office of Management and Budget; or
- 810 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 811 American Industry Classification System of the federal Executive Office of the President,
- 812 Office of Management and Budget;

813 (b) a scrap recycler if:
814 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
815 one or more of the following items into prepared grades of processed materials for use in new
816 products:

- 817 (A) iron;
- 818 (B) steel;
- 819 (C) nonferrous metal;
- 820 (D) paper;
- 821 (E) glass;
- 822 (F) plastic;
- 823 (G) textile; or
- 824 (H) rubber; and

825 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
826 nonrecycled materials; or

827 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
828 placed in service on or after May 1, 2006.

829 (66) "Member of the immediate family of the producer" means a person who is related
830 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

- 831 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 832 (i) an adopted child or adopted stepchild; or
 - 833 (ii) a foster child or foster stepchild;
- 834 (b) grandchild or stepgrandchild;
- 835 (c) grandparent or stepgrandparent;
- 836 (d) nephew or stepnephew;
- 837 (e) niece or stepniece;
- 838 (f) parent or stepparent;
- 839 (g) sibling or stepsibling;
- 840 (h) spouse;

841 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

842 or

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

846 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

847 (68) "Mobile telecommunications service" is as defined in the Mobile
848 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

849 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
850 the technology used, if:

- 851 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 852 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 853 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
854 described in Subsection (69)(a)(ii) are not fixed.

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

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

859 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
860 means equipment that is:

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

863 (ii) appropriate for use in a:

864 (A) home; or

865 (B) motor vehicle; and

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

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

- 869 (c) "Mobility enhancing equipment" does not include:
- 870 (i) a motor vehicle;
- 871 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
872 vehicle manufacturer;
- 873 (iii) durable medical equipment; or
- 874 (iv) a prosthetic device.
- 875 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
876 certified service provider as the seller's agent to perform all of the seller's sales and use tax
877 functions for agreement sales and use taxes other than the seller's obligation under Section
878 [59-12-124](#) to remit a tax on the seller's own purchases.
- 879 (72) "Model 2 seller" means a seller registered under the agreement that:
- 880 (a) except as provided in Subsection (72)(b), has selected a certified automated system
881 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 882 (b) retains responsibility for remitting all of the sales tax:
- 883 (i) collected by the seller; and
- 884 (ii) to the appropriate local taxing jurisdiction.
- 885 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
886 the agreement that has:
- 887 (i) sales in at least five states that are members of the agreement;
- 888 (ii) total annual sales revenues of at least \$500,000,000;
- 889 (iii) a proprietary system that calculates the amount of tax:
- 890 (A) for an agreement sales and use tax; and
- 891 (B) due to each local taxing jurisdiction; and
- 892 (iv) entered into a performance agreement with the governing board of the agreement.
- 893 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
894 sellers using the same proprietary system.
- 895 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
896 model 1 seller, model 2 seller, or model 3 seller.

- 897 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 898 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 899 (77) "Oil sands" means impregnated bituminous sands that:
- 900 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 901 other hydrocarbons, or otherwise treated;
- 902 (b) yield mixtures of liquid hydrocarbon; and
- 903 (c) require further processing other than mechanical blending before becoming finished
- 904 petroleum products.
- 905 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 906 material that yields petroleum upon heating and distillation.
- 907 (79) "Optional computer software maintenance contract" means a computer software
- 908 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 909 sale of computer software.
- 910 (80) (a) "Other fuels" means products that burn independently to produce heat or
- 911 energy.
- 912 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 913 personal property.
- 914 (81) (a) "Paging service" means a telecommunications service that provides
- 915 transmission of a coded radio signal for the purpose of activating a specific pager.
- 916 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
- 917 includes a transmission by message or sound.
- 918 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).
- 919 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).
- 920 (84) (a) "Permanently attached to real property" means that for tangible personal
- 921 property attached to real property:
- 922 (i) the attachment of the tangible personal property to the real property:
- 923 (A) is essential to the use of the tangible personal property; and
- 924 (B) suggests that the tangible personal property will remain attached to the real

925 property in the same place over the useful life of the tangible personal property; or
926 (ii) if the tangible personal property is detached from the real property, the detachment
927 would:
928 (A) cause substantial damage to the tangible personal property; or
929 (B) require substantial alteration or repair of the real property to which the tangible
930 personal property is attached.
931 (b) "Permanently attached to real property" includes:
932 (i) the attachment of an accessory to the tangible personal property if the accessory is:
933 (A) essential to the operation of the tangible personal property; and
934 (B) attached only to facilitate the operation of the tangible personal property;
935 (ii) a temporary detachment of tangible personal property from real property for a
936 repair or renovation if the repair or renovation is performed where the tangible personal
937 property and real property are located; or
938 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
939 Subsection (84)(c)(iii) or (iv).
940 (c) "Permanently attached to real property" does not include:
941 (i) the attachment of portable or movable tangible personal property to real property if
942 that portable or movable tangible personal property is attached to real property only for:
943 (A) convenience;
944 (B) stability; or
945 (C) for an obvious temporary purpose;
946 (ii) the detachment of tangible personal property from real property except for the
947 detachment described in Subsection (84)(b)(ii);
948 (iii) an attachment of the following tangible personal property to real property if the
949 attachment to real property is only through a line that supplies water, electricity, gas,
950 telecommunications, cable, or supplies a similar item as determined by the commission by rule
951 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
952 (A) a computer;

- 953 (B) a telephone;
- 954 (C) a television; or
- 955 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
956 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
957 Administrative Rulemaking Act; or
- 958 (iv) an item listed in Subsection (125)(c).
- 959 (85) "Person" includes any individual, firm, partnership, joint venture, association,
960 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
961 municipality, district, or other local governmental entity of the state, or any group or
962 combination acting as a unit.
- 963 (86) "Place of primary use":
- 964 (a) for telecommunications service other than mobile telecommunications service,
965 means the street address representative of where the customer's use of the telecommunications
966 service primarily occurs, which shall be:
- 967 (i) the residential street address of the customer; or
- 968 (ii) the primary business street address of the customer; or
- 969 (b) for mobile telecommunications service, is as defined in the Mobile
970 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 971 (87) (a) "Postpaid calling service" means a telecommunications service a person
972 obtains by making a payment on a call-by-call basis:
- 973 (i) through the use of a:
- 974 (A) bank card;
- 975 (B) credit card;
- 976 (C) debit card; or
- 977 (D) travel card; or
- 978 (ii) by a charge made to a telephone number that is not associated with the origination
979 or termination of the telecommunications service.
- 980 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

981 service, that would be a prepaid wireless calling service if the service were exclusively a
982 telecommunications service.

983 (88) "Postproduction" means an activity related to the finishing or duplication of a
984 medium described in Subsection 59-12-104(54)(a).

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

986 (a) that allows a purchaser access to telecommunications service that is exclusively
987 telecommunications service;

988 (b) that:

989 (i) is paid for in advance; and

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

991 (A) access number; or

992 (B) authorization code;

993 (c) that is dialed:

994 (i) manually; or

995 (ii) electronically; and

996 (d) sold in predetermined units or dollars that decline:

997 (i) by a known amount; and

998 (ii) with use.

999 (90) "Prepaid wireless calling service" means a telecommunications service:

1000 (a) that provides the right to utilize:

1001 (i) mobile wireless service; and

1002 (ii) other service that is not a telecommunications service, including:

1003 (A) the download of a product transferred electronically;

1004 (B) a content service; or

1005 (C) an ancillary service;

1006 (b) that:

1007 (i) is paid for in advance; and

1008 (ii) enables the origination of a call using an:

- 1009 (A) access number; or
- 1010 (B) authorization code;
- 1011 (c) that is dialed:
- 1012 (i) manually; or
- 1013 (ii) electronically; and
- 1014 (d) sold in predetermined units or dollars that decline:
- 1015 (i) by a known amount; and
- 1016 (ii) with use.
- 1017 (91) (a) "Prepared food" means:
- 1018 (i) food:
- 1019 (A) sold in a heated state; or
- 1020 (B) heated by a seller;
- 1021 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1022 item; or
- 1023 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 1024 by the seller, including a:
- 1025 (A) plate;
- 1026 (B) knife;
- 1027 (C) fork;
- 1028 (D) spoon;
- 1029 (E) glass;
- 1030 (F) cup;
- 1031 (G) napkin; or
- 1032 (H) straw.
- 1033 (b) "Prepared food" does not include:
- 1034 (i) food that a seller only:
- 1035 (A) cuts;
- 1036 (B) repackages; or

- 1037 (C) pasteurizes; or
- 1038 (ii) (A) the following:
- 1039 (I) raw egg;
- 1040 (II) raw fish;
- 1041 (III) raw meat;
- 1042 (IV) raw poultry; or
- 1043 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1044 and
- 1045 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1046 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1047 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1048 (iii) the following if sold without eating utensils provided by the seller:
- 1049 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1050 classification under the 2002 North American Industry Classification System of the federal
- 1051 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1052 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1053 Manufacturing;
- 1054 (B) food and food ingredients sold in an unheated state:
- 1055 (I) by weight or volume; and
- 1056 (II) as a single item; or
- 1057 (C) a bakery item, including:
- 1058 (I) a bagel;
- 1059 (II) a bar;
- 1060 (III) a biscuit;
- 1061 (IV) bread;
- 1062 (V) a bun;
- 1063 (VI) a cake;
- 1064 (VII) a cookie;

- 1065 (VIII) a croissant;
- 1066 (IX) a danish;
- 1067 (X) a donut;
- 1068 (XI) a muffin;
- 1069 (XII) a pastry;
- 1070 (XIII) a pie;
- 1071 (XIV) a roll;
- 1072 (XV) a tart;
- 1073 (XVI) a torte; or
- 1074 (XVII) a tortilla.
- 1075 (c) An eating utensil provided by the seller does not include the following used to
- 1076 transport the food:
 - 1077 (i) a container; or
 - 1078 (ii) packaging.
- 1079 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 1080 (a) (i) orally;
 - 1081 (ii) in writing;
 - 1082 (iii) electronically; or
 - 1083 (iv) by any other manner of transmission; and
 - 1084 (b) by a licensed practitioner authorized by the laws of a state.
- 1085 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1086 software" means computer software that is not designed and developed:
 - 1087 (i) by the author or other creator of the computer software; and
 - 1088 (ii) to the specifications of a specific purchaser.
- 1089 (b) "Prewritten computer software" includes:
 - 1090 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1091 software is not designed and developed:
 - 1092 (A) by the author or other creator of the computer software; and

1093 (B) to the specifications of a specific purchaser;
1094 (ii) computer software designed and developed by the author or other creator of the
1095 computer software to the specifications of a specific purchaser if the computer software is sold
1096 to a person other than the purchaser; or

1097 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
1098 prewritten portion of prewritten computer software:

1099 (A) that is modified or enhanced to any degree; and

1100 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
1101 designed and developed to the specifications of a specific purchaser.

1102 (c) "Prewritten computer software" does not include a modification or enhancement
1103 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

1104 (i) reasonable; and

1105 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1106 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1107 demonstrated by:

1108 (A) the books and records the seller keeps at the time of the transaction in the regular
1109 course of business, including books and records the seller keeps at the time of the transaction in
1110 the regular course of business for nontax purposes;

1111 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1112 (C) the understanding of all of the parties to the transaction.

1113 (94) (a) "Private communications service" means a telecommunications service:

1114 (i) that entitles a customer to exclusive or priority use of one or more communications
1115 channels between or among termination points; and

1116 (ii) regardless of the manner in which the one or more communications channels are
1117 connected.

1118 (b) "Private communications service" includes the following provided in connection
1119 with the use of one or more communications channels:

1120 (i) an extension line;

- 1121 (ii) a station;
- 1122 (iii) switching capacity; or
- 1123 (iv) another associated service that is provided in connection with the use of one or
- 1124 more communications channels as defined in Section 59-12-215.
- 1125 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
- 1126 means a product transferred electronically that would be subject to a tax under this chapter if
- 1127 that product was transferred in a manner other than electronically.
- 1128 (b) "Product transferred electronically" does not include:
- 1129 (i) an ancillary service;
- 1130 (ii) computer software; or
- 1131 (iii) a telecommunications service.
- 1132 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1133 (i) artificially replace a missing portion of the body;
- 1134 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1135 (iii) support a weak or deformed portion of the body.
- 1136 (b) "Prosthetic device" includes:
- 1137 (i) parts used in the repairs or renovation of a prosthetic device;
- 1138 (ii) replacement parts for a prosthetic device;
- 1139 (iii) a dental prosthesis; or
- 1140 (iv) a hearing aid.
- 1141 (c) "Prosthetic device" does not include:
- 1142 (i) corrective eyeglasses; or
- 1143 (ii) contact lenses.
- 1144 (97) (a) "Protective equipment" means an item:
- 1145 (i) for human wear; and
- 1146 (ii) that is:
- 1147 (A) designed as protection:
- 1148 (I) to the wearer against injury or disease; or

1149 (II) against damage or injury of other persons or property; and

1150 (B) not suitable for general use.

1151 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1152 commission shall make rules:

1153 (i) listing the items that constitute "protective equipment"; and

1154 (ii) that are consistent with the list of items that constitute "protective equipment"

1155 under the agreement.

1156 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1157 printed matter, other than a photocopy:

1158 (i) regardless of:

1159 (A) characteristics;

1160 (B) copyright;

1161 (C) form;

1162 (D) format;

1163 (E) method of reproduction; or

1164 (F) source; and

1165 (ii) made available in printed or electronic format.

1166 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1167 commission may by rule define the term "photocopy."

1168 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

1169 (i) valued in money; and

1170 (ii) for which tangible personal property, a product transferred electronically, or

1171 services are:

1172 (A) sold;

1173 (B) leased; or

1174 (C) rented.

1175 (b) "Purchase price" and "sales price" include:

1176 (i) the seller's cost of the tangible personal property, a product transferred

1177 electronically, or services sold;

1178 (ii) expenses of the seller, including:

1179 (A) the cost of materials used;

1180 (B) a labor cost;

1181 (C) a service cost;

1182 (D) interest;

1183 (E) a loss;

1184 (F) the cost of transportation to the seller; or

1185 (G) a tax imposed on the seller;

1186 (iii) a charge by the seller for any service necessary to complete the sale; or

1187 (iv) consideration a seller receives from a person other than the purchaser if:

1188 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1189 and

1190 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a

1191 price reduction or discount on the sale;

1192 (B) the seller has an obligation to pass the price reduction or discount through to the

1193 purchaser;

1194 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1195 the seller at the time of the sale to the purchaser; and

1196 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

1197 seller to claim a price reduction or discount; and

1198 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1199 coupon, or other documentation with the understanding that the person other than the seller

1200 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1201 (II) the purchaser identifies that purchaser to the seller as a member of a group or

1202 organization allowed a price reduction or discount, except that a preferred customer card that is

1203 available to any patron of a seller does not constitute membership in a group or organization

1204 allowed a price reduction or discount; or

- 1205 (III) the price reduction or discount is identified as a third party price reduction or
1206 discount on the:
- 1207 (Aa) invoice the purchaser receives; or
 - 1208 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1209 (c) "Purchase price" and "sales price" do not include:
- 1210 (i) a discount:
 - 1211 (A) in a form including:
 - 1212 (I) cash;
 - 1213 (II) term; or
 - 1214 (III) coupon;
 - 1215 (B) that is allowed by a seller;
 - 1216 (C) taken by a purchaser on a sale; and
 - 1217 (D) that is not reimbursed by a third party; or
 - 1218 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately
1219 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1220 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1221 transaction in the regular course of business, including books and records the seller keeps at the
1222 time of the transaction in the regular course of business for nontax purposes, by a
1223 preponderance of the facts and circumstances at the time of the transaction, and by the
1224 understanding of all of the parties to the transaction:
 - 1225 (A) the following from credit extended on the sale of tangible personal property or
1226 services:
 - 1227 (I) a carrying charge;
 - 1228 (II) a financing charge; or
 - 1229 (III) an interest charge;
 - 1230 (B) a delivery charge;
 - 1231 (C) an installation charge;
 - 1232 (D) a manufacturer rebate on a motor vehicle; or

- 1233 (E) a tax or fee legally imposed directly on the consumer.
- 1234 (100) "Purchaser" means a person to whom:
 - 1235 (a) a sale of tangible personal property is made;
 - 1236 (b) a product is transferred electronically; or
 - 1237 (c) a service is furnished.
- 1238 (101) "Qualifying enterprise data center" means an establishment that will:
 - 1239 (a) own and operate a data center facility that will house a group of networked server
 - 1240 computers in one physical location in order to centralize the dissemination, management, and
 - 1241 storage of data and information;
 - 1242 (b) be located in the state;
 - 1243 (c) be a new operation constructed on or after July 1, 2016;
 - 1244 (d) consist of one or more buildings that total 150,000 or more square feet;
 - 1245 (e) be owned or leased by:
 - 1246 (i) the establishment; or
 - 1247 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 1248 establishment; and
 - 1249 (f) be located on one or more parcels of land that are owned or leased by:
 - 1250 (i) the establishment; or
 - 1251 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 1252 establishment.
 - 1253 (102) "Regularly rented" means:
 - 1254 (a) rented to a guest for value three or more times during a calendar year; or
 - 1255 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 1256 value.
 - 1257 (103) "Rental" means the same as that term is defined in Subsection (59).
 - 1258 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
 - 1259 personal property" means:
 - 1260 (i) a repair or renovation of tangible personal property that is not permanently attached

1261 to real property; or

1262 (ii) attaching tangible personal property or a product transferred electronically to other
1263 tangible personal property or detaching tangible personal property or a product transferred
1264 electronically from other tangible personal property if:

1265 (A) the other tangible personal property to which the tangible personal property or
1266 product transferred electronically is attached or from which the tangible personal property or
1267 product transferred electronically is detached is not permanently attached to real property; and

1268 (B) the attachment of tangible personal property or a product transferred electronically
1269 to other tangible personal property or detachment of tangible personal property or a product
1270 transferred electronically from other tangible personal property is made in conjunction with a
1271 repair or replacement of tangible personal property or a product transferred electronically.

1272 (b) "Repairs or renovations of tangible personal property" does not include:

1273 (i) attaching prewritten computer software to other tangible personal property if the
1274 other tangible personal property to which the prewritten computer software is attached is not
1275 permanently attached to real property; or

1276 (ii) detaching prewritten computer software from other tangible personal property if the
1277 other tangible personal property from which the prewritten computer software is detached is
1278 not permanently attached to real property.

1279 (105) "Research and development" means the process of inquiry or experimentation
1280 aimed at the discovery of facts, devices, technologies, or applications and the process of
1281 preparing those devices, technologies, or applications for marketing.

1282 (106) (a) "Residential telecommunications services" means a telecommunications
1283 service or an ancillary service that is provided to an individual for personal use:

1284 (i) at a residential address; or

1285 (ii) at an institution, including a nursing home or a school, if the telecommunications
1286 service or ancillary service is provided to and paid for by the individual residing at the
1287 institution rather than the institution.

1288 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

- 1289 (i) apartment; or
- 1290 (ii) other individual dwelling unit.
- 1291 (107) "Residential use" means the use in or around a home, apartment building,
- 1292 sleeping quarters, and similar facilities or accommodations.
- 1293 (108) (a) "Retailer" means any person engaged in a regularly organized business in
- 1294 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
- 1295 who is selling to the user or consumer and not for resale.
- 1296 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1297 engaged in the business of selling to users or consumers within the state.
- 1298 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1299 than:
- 1300 (a) resale;
- 1301 (b) sublease; or
- 1302 (c) subrent.
- 1303 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1304 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1305 Subsection 59-12-103(1), for consideration.
- 1306 (b) "Sale" includes:
- 1307 (i) installment and credit sales;
- 1308 (ii) any closed transaction constituting a sale;
- 1309 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1310 chapter;
- 1311 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1312 title as security for the payment of the price; and
- 1313 (v) any transaction under which right to possession, operation, or use of any article of
- 1314 tangible personal property is granted under a lease or contract and the transfer of possession
- 1315 would be taxable if an outright sale were made.
- 1316 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1317 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1318 personal property or a product transferred electronically that is subject to a tax under this
1319 chapter is transferred:

1320 (a) by a purchaser-lessee;

1321 (b) to a lessor;

1322 (c) for consideration; and

1323 (d) if:

1324 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1325 of the tangible personal property or product transferred electronically;

1326 (ii) the sale of the tangible personal property or product transferred electronically to the
1327 lessor is intended as a form of financing:

1328 (A) for the tangible personal property or product transferred electronically; and

1329 (B) to the purchaser-lessee; and

1330 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1331 is required to:

1332 (A) capitalize the tangible personal property or product transferred electronically for
1333 financial reporting purposes; and

1334 (B) account for the lease payments as payments made under a financing arrangement.

1335 (113) "Sales price" means the same as that term is defined in Subsection (99).

1336 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1337 amounts charged by a school:

1338 (i) sales that are directly related to the school's educational functions or activities

1339 including:

1340 (A) the sale of:

1341 (I) textbooks;

1342 (II) textbook fees;

1343 (III) laboratory fees;

1344 (IV) laboratory supplies; or

- 1345 (V) safety equipment;
- 1346 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1347 that:
- 1348 (I) a student is specifically required to wear as a condition of participation in a
- 1349 school-related event or school-related activity; and
- 1350 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1351 place of ordinary clothing;
- 1352 (C) sales of the following if the net or gross revenues generated by the sales are
- 1353 deposited into a school district fund or school fund dedicated to school meals:
- 1354 (I) food and food ingredients; or
- 1355 (II) prepared food; or
- 1356 (D) transportation charges for official school activities; or
- 1357 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1358 event or school-related activity.
- 1359 (b) "Sales relating to schools" does not include:
- 1360 (i) bookstore sales of items that are not educational materials or supplies;
- 1361 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1362 (A) clothing;
- 1363 (B) clothing accessories or equipment;
- 1364 (C) protective equipment; or
- 1365 (D) sports or recreational equipment; or
- 1366 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1367 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1368 (A) other than a:
- 1369 (I) school;
- 1370 (II) nonprofit organization authorized by a school board or a governing body of a
- 1371 private school to organize and direct a competitive secondary school activity; or
- 1372 (III) nonprofit association authorized by a school board or a governing body of a

- 1373 private school to organize and direct a competitive secondary school activity; and
- 1374 (B) that is required to collect sales and use taxes under this chapter.
- 1375 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1376 commission may make rules defining the term "passed through."
- 1377 (115) For purposes of this section and Section 59-12-104, "school":
- 1378 (a) means:
- 1379 (i) an elementary school or a secondary school that:
- 1380 (A) is a:
- 1381 (I) public school; or
- 1382 (II) private school; and
- 1383 (B) provides instruction for one or more grades kindergarten through 12; or
- 1384 (ii) a public school district; and
- 1385 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1386 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1387 (a) tangible personal property;
- 1388 (b) a product transferred electronically; or
- 1389 (c) a service.
- 1390 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1391 means tangible personal property or a product transferred electronically if the tangible personal
- 1392 property or product transferred electronically is:
- 1393 (i) used primarily in the process of:
- 1394 (A) (I) manufacturing a semiconductor;
- 1395 (II) fabricating a semiconductor; or
- 1396 (III) research or development of a:
- 1397 (Aa) semiconductor; or
- 1398 (Bb) semiconductor manufacturing process; or
- 1399 (B) maintaining an environment suitable for a semiconductor; or
- 1400 (ii) consumed primarily in the process of:

- 1401 (A) (I) manufacturing a semiconductor;
- 1402 (II) fabricating a semiconductor; or
- 1403 (III) research or development of a:
 - 1404 (Aa) semiconductor; or
 - 1405 (Bb) semiconductor manufacturing process; or
- 1406 (B) maintaining an environment suitable for a semiconductor.
- 1407 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1408 includes:
 - 1409 (i) parts used in the repairs or renovations of tangible personal property or a product
 - 1410 transferred electronically described in Subsection (117)(a); or
 - 1411 (ii) a chemical, catalyst, or other material used to:
 - 1412 (A) produce or induce in a semiconductor a:
 - 1413 (I) chemical change; or
 - 1414 (II) physical change;
 - 1415 (B) remove impurities from a semiconductor; or
 - 1416 (C) improve the marketable condition of a semiconductor.
 - 1417 (118) "Senior citizen center" means a facility having the primary purpose of providing
 - 1418 services to the aged as defined in Section [62A-3-101](#).
 - 1419 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
 - 1420 means tangible personal property that:
 - 1421 (i) a business that provides accommodations and services described in Subsection
 - 1422 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
 - 1423 to a purchaser;
 - 1424 (ii) is intended to be consumed by the purchaser; and
 - 1425 (iii) is:
 - 1426 (A) included in the purchase price of the accommodations and services; and
 - 1427 (B) not separately stated on an invoice, bill of sale, or other similar document provided
 - 1428 to the purchaser.

- 1429 (b) "Short-term lodging consumable" includes:
- 1430 (i) a beverage;
- 1431 (ii) a brush or comb;
- 1432 (iii) a cosmetic;
- 1433 (iv) a hair care product;
- 1434 (v) lotion;
- 1435 (vi) a magazine;
- 1436 (vii) makeup;
- 1437 (viii) a meal;
- 1438 (ix) mouthwash;
- 1439 (x) nail polish remover;
- 1440 (xi) a newspaper;
- 1441 (xii) a notepad;
- 1442 (xiii) a pen;
- 1443 (xiv) a pencil;
- 1444 (xv) a razor;
- 1445 (xvi) saline solution;
- 1446 (xvii) a sewing kit;
- 1447 (xviii) shaving cream;
- 1448 (xix) a shoe shine kit;
- 1449 (xx) a shower cap;
- 1450 (xxi) a snack item;
- 1451 (xxii) soap;
- 1452 (xxiii) toilet paper;
- 1453 (xxiv) a toothbrush;
- 1454 (xxv) toothpaste; or
- 1455 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1456 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1457 Rulemaking Act.

1458 (c) "Short-term lodging consumable" does not include:

1459 (i) tangible personal property that is cleaned or washed to allow the tangible personal

1460 property to be reused; or

1461 (ii) a product transferred electronically.

1462 (120) "Simplified electronic return" means the electronic return:

1463 (a) described in Section 318(C) of the agreement; and

1464 (b) approved by the governing board of the agreement.

1465 (121) "Solar energy" means the sun used as the sole source of energy for producing

1466 electricity.

1467 (122) (a) "Sports or recreational equipment" means an item:

1468 (i) designed for human use; and

1469 (ii) that is:

1470 (A) worn in conjunction with:

1471 (I) an athletic activity; or

1472 (II) a recreational activity; and

1473 (B) not suitable for general use.

1474 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1475 commission shall make rules:

1476 (i) listing the items that constitute "sports or recreational equipment"; and

1477 (ii) that are consistent with the list of items that constitute "sports or recreational

1478 equipment" under the agreement.

1479 (123) "State" means the state of Utah, its departments, and agencies.

1480 (124) "Storage" means any keeping or retention of tangible personal property or any

1481 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except

1482 sale in the regular course of business.

1483 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"

1484 means personal property that:

- 1485 (i) may be:
1486 (A) seen;
1487 (B) weighed;
1488 (C) measured;
1489 (D) felt; or
1490 (E) touched; or
1491 (ii) is in any manner perceptible to the senses.
- 1492 (b) "Tangible personal property" includes:
1493 (i) electricity;
1494 (ii) water;
1495 (iii) gas;
1496 (iv) steam; or
1497 (v) prewritten computer software, regardless of the manner in which the prewritten
1498 computer software is transferred.
- 1499 (c) "Tangible personal property" includes the following regardless of whether the item
1500 is attached to real property:
1501 (i) a dishwasher;
1502 (ii) a dryer;
1503 (iii) a freezer;
1504 (iv) a microwave;
1505 (v) a refrigerator;
1506 (vi) a stove;
1507 (vii) a washer; or
1508 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
1509 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1510 Rulemaking Act.
- 1511 (d) "Tangible personal property" does not include a product that is transferred
1512 electronically.

1513 (e) "Tangible personal property" does not include the following if attached to real
1514 property, regardless of whether the attachment to real property is only through a line that
1515 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1516 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1517 Rulemaking Act:

- 1518 (i) a hot water heater;
- 1519 (ii) a water filtration system; or
- 1520 (iii) a water softener system.

1521 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1522 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
1523 primarily to enable or facilitate one or more of the following to function:

- 1524 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1525 (ii) telecommunications transmission equipment, machinery, or software.

1526 (b) The following apply to Subsection (126)(a):

- 1527 (i) a pole;
- 1528 (ii) software;
- 1529 (iii) a supplementary power supply;
- 1530 (iv) temperature or environmental equipment or machinery;
- 1531 (v) test equipment;
- 1532 (vi) a tower; or
- 1533 (vii) equipment, machinery, or software that functions similarly to an item listed in
1534 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
1535 accordance with Subsection (126)(c).

1536 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1537 commission may by rule define what constitutes equipment, machinery, or software that
1538 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1539 (127) "Telecommunications equipment, machinery, or software required for 911
1540 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1541 Sec. 20.18.

1542 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1543 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1544 one or more of the following, regardless of whether the equipment, machinery, or software is
1545 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1546 following:

1547 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1548 (b) telecommunications switching or routing equipment, machinery, or software; or

1549 (c) telecommunications transmission equipment, machinery, or software.

1550 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
1551 transmission of audio, data, video, voice, or any other information or signal to a point, or
1552 among or between points.

1553 (b) "Telecommunications service" includes:

1554 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1555 processing application is used to act:

1556 (A) on the code, form, or protocol of the content;

1557 (B) for the purpose of electronic conveyance, routing, or transmission; and

1558 (C) regardless of whether the service:

1559 (I) is referred to as voice over Internet protocol service; or

1560 (II) is classified by the Federal Communications Commission as enhanced or value
1561 added;

1562 (ii) an 800 service;

1563 (iii) a 900 service;

1564 (iv) a fixed wireless service;

1565 (v) a mobile wireless service;

1566 (vi) a postpaid calling service;

1567 (vii) a prepaid calling service;

1568 (viii) a prepaid wireless calling service; or

- 1569 (ix) a private communications service.
- 1570 (c) "Telecommunications service" does not include:
- 1571 (i) advertising, including directory advertising;
- 1572 (ii) an ancillary service;
- 1573 (iii) a billing and collection service provided to a third party;
- 1574 (iv) a data processing and information service if:
- 1575 (A) the data processing and information service allows data to be:
- 1576 (I) (Aa) acquired;
- 1577 (Bb) generated;
- 1578 (Cc) processed;
- 1579 (Dd) retrieved; or
- 1580 (Ee) stored; and
- 1581 (II) delivered by an electronic transmission to a purchaser; and
- 1582 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1583 or information;
- 1584 (v) installation or maintenance of the following on a customer's premises:
- 1585 (A) equipment; or
- 1586 (B) wiring;
- 1587 (vi) Internet access service;
- 1588 (vii) a paging service;
- 1589 (viii) a product transferred electronically, including:
- 1590 (A) music;
- 1591 (B) reading material;
- 1592 (C) a ring tone;
- 1593 (D) software; or
- 1594 (E) video;
- 1595 (ix) a radio and television audio and video programming service:
- 1596 (A) regardless of the medium; and

- 1597 (B) including:
- 1598 (I) furnishing conveyance, routing, or transmission of a television audio and video
1599 programming service by a programming service provider;
- 1600 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1601 (III) audio and video programming services delivered by a commercial mobile radio
1602 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1603 (x) a value-added nonvoice data service; or
- 1604 (xi) tangible personal property.
- 1605 (130) (a) "Telecommunications service provider" means a person that:
- 1606 (i) owns, controls, operates, or manages a telecommunications service; and
- 1607 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
1608 resale to any person of the telecommunications service.
- 1609 (b) A person described in Subsection (130)(a) is a telecommunications service provider
1610 whether or not the Public Service Commission of Utah regulates:
- 1611 (i) that person; or
- 1612 (ii) the telecommunications service that the person owns, controls, operates, or
1613 manages.
- 1614 (131) (a) "Telecommunications switching or routing equipment, machinery, or
1615 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
1616 primarily for switching or routing:
- 1617 (i) an ancillary service;
- 1618 (ii) data communications;
- 1619 (iii) voice communications; or
- 1620 (iv) telecommunications service.
- 1621 (b) The following apply to Subsection (131)(a):
- 1622 (i) a bridge;
- 1623 (ii) a computer;
- 1624 (iii) a cross connect;

- 1625 (iv) a modem;
- 1626 (v) a multiplexer;
- 1627 (vi) plug in circuitry;
- 1628 (vii) a router;
- 1629 (viii) software;
- 1630 (ix) a switch; or
- 1631 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1632 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
- 1633 accordance with Subsection (131)(c).

1634 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1635 commission may by rule define what constitutes equipment, machinery, or software that

1636 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1637 (132) (a) "Telecommunications transmission equipment, machinery, or software"

1638 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for

1639 sending, receiving, or transporting:

- 1640 (i) an ancillary service;
 - 1641 (ii) data communications;
 - 1642 (iii) voice communications; or
 - 1643 (iv) telecommunications service.
- 1644 (b) The following apply to Subsection (132)(a):
- 1645 (i) an amplifier;
 - 1646 (ii) a cable;
 - 1647 (iii) a closure;
 - 1648 (iv) a conduit;
 - 1649 (v) a controller;
 - 1650 (vi) a duplexer;
 - 1651 (vii) a filter;
 - 1652 (viii) an input device;

- 1653 (ix) an input/output device;
- 1654 (x) an insulator;
- 1655 (xi) microwave machinery or equipment;
- 1656 (xii) an oscillator;
- 1657 (xiii) an output device;
- 1658 (xiv) a pedestal;
- 1659 (xv) a power converter;
- 1660 (xvi) a power supply;
- 1661 (xvii) a radio channel;
- 1662 (xviii) a radio receiver;
- 1663 (xix) a radio transmitter;
- 1664 (xx) a repeater;
- 1665 (xxi) software;
- 1666 (xxii) a terminal;
- 1667 (xxiii) a timing unit;
- 1668 (xxiv) a transformer;
- 1669 (xxv) a wire; or

1670 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1671 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
1672 accordance with Subsection (132)(c).

1673 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1674 commission may by rule define what constitutes equipment, machinery, or software that
1675 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1676 (133) (a) "Textbook for a higher education course" means a textbook or other printed
1677 material that is required for a course:

- 1678 (i) offered by an institution of higher education; and
- 1679 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1680 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1681 (134) "Tobacco" means:

1682 (a) a cigarette;

1683 (b) a cigar;

1684 (c) chewing tobacco;

1685 (d) pipe tobacco; or

1686 (e) any other item that contains tobacco.

1687 (135) "Unassisted amusement device" means an amusement device, skill device, or
1688 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1689 the amusement device, skill device, or ride device.

1690 (136) (a) "Use" means the exercise of any right or power over tangible personal
1691 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1692 incident to the ownership or the leasing of that tangible personal property, product transferred
1693 electronically, or service.

1694 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1695 property, a product transferred electronically, or a service in the regular course of business and
1696 held for resale.

1697 (137) "Value-added nonvoice data service" means a service:

1698 (a) that otherwise meets the definition of a telecommunications service except that a
1699 computer processing application is used to act primarily for a purpose other than conveyance,
1700 routing, or transmission; and

1701 (b) with respect to which a computer processing application is used to act on data or
1702 information:

1703 (i) code;

1704 (ii) content;

1705 (iii) form; or

1706 (iv) protocol.

1707 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1708 required to be titled, registered, or titled and registered:

- 1709 (i) an aircraft as defined in Section 72-10-102;
- 1710 (ii) a vehicle as defined in Section 41-1a-102;
- 1711 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1712 (iv) a vessel as defined in Section 41-1a-102.
- 1713 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1714 (i) a vehicle described in Subsection (138)(a); or
- 1715 (ii) (A) a locomotive;
- 1716 (B) a freight car;
- 1717 (C) railroad work equipment; or
- 1718 (D) other railroad rolling stock.
- 1719 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1720 exchanging a vehicle as defined in Subsection (138).
- 1721 (140) (a) "Vertical service" means an ancillary service that:
- 1722 (i) is offered in connection with one or more telecommunications services; and
- 1723 (ii) offers an advanced calling feature that allows a customer to:
- 1724 (A) identify a caller; and
- 1725 (B) manage multiple calls and call connections.
- 1726 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1727 conference bridging service.
- 1728 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1729 receive, send, or store a recorded message.
- 1730 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1731 to have in order to utilize a voice mail service.
- 1732 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 1733 facility that generates electricity:
- 1734 (i) using as the primary source of energy waste materials that would be placed in a
- 1735 landfill or refuse pit if it were not used to generate electricity, including:
- 1736 (A) tires;

1737 (B) waste coal;
1738 (C) oil shale; or
1739 (D) municipal solid waste; and
1740 (ii) in amounts greater than actually required for the operation of the facility.
1741 (b) "Waste energy facility" does not include a facility that incinerates:
1742 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1743 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
1744 (143) "Watercraft" means a vessel as defined in Section 73-18-2.
1745 (144) "Wind energy" means wind used as the sole source of energy to produce
1746 electricity.
1747 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1748 location by the United States Postal Service.
1749 Section 5. Section 59-12-103.1 is amended to read:
1750 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1751 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1752 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**
1753 **Committee -- Revenue and Taxation Interim Committee study -- Division of Finance**
1754 **requirements to make certain deposits and to provide notice.**
1755 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
1756 commission as provided in Section 59-12-107 if:
1757 (a) the Supreme Court of the United States issues a decision authorizing a state to
1758 require the following sellers to collect a sales or use tax:
1759 (i) a seller that does not meet one or more of the criteria described in Subsection
1760 59-12-107(2)(a); or
1761 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1762 under Subsection 59-12-107(2)(b); or
1763 (b) Congress permits the state to require the following sellers to collect a sales or use
1764 tax:

1765 (i) a seller that does not meet one or more of the criteria described in Subsection
1766 59-12-107(2)(a); or

1767 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1768 under Subsection 59-12-107(2)(b).

1769 (2) The commission shall:

1770 (a) collect the tax described in Subsection (1) from the seller:

1771 (i) to the extent:

1772 (A) authorized by the Supreme Court of the United States; or

1773 (B) permitted by Congress; and

1774 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and
1775 Taxation Interim Committee; and

1776 (b) make a report to the Revenue and Taxation Interim Committee by electronic
1777 means:

1778 (i) regarding the actions taken by:

1779 (A) the Supreme Court of the United States; or

1780 (B) Congress; and

1781 (ii) (A) stating the amount of state revenue collected at the time of the report, if any;
1782 and

1783 (B) estimating the state sales and use tax rate reduction that would offset the amount of
1784 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

1785 (c) report to the Revenue and Taxation Interim Committee at:

1786 (i) the Revenue and Taxation Interim Committee meeting immediately following the
1787 day on which the actions of the Supreme Court of the United States or Congress become
1788 effective; and

1789 (ii) any other meeting of the Revenue and Taxation Interim Committee as requested by
1790 the chairs of the committee.

1791 (3) The Revenue and Taxation Interim Committee shall after receiving the
1792 commission's reports under Subsections (2)(b) and (c):

1793 (a) review the actions taken by:
1794 (i) the Supreme Court of the United States; or
1795 (ii) Congress;
1796 (b) direct the commission regarding the day on which the commission is required to
1797 collect the tax described in Subsection (1); and
1798 (c) make recommendations to the Legislative Management Committee:
1799 (i) regarding whether as a result of the actions of the Supreme Court of the United
1800 States or Congress any provisions of this chapter should be amended or repealed; and
1801 (ii) within a one-year period after the day on which the commission makes a report
1802 under Subsection (2)(c).
1803 (4) The Division of Finance shall deposit a portion of the revenue collected under this
1804 section into the Remote Sales Restricted Account as required by Section 59-12-103.2.
1805 (5) (a) The Division of Finance shall notify the legislative general counsel and the
1806 commission once the balance of the qualified state revenue collected from remote sellers, as
1807 that term is defined in Section 59-12-103.2, in the Remote Sales Restricted Account created in
1808 Section 59-12-103.2 has a balance of \$55,000,000.
1809 (b) The Division of Finance shall review the balance in the Remote Sales Restricted
1810 Account at least bi-annually for purposes of providing the notice described in Subsection
1811 (5)(a).
1812 Section 6. Section 59-12-103.2 is amended to read:
1813 **59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation --**
1814 **Funding for account -- Interest -- Division of Finance accounting.**
1815 (1) As used in this section:
1816 (a) "Qualified local revenue collected from remote sellers" means the local revenue the
1817 commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a
1818 license under Section 59-12-106 for the first time on or after the earlier of:
1819 (i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final,
1820 unappealable decision; or

- 1821 (ii) the effective date of the action by Congress described in Subsection
1822 [59-12-103.1\(1\)\(b\)](#).
- 1823 (b) "Qualified state revenue collected from remote sellers" means the state revenue the
1824 commission collects under Section [59-12-103.1](#) for a fiscal year from sellers who obtain a
1825 license under Section [59-12-106](#) for the first time on or after the earlier of:
- 1826 (i) the date a decision described in Subsection [59-12-103.1\(1\)\(a\)](#) becomes a final,
1827 unappealable decision; or
- 1828 (ii) the effective date of the action by Congress described in Subsection
1829 [59-12-103.1\(1\)\(b\)](#).
- 1830 (2) There is created within the General Fund a restricted account known as the
1831 "Remote Sales Restricted Account."
- 1832 (3) The account shall be funded by:
- 1833 (a) the qualified local revenue collected from remote sellers; and
1834 (b) the qualified state revenue collected from remote sellers.
- 1835 (4) (a) The account shall earn interest.
1836 (b) The interest described in Subsection (4)(a) shall be deposited into the account.
- 1837 (5) The Division of Finance shall deposit the revenue described in Subsection (3) into
1838 the account.
- 1839 (6) The Division of Finance shall separately account for:
- 1840 (a) (i) the qualified local revenue collected from remote sellers; and
1841 (ii) interest earned on the amount described in Subsection (6)(a)(i); and
1842 (b) (i) the qualified state revenue collected from remote sellers; and
1843 (ii) interest earned on the amount described in Subsection (6)(b)(i).
- 1844 (7) (a) The revenue and interest described in Subsection (6)(a) may be used to:
1845 (i) lower local sales and use tax rates as the Legislature may provide by statute[-]; and
1846 (ii) fund the sales and use tax exemptions described in Section [59-12-104.8](#).
- 1847 (b) The revenue and interest described in Subsection (6)(b) may be used to:
1848 (i) lower state sales and use tax rates as the Legislature may provide by statute[-]; and

1849 (ii) fund the sales and use tax exemptions described in Section 59-12-104.8.
1850 Section 7. Section **59-12-104.5** is amended to read:
1851 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
1852 **taxes.**
1853 (1) The Revenue and Taxation Interim Committee shall:
1854 ~~[(+)]~~ (a) review Subsection 59-12-104(28) before October 1 of the year after the year in
1855 which Congress permits a state to participate in the special supplemental nutrition program
1856 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
1857 purchases of food under that program;
1858 ~~[(2)]~~ (b) review Subsection 59-12-104(21) before October 1 of the year after the year in
1859 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
1860 even if state or local sales taxes are collected within the state on purchases of food under that
1861 program; and
1862 ~~[(3)]~~ (c) on or before November 30:
1863 ~~[(a)]~~ (i) require the Governor's Office of Economic Development to provide the report
1864 described in Section 63N-1-302(2);
1865 ~~[(b)]~~ (ii) review for each exemption described in Subsection 59-12-104(86) and (87):
1866 ~~[(i)]~~ (A) the cost of the exemption;
1867 ~~[(ii)]~~ (B) the purpose and effectiveness of the exemption; and
1868 ~~[(iii)]~~ (C) the extent to which the state benefits from the exemption; and
1869 ~~[(e)]~~ (iii) make recommendations concerning whether the exemptions described in
1870 Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.
1871 (2) Once the commission implements the sales and use tax exemption described in
1872 Subsection 59-12-104.8(1), the provisions described in Subsection (1)(c) no longer have effect.
1873 Section 8. Section **59-12-104.8** is enacted to read:
1874 **59-12-104.8. Machinery, equipment, replacement parts, and materials**
1875 **exemptions.**
1876 (1) There is an exemption from the taxes imposed by this chapter for amounts paid or

1877 charged for a purchase or lease of machinery, equipment, normal operating repair or
1878 replacement parts, or materials, except for office equipment or office supplies, by:
1879 (a) a manufacturing facility that:
1880 (i) is located in the state; and
1881 (ii) uses or consumes the machinery, equipment, normal operating repair or
1882 replacement parts, or materials:
1883 (A) in the manufacturing process to manufacture an item sold as tangible personal
1884 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
1885 Utah Administrative Rulemaking Act; or
1886 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
1887 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1888 Administrative Rulemaking Act;
1889 (b) an establishment, as the commission defines that term in accordance with Title
1890 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
1891 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1892 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1893 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1894 2002 North American Industry Classification System of the federal Executive Office of the
1895 President, Office of Management and Budget;
1896 (ii) is located in the state; and
1897 (iii) uses or consumes the machinery, equipment, normal operating repair or
1898 replacement parts, or materials in:
1899 (A) the production process to produce an item sold as tangible personal property, as the
1900 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1901 Administrative Rulemaking Act;
1902 (B) research and development, as the commission may define that phrase in accordance
1903 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
1904 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

1905 produced from mining;
 1906 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
 1907 mining; or
 1908 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
 1909 (c) an establishment, as the commission defines that term in accordance with Title
 1910 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 1911 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
 1912 American Industry Classification System of the federal Executive Office of the President,
 1913 Office of Management and Budget;
 1914 (ii) is located in the state; and
 1915 (iii) uses or consumes the machinery, equipment, normal operating repair or
 1916 replacement parts, or materials in the operation of the web search portal.
 1917 (2) There is an exemption from the taxes imposed by this chapter for amounts paid or
 1918 charged for a purchase or lease of machinery, equipment, normal operating repair or
 1919 replacement parts, or materials, except for office equipment or office supplies, by an
 1920 establishment, as the commission defines that term in accordance with Title 63G, Chapter 3,
 1921 Utah Administrative Rulemaking Act, that:
 1922 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
 1923 American Industry Classification System of the federal Executive Office of the President,
 1924 Office of Management and Budget;
 1925 (b) is located in this state; and
 1926 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
 1927 materials in the operation of the establishment.
 1928 (3) The sales and use tax exemption in Subsection (1) supersedes the sales and use tax
 1929 exemptions described in Subsections [59-12-104](#)(14), (84), (86), and (87).
 1930 Section 9. Section **59-12-106** is amended to read:
 1931 **59-12-106. Definitions -- Sales and use tax license requirements -- Penalty --**
 1932 **Application process and requirements -- No fee -- Bonds -- Presumption of taxability --**

1933 **Exemption certificates -- Exemption certificate license number to accompany contract**
1934 **bids.**

1935 (1) As used in this section:

1936 (a) "applicant" means a person that:

1937 (i) is required by this section to obtain a license; and

1938 (ii) submits an application:

1939 (A) to the commission; and

1940 (B) for a license under this section;

1941 (b) "application" means an application for a license under this section;

1942 (c) "fiduciary of the applicant" means a person that:

1943 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
1944 for an applicant; and

1945 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

1946 (B) is a director of the applicant described in Subsection (1)(c)(i);

1947 (C) is an employee of the applicant described in Subsection (1)(c)(i);

1948 (D) is a partner of the applicant described in Subsection (1)(c)(i);

1949 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or

1950 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to

1951 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the

1952 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1953 Rulemaking Act;

1954 (d) "fiduciary of the licensee" means a person that:

1955 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
1956 for a licensee; and

1957 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

1958 (B) is a director of the licensee described in Subsection (1)(d)(i);

1959 (C) is an employee of the licensee described in Subsection (1)(d)(i);

1960 (D) is a partner of the licensee described in Subsection (1)(d)(i);

- 1961 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
- 1962 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
- 1963 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
- 1964 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1965 Rulemaking Act;
- 1966 (e) "license" means a license under this section; and
- 1967 (f) "licensee" means a person that is licensed under this section by the commission.
- 1968 (2) (a) It is unlawful for any person required to collect a tax under this chapter to
- 1969 engage in business within the state without first having obtained a license to do so.
- 1970 (b) The license described in Subsection (2)(a):
- 1971 (i) shall be granted and issued by the commission;
- 1972 (ii) is not assignable;
- 1973 (iii) is valid only for the person in whose name the license is issued;
- 1974 (iv) is valid until:
- 1975 (A) the person described in Subsection (2)(b)(iii):
- 1976 (I) ceases to do business; or
- 1977 (II) changes that person's business address; or
- 1978 (B) the license is revoked by the commission; and
- 1979 (v) subject to Subsection (2)(d), shall be granted by the commission only upon an
- 1980 application that:
- 1981 (A) states the name and address of the applicant; and
- 1982 (B) provides other information the commission may require.
- 1983 (c) At the time an applicant makes an application under Subsection (2)(b)(v), the
- 1984 commission shall notify the applicant of the responsibilities and liability of a business owner
- 1985 successor under Section [59-12-112](#).
- 1986 (d) The commission shall review an application and determine whether the applicant:
- 1987 (i) meets the requirements of this section to be issued a license; and
- 1988 (ii) is required to post a bond with the commission in accordance with Subsections

1989 (2)(e) and (f) before the applicant may be issued a license.

1990 (e) (i) An applicant shall post a bond with the commission before the commission may

1991 issue the applicant a license if:

1992 (A) a license under this section was revoked for a delinquency under this chapter for:

1993 (I) the applicant;

1994 (II) a fiduciary of the applicant; or

1995 (III) a person for which the applicant or the fiduciary of the applicant is required to

1996 collect, truthfully account for, and pay over a tax under this chapter; or

1997 (B) there is a delinquency in paying a tax under this chapter for:

1998 (I) the applicant;

1999 (II) a fiduciary of the applicant; or

2000 (III) a person for which the applicant or the fiduciary of the applicant is required to

2001 collect, truthfully account for, and pay over a tax under this chapter.

2002 (ii) If the commission determines it is necessary to ensure compliance with this

2003 chapter, the commission may require a licensee to:

2004 (A) for a licensee that has not posted a bond under this section with the commission,

2005 post a bond with the commission in accordance with Subsection (2)(f); or

2006 (B) for a licensee that has posted a bond under this section with the commission,

2007 increase the amount of the bond posted with the commission.

2008 (f) (i) A bond required by Subsection (2)(e) shall be:

2009 (A) executed by:

2010 (I) for an applicant, the applicant as principal, with a corporate surety; or

2011 (II) for a licensee, the licensee as principal, with a corporate surety; and

2012 (B) payable to the commission conditioned upon the faithful performance of all of the

2013 requirements of this chapter including:

2014 (I) the payment of any tax under this chapter;

2015 (II) the payment of any:

2016 (Aa) penalty as provided in Section [59-1-401](#); or

2017 (Bb) interest as provided in Section 59-1-402; or
2018 (III) any other obligation of the:
2019 (Aa) applicant under this chapter; or
2020 (Bb) licensee under this chapter.
2021 (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the
2022 amount of a bond required by Subsection (2)(e) on the basis of:
2023 (A) commission estimates of:
2024 (I) an applicant's tax liability under this chapter; or
2025 (II) a licensee's tax liability under this chapter; and
2026 (B) any amount of a delinquency described in Subsection (2)(f)(iii).
2027 (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection
2028 (2)(f)(ii)(B):
2029 (A) for an applicant, the amount of the delinquency is the sum of:
2030 (I) the amount of any delinquency that served as a basis for revoking the license under
2031 this section of:
2032 (Aa) the applicant;
2033 (Bb) a fiduciary of the applicant; or
2034 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
2035 collect, truthfully account for, and pay over a tax under this chapter; or
2036 (II) the amount of tax that any of the following owe under this chapter:
2037 (Aa) the applicant;
2038 (Bb) a fiduciary of the applicant; and
2039 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
2040 collect, truthfully account for, and pay over a tax under this chapter; or
2041 (B) for a licensee, the amount of the delinquency is the sum of:
2042 (I) the amount of any delinquency that served as a basis for revoking the license under
2043 this section of:
2044 (Aa) the licensee;

2045 (Bb) a fiduciary of the licensee; or
2046 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
2047 collect, truthfully account for, and pay over a tax under this chapter; or
2048 (II) the amount of tax that any of the following owe under this chapter:
2049 (Aa) the licensee;
2050 (Bb) a fiduciary of the licensee; and
2051 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
2052 collect, truthfully account for, and pay over a tax under this chapter.
2053 (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection
2054 (2)(e) may not:
2055 (A) be less than \$25,000; or
2056 (B) exceed \$500,000.
2057 (g) If business is transacted at two or more separate places by one person, a separate
2058 license for each place of business is required.
2059 (h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
2060 license of any licensee violating any provisions of this chapter.
2061 (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the
2062 licensee has complied with the requirements of this chapter, including:
2063 (A) paying any:
2064 (I) tax due under this chapter;
2065 (II) penalty as provided in Section 59-1-401; or
2066 (III) interest as provided in Section 59-1-402; and
2067 (B) posting a bond in accordance with Subsections (2)(e) and (f).
2068 (i) Any person required to collect a tax under this chapter within this state without
2069 having secured a license to do so is guilty of a criminal violation as provided in Section
2070 59-1-401.
2071 (j) A license:
2072 (i) is not required for any person engaged exclusively in the business of selling

2073 commodities that are exempt from taxation under this chapter; and
2074 (ii) shall be issued to the person by the commission without a license fee.
2075 (3) (a) For the purpose of the proper administration of this chapter and to prevent
2076 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
2077 property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for
2078 delivery in this state is sold for storage, use, or other consumption in this state unless the
2079 person selling the property, item, or service has taken from the purchaser an exemption
2080 certificate:
2081 (i) bearing the name and address of the purchaser; and
2082 (ii) providing that the property, item, or service was exempted under:
2083 (A) Section 59-12-104[-]; or
2084 (B) Section 59-12-104.8.
2085 (b) An exemption certificate described in Subsection (3)(a):
2086 (i) shall contain information as prescribed by the commission; and
2087 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.
2088 (c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable
2089 to collect a tax under this chapter if the seller or certified service provider obtains within 90
2090 days after a transaction is complete:
2091 (A) an exemption certificate containing the information required by Subsections (3)(a)
2092 and (b); or
2093 (B) the information required by Subsections (3)(a) and (b).
2094 (ii) A seller or certified service provider that does not obtain the exemption certificate
2095 or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120
2096 days after the commission requests the seller or certified service provider to substantiate the
2097 exemption to:
2098 (A) establish that the transaction is not subject to taxation under this chapter by a
2099 means other than providing an exemption certificate containing the information required by
2100 Subsections (3)(a) and (b); or

2101 (B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the
2102 information required by Subsections (3)(a) and (b), taken in good faith.

2103 (iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good
2104 faith if the exemption certificate claims an exemption that:

2105 (A) was allowed by statute on the date of the transaction in the jurisdiction of the
2106 location of the transaction;

2107 (B) could be applicable to that transaction; and

2108 (C) is reasonable for the purchaser's type of business.

2109 (d) Except as provided in Subsection (3)(e), a seller or certified service provider that
2110 takes an exemption certificate from a purchaser in accordance with this Subsection (3) with
2111 respect to a transaction is not liable to collect a tax under this chapter on that transaction.

2112 (e) Subsection (3)(d) does not apply to a seller or certified service provider if the
2113 commission establishes through an audit that the seller or certified service provider:

2114 (i) knew or had reason to know at the time the purchaser provided the seller or certified
2115 service provider the information described in Subsection (3)(a) or (b) that the information
2116 related to the exemption claimed was materially false; or

2117 (ii) otherwise knowingly participated in activity intended to purposefully evade the tax
2118 due on the transaction.

2119 (f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if
2120 there is a recurring business relationship between a seller or certified service provider and a
2121 purchaser, the commission may not require the seller or certified service provider to:

2122 (A) renew an exemption certificate;

2123 (B) update an exemption certificate; or

2124 (C) update a data element of an exemption certificate.

2125 (ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no
2126 more than a 12-month period elapses between transactions between a seller or certified service
2127 provider and a purchaser.

2128 (iii) If there is a recurring business relationship between a seller or certified service

2129 provider and a purchaser, the commission shall require an exemption certificate the seller or
2130 certified service provider takes from the purchaser to meet the requirements of Subsections
2131 (3)(a) and (b).

2132 (4) A person filing a contract bid with the state or a political subdivision of the state for
2133 the sale of tangible personal property or any other taxable transaction under Subsection
2134 59-12-103(1) shall include with the bid the number of the license issued to that person under
2135 Subsection (2).

2136 Section 10. Section 59-12-107 is amended to read:

2137 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
2138 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
2139 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
2140 **Penalties and interest.**

2141 (1) As used in this section:

2142 (a) "Ownership" means direct ownership or indirect ownership through a parent,
2143 subsidiary, or affiliate.

2144 (b) "Related seller" means a seller that:

2145 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

2146 (ii) delivers tangible personal property, a service, or a product transferred electronically
2147 that is sold:

2148 (A) by a seller that does not meet one or more of the criteria described in Subsection
2149 (2)(a)(i); and

2150 (B) to a purchaser in the state.

2151 (c) "Substantial ownership interest" means an ownership interest in a business entity if
2152 that ownership interest is greater than the degree of ownership of equity interest specified in 15
2153 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

2154 (2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section
2155 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales
2156 and use taxes imposed by this chapter if within this state the seller:

- 2157 (i) has or utilizes:
- 2158 (A) an office;
- 2159 (B) a distribution house;
- 2160 (C) a sales house;
- 2161 (D) a warehouse;
- 2162 (E) a service enterprise; or
- 2163 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);
- 2164 (ii) maintains a stock of goods;
- 2165 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
- 2166 state, unless the seller's only activity in the state is:
- 2167 (A) advertising; or
- 2168 (B) solicitation by:
- 2169 (I) direct mail;
- 2170 (II) electronic mail;
- 2171 (III) the Internet;
- 2172 (IV) telecommunications service; or
- 2173 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
- 2174 (iv) regularly engages in the delivery of property in the state other than by:
- 2175 (A) common carrier; or
- 2176 (B) United States mail; or
- 2177 (v) regularly engages in an activity directly related to the leasing or servicing of
- 2178 property located within the state.
- 2179 (b) A seller is considered to be engaged in the business of selling tangible personal
- 2180 property, a service, or a product transferred electronically for use in the state, and shall pay or
- 2181 collect and remit the sales and use taxes imposed by this chapter if:
- 2182 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
- 2183 substantial part by, a related seller; and
- 2184 (ii) (A) the seller sells the same or a substantially similar line of products as the related

2185 seller and does so under the same or a substantially similar business name; or

2186 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
2187 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
2188 to a purchaser.

2189 (c) A seller that does not meet one or more of the criteria provided for in Subsection
2190 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
2191 (2)(b):

2192 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:

2193 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

2194 (B) remit the tax to the commission as provided in this part; or

2195 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described
2196 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

2197 (d) The collection and remittance of a tax under this chapter by a seller that is
2198 registered under the agreement may not be used as a factor in determining whether that seller is
2199 required by Subsection (2) to:

2200 (i) pay a tax, fee, or charge under:

2201 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2202 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

2203 (C) Section 19-6-714;

2204 (D) Section 19-6-805;

2205 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

2206 (F) this title; or

2207 (ii) collect and remit a tax, fee, or charge under:

2208 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2209 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

2210 (C) Section 19-6-714;

2211 (D) Section 19-6-805;

2212 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

2213 (F) this title.

2214 (e) A person shall pay a use tax imposed by this chapter on a transaction described in

2215 Subsection [59-12-103](#)(1) if:

2216 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

2217 (ii) the person:

2218 (A) stores the tangible personal property or product transferred electronically in the

2219 state;

2220 (B) uses the tangible personal property or product transferred electronically in the state;

2221 or

2222 (C) consumes the tangible personal property or product transferred electronically in the

2223 state.

2224 (f) The ownership of property that is located at the premises of a printer's facility with

2225 which the retailer has contracted for printing and that consists of the final printed product,

2226 property that becomes a part of the final printed product, or copy from which the printed

2227 product is produced, shall not result in the retailer being considered to have or maintain an

2228 office, distribution house, sales house, warehouse, service enterprise, or other place of

2229 business, or to maintain a stock of goods, within this state.

2230 (3) (a) Except as provided in Section [59-12-107.1](#), a tax under this chapter shall be

2231 collected from a purchaser.

2232 (b) A seller may not collect as tax an amount, without regard to fractional parts of one

2233 cent, in excess of the tax computed at the rates prescribed by this chapter.

2234 (c) (i) Each seller shall:

2235 (A) give the purchaser a receipt for the tax collected; or

2236 (B) bill the tax as a separate item and declare the name of this state and the seller's

2237 sales and use tax license number on the invoice for the sale.

2238 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax

2239 and relieves the purchaser of the liability for reporting the tax to the commission as a

2240 consumer.

2241 (d) A seller is not required to maintain a separate account for the tax collected, but is
2242 considered to be a person charged with receipt, safekeeping, and transfer of public money.

2243 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
2244 benefit of the state and for payment to the commission in the manner and at the time provided
2245 for in this chapter.

2246 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
2247 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
2248 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
2249 excess.

2250 (g) If the accounting methods regularly employed by the seller in the transaction of the
2251 seller's business are such that reports of sales made during a calendar month or quarterly period
2252 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
2253 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
2254 jeopardize collection of the tax.

2255 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
2256 and until such time as the commission accepts specie legal tender for the payment of a tax
2257 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
2258 tender other than specie legal tender, the seller shall state on the seller's books and records and
2259 on an invoice, bill of sale, or similar document provided to the purchaser:

2260 (A) the purchase price in specie legal tender and in the legal tender the seller is
2261 required to remit to the commission;

2262 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
2263 legal tender and in the legal tender the seller is required to remit to the commission;

2264 (C) the tax rate under this chapter applicable to the purchase; and

2265 (D) the date of the purchase.

2266 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
2267 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
2268 specie legal tender the purchaser paid.

2269 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2270 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
2271 if the London fixing price is not available for a particular day.

2272 (4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
2273 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
2274 before the last day of the month next succeeding each calendar quarterly period.

2275 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
2276 calendar quarterly period, file with the commission a return for the preceding quarterly period.

2277 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
2278 tax required under this chapter to be collected or paid for the period covered by the return.

2279 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
2280 a form the commission prescribes by rule.

2281 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
2282 based on the total nonexempt sales made during the period for which the return is filed,
2283 including both cash and charge sales.

2284 (ii) For a sale that includes the delivery or installation of tangible personal property at a
2285 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
2286 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
2287 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
2288 sale during each period for which the seller receives payment for the sale.

2289 (e) (i) The use tax as computed in the return shall be based on the total amount of
2290 purchases for storage, use, or other consumption in this state made during the period for which
2291 the return is filed, including both cash and charge purchases.

2292 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
2293 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in
2294 accordance with Section 59-12-108, and who converts tangible personal property into real
2295 property.

2296 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the

2297 taxes due under this chapter on tangible personal property for which the qualifying purchaser
2298 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
2299 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
2300 for the conversion of the tangible personal property into real property.

2301 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
2302 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
2303 qualifying purchaser's purchase of the tangible personal property that was converted into real
2304 property multiplied by a fraction, the numerator of which is the payment received in the period
2305 for the qualifying purchaser's sale of the tangible personal property that was converted into real
2306 property and the denominator of which is the entire sales price for the qualifying purchaser's
2307 sale of the tangible personal property that was converted into real property.

2308 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
2309 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
2310 the qualifying purchaser's regular course of business identify by reasonable and verifiable
2311 standards that the tangible personal property was converted into real property.

2312 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
2313 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
2314 returns and paying the taxes.

2315 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

2316 (g) The commission may require returns and payment of the tax to be made for other
2317 than quarterly periods if the commission considers it necessary in order to ensure the payment
2318 of the tax imposed by this chapter.

2319 (h) (i) The commission may require a seller that files a simplified electronic return with
2320 the commission to file an additional electronic report with the commission.

2321 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2322 commission may make rules providing:

2323 (A) the information required to be included in the additional electronic report described
2324 in Subsection (4)(h)(i); and

2325 (B) one or more due dates for filing the additional electronic report described in
2326 Subsection (4)(h)(i).

2327 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
2328 seller that is:

- 2329 (i) registered under the agreement;
- 2330 (ii) described in Subsection (2)(c); and
- 2331 (iii) not a:
 - 2332 (A) model 1 seller;
 - 2333 (B) model 2 seller; or
 - 2334 (C) model 3 seller.

2335 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
2336 accordance with Subsection (2)(c) is due and payable:

- 2337 (A) to the commission;
- 2338 (B) annually; and
- 2339 (C) on or before the last day of the month immediately following the last day of each
2340 calendar year.

2341 (ii) The commission may require that a tax a remote seller collects in accordance with
2342 Subsection (2)(c) be due and payable:

- 2343 (A) to the commission; and
- 2344 (B) on the last day of the month immediately following any month in which the seller
2345 accumulates a total of at least \$1,000 in agreement sales and use tax.

2346 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
2347 (5)(b), the remote seller shall file a return:

- 2348 (A) with the commission;
- 2349 (B) with respect to the tax;
- 2350 (C) containing information prescribed by the commission; and
- 2351 (D) on a form prescribed by the commission.

2352 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2353 commission shall make rules prescribing:

2354 (A) the information required to be contained in a return described in Subsection
2355 (5)(c)(i); and

2356 (B) the form described in Subsection (5)(c)(i)(D).

2357 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
2358 calculated on the basis of the total amount of taxable transactions under Subsection
2359 59-12-103(1) the remote seller completes, including:

2360 (i) a cash transaction; and

2361 (ii) a charge transaction.

2362 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
2363 electronic return collects in accordance with this chapter is due and payable:

2364 (i) monthly on or before the last day of the month immediately following the month for
2365 which the seller collects a tax under this chapter; and

2366 (ii) for the month for which the seller collects a tax under this chapter.

2367 (b) A tax a remote seller that files a simplified electronic return collects in accordance
2368 with this chapter is due and payable as provided in Subsection (5).

2369 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
2370 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
2371 titling or registration under the laws of this state.

2372 (b) The commission shall collect the tax described in Subsection (7)(a) when the
2373 vehicle is titled or registered.

2374 (8) If any sale of tangible personal property or any other taxable transaction under
2375 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
2376 responsible for the collection or payment of the tax imposed on the sale and the retailer is
2377 responsible for the collection or payment of the tax imposed on the sale if:

2378 (a) the retailer represents that the personal property is purchased by the retailer for
2379 resale; and

2380 (b) the personal property is not subsequently resold.

2381 (9) If any sale of property or service subject to the tax is made to a person prepaying
2382 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
2383 contractor or subcontractor of that person, the person to whom such payment or consideration
2384 is payable is not responsible for the collection or payment of the sales or use tax and the person
2385 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
2386 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
2387 tax has not been fully credited against sales or use tax due and payable under the rules
2388 promulgated by the commission.

2389 (10) (a) For purposes of this Subsection (10):

2390 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section
2391 166, Internal Revenue Code.

2392 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

2393 (A) an amount included in the purchase price of tangible personal property, a product
2394 transferred electronically, or a service that is:

2395 (I) not a transaction described in Subsection [59-12-103\(1\)](#); [~~or~~]

2396 (II) exempt under Section [59-12-104](#); or

2397 (III) exempt under Section [59-12-104.8](#);

2398 (B) a financing charge;

2399 (C) interest;

2400 (D) a tax imposed under this chapter on the purchase price of tangible personal
2401 property, a product transferred electronically, or a service;

2402 (E) an uncollectible amount on tangible personal property or a product transferred
2403 electronically that:

2404 (I) is subject to a tax under this chapter; and

2405 (II) remains in the possession of a seller until the full purchase price is paid;

2406 (F) an expense incurred in attempting to collect any debt; or

2407 (G) an amount that a seller does not collect on repossessed property.

2408 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later

2409 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
2410 under this chapter is calculated on a return.

2411 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
2412 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
2413 the qualifying purchaser's purchase of tangible personal property converted into real property to
2414 the extent that:

2415 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
2416 property converted into real property;

2417 (B) the qualifying purchaser's sale of that tangible personal property converted into real
2418 property later becomes bad debt; and

2419 (C) the books and records that the qualifying purchaser keeps in the qualifying
2420 purchaser's regular course of business identify by reasonable and verifiable standards that the
2421 tangible personal property was converted into real property.

2422 (c) A seller may file a refund claim with the commission if:

2423 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
2424 the amount of the seller's sales that are subject to a tax under this chapter for that same time
2425 period; and

2426 (ii) as provided in Section [59-1-1410](#).

2427 (d) A bad debt deduction under this section may not include interest.

2428 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
2429 period during which the bad debt:

2430 (i) is written off as uncollectible in the seller's books and records; and

2431 (ii) would be eligible for a bad debt deduction:

2432 (A) for federal income tax purposes; and

2433 (B) if the seller were required to file a federal income tax return.

2434 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
2435 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
2436 chapter:

- 2437 (i) on the portion of the bad debt the seller recovers; and
- 2438 (ii) on a return filed for the time period for which the portion of the bad debt is
- 2439 recovered.
- 2440 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
- 2441 (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- 2442 (i) in a proportional amount:
- 2443 (A) to the purchase price of the tangible personal property, product transferred
- 2444 electronically, or service; and
- 2445 (B) to the tax due under this chapter on the tangible personal property, product
- 2446 transferred electronically, or service; and
- 2447 (ii) to:
- 2448 (A) interest charges;
- 2449 (B) service charges; and
- 2450 (C) other charges.
- 2451 (h) A seller's certified service provider may make a deduction or claim a refund for bad
- 2452 debt on behalf of the seller:
- 2453 (i) in accordance with this Subsection (10); and
- 2454 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
- 2455 deduction or refund to the seller.
- 2456 (i) A seller may allocate bad debt among the states that are members of the agreement
- 2457 if the seller's books and records support that allocation.
- 2458 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
- 2459 amount of tax required by this chapter.
- 2460 (b) A violation of this section is punishable as provided in Section 59-1-401.
- 2461 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
- 2462 paid to the state, except amounts determined to be due by the commission under Chapter 1,
- 2463 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
- 2464 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in

2465 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

2466 (d) For purposes of prosecution under this section, each quarterly tax period in which a
2467 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
2468 tax required to be remitted, constitutes a separate offense.

2469 Section 11. Section 59-12-204 is amended to read:

2470 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**
2471 **tax revenue -- Commission requirement to retain an amount to be deposited into the**
2472 **Qualified Emergency Food Agencies Fund.**

2473 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those
2474 transactions listed in Subsection 59-12-103(1).

2475 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax
2476 upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas
2477 contained within the cities and towns located in the county:

2478 (i) at the rate of 1% of the purchase price paid or charged; and

2479 (ii) if the location of the transaction is within the county as determined under Sections
2480 59-12-211 through 59-12-215.

2481 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
2482 include a provision prohibiting a county, city, or town from imposing a tax under this section
2483 on the sales and uses described in:

2484 (i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2485 Section 59-12-104[-]; or

2486 (ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2487 under Section 59-12-104.8.

2488 (3) Such tax ordinance shall include provisions substantially the same as those
2489 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the
2490 name of the county as the taxing agency shall be substituted for that of the state where
2491 necessary for the purpose of this part and that an additional license is not required if one has
2492 been or is issued under Section 59-12-106.

2493 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
2494 the effective date of the ordinance, with the commission to perform all functions incident to the
2495 administration or operation of the ordinance.

2496 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
2497 consumption of tangible personal property, the purchase price or the cost of which has been
2498 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
2499 part by any county, city, or town in any other county in this state, shall be exempt from the tax
2500 due under this ordinance.

2501 (6) Such tax ordinance shall include a provision that any person subject to the
2502 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax
2503 if the city or town sales and use tax is levied under an ordinance including provisions in
2504 substance as follows:

2505 (a) a provision imposing a tax upon every transaction listed in Subsection [59-12-103\(1\)](#)
2506 made within the city or town at the rate imposed by the county in which it is situated pursuant
2507 to Subsection (2);

2508 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from
2509 imposing a tax under this section on the sales and uses described in:

2510 (i) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
2511 Section [59-12-104](#); or

2512 (ii) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
2513 under Section [59-12-104.8](#);

2514 (c) provisions substantially the same as those contained in Part 1, Tax Collection,
2515 insofar as they relate to sales and use taxes, except that the name of the city or town as the
2516 taxing agency shall be substituted for that of the state where necessary for the purposes of this
2517 part;

2518 (d) a provision that the city or town shall contract prior to the effective date of the city
2519 or town sales and use tax ordinance with the commission to perform all functions incident to
2520 the administration or operation of the sales and use tax ordinance of the city or town;

2521 (e) a provision that the sale, storage, use, or other consumption of tangible personal
2522 property, the gross receipts from the sale of or the cost of which has been subject to sales or use
2523 tax under a sales and use tax ordinance enacted in accordance with this part by any county
2524 other than the county in which the city or town is located, or city or town in this state, shall be
2525 exempt from the tax; and

2526 (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not
2527 be included as a part of the purchase price paid or charged for a taxable item.

2528 (7) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009,
2529 the commission shall calculate and retain a portion of the sales and use tax collected under this
2530 part as provided in this Subsection (7).

2531 (b) For a city, town, or unincorporated area of a county that imposes a tax under this
2532 part, the commission shall calculate a percentage each month by dividing the sales and use tax
2533 collected under this part for that month within the boundaries of that city, town, or
2534 unincorporated area of a county by the total sales and use tax collected under this part for that
2535 month within the boundaries of all of the cities, towns, and unincorporated areas of the
2536 counties that impose a tax under this part.

2537 (c) For a city, town, or unincorporated area of a county that imposes a tax under this
2538 part, the commission shall retain each month an amount equal to the product of:

2539 (i) the percentage the commission determines for the month under Subsection (7)(b)
2540 for the city, town, or unincorporated area of a county; and

2541 (ii) \$25,417.

2542 (d) The commission shall deposit an amount the commission retains in accordance
2543 with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section
2544 [35A-8-1009](#).

2545 (e) An amount the commission deposits into the Qualified Emergency Food Agencies
2546 Fund shall be expended as provided in Section [35A-8-1009](#).

2547 Section 12. Section **59-12-401** is amended to read:

2548 **59-12-401. Resort communities tax authority for cities, towns, and military**

2549 **installation development authority -- Base -- Rate -- Collection fees.**

2550 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
2551 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the
2552 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
2553 the transactions described in Subsection 59-12-103(1) located within the city or town.

2554 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
2555 section on:

2556 (i) the sale of:

2557 (A) a motor vehicle;

2558 (B) an aircraft;

2559 (C) a watercraft;

2560 (D) a modular home;

2561 (E) a manufactured home; or

2562 (F) a mobile home;

2563 (ii) the sales and uses described in:

2564 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2565 Section 59-12-104; or

2566 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2567 under Section 59-12-104.8; and

2568 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2569 food ingredients.

2570 (c) For purposes of this Subsection (1), the location of a transaction shall be
2571 determined in accordance with Sections 59-12-211 through 59-12-215.

2572 (d) A city or town imposing a tax under this section shall impose the tax on the
2573 purchase price or the sales price for amounts paid or charged for food and food ingredients if
2574 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2575 food ingredients and tangible personal property other than food and food ingredients.

2576 (2) (a) An amount equal to the total of any costs incurred by the state in connection

2577 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
 2578 the state from its collection fees received in connection with the implementation of Subsection
 2579 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
 2580 provided for in Subsection (1).

2581 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
 2582 those cities and towns according to the amount of revenue the respective cities and towns
 2583 generate in that year through imposition of that tax.

2584 (3) (a) Subject to Section 63H-1-203, the military installation development authority
 2585 created in Section 63H-1-201 may impose a tax under this section on the transactions described
 2586 in Subsection 59-12-103(1) located within a project area described in a project area plan
 2587 adopted by the authority under Title 63H, Chapter 1, Military Installation Development
 2588 Authority Act, as though the authority were a city or a town.

2589 (b) For purposes of calculating the permanent census population within a project area,
 2590 the board as defined in Section 63H-1-102 shall:

2591 (i) use the actual number of permanent residents within the project area as determined
 2592 by the board;

2593 (ii) adopt a resolution verifying the population number; and

2594 (iii) provide the commission any information required in Section 59-12-405.

2595 (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may
 2596 impose the sales and use tax under this section if there are no permanent residents.

2597 Section 13. Section 59-12-402 is amended to read:

2598 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
 2599 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
 2600 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**
 2601 **development authority imposition of tax.**

2602 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
 2603 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
 2604 66% of the municipality's permanent census population may, in addition to the sales tax

2605 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
2606 amount that is less than or equal to .5% on the transactions described in Subsection
2607 59-12-103(1) located within the municipality.

2608 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
2609 impose a tax under this section on:

2610 (i) the sale of:

2611 (A) a motor vehicle;

2612 (B) an aircraft;

2613 (C) a watercraft;

2614 (D) a modular home;

2615 (E) a manufactured home; or

2616 (F) a mobile home;

2617 (ii) the sales and uses described in:

2618 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2619 Section 59-12-104; or

2620 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2621 under Section 59-12-104.8; and

2622 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2623 food ingredients.

2624 (c) For purposes of this Subsection (1), the location of a transaction shall be
2625 determined in accordance with Sections 59-12-211 through 59-12-215.

2626 (d) A municipality imposing a tax under this section shall impose the tax on the
2627 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2628 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2629 ingredients and tangible personal property other than food and food ingredients.

2630 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2631 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2632 the state from its collection fees received in connection with the implementation of Subsection

2633 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2634 provided for in Subsection (1).

2635 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2636 those cities and towns according to the amount of revenue the respective cities and towns
2637 generate in that year through imposition of that tax.

2638 (3) To impose an additional resort communities sales tax under this section, the
2639 governing body of the municipality shall:

2640 (a) pass a resolution approving the tax; and

2641 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2642 in Subsection (4).

2643 (4) To obtain voter approval for an additional resort communities sales tax under
2644 Subsection (3)(b), a municipality shall:

2645 (a) hold the additional resort communities sales tax election during:

2646 (i) a regular general election; or

2647 (ii) a municipal general election; and

2648 (b) publish notice of the election:

2649 (i) 15 days or more before the day on which the election is held; and

2650 (ii) (A) in a newspaper of general circulation in the municipality; and

2651 (B) as required in Section 45-1-101.

2652 (5) An ordinance approving an additional resort communities sales tax under this
2653 section shall provide an effective date for the tax as provided in Section 59-12-403.

2654 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2655 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2656 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
2657 Section 10-1-203.

2658 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2659 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2660 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2661 (7) A military installation development authority authorized to impose a resort
2662 communities tax under Section 59-12-401 may not impose an additional resort communities
2663 sales tax under this section.

2664 Section 14. Section 59-12-402.1 is amended to read:

2665 **59-12-402.1. State correctional facility sales and use tax -- Base -- Rate --**
2666 **Collection fees -- Imposition -- Prohibition of military installation development authority**
2667 **imposition of tax.**

2668 (1) As used in this section, "new state correctional facility" means a new prison in the
2669 state:

- 2670 (a) that is operated by the Department of Corrections;
- 2671 (b) the construction of which begins on or after May 12, 2015; and
- 2672 (c) that provides a capacity of 2,500 or more inmate beds.

2673 (2) Subject to the other provisions of this part, a city or town legislative body may
2674 impose a tax under this section if the construction of a new state correctional facility has begun
2675 within the boundaries of the city or town.

2676 (3) For purposes of this section, the tax rate may not exceed .5%.

2677 (4) Except as provided in Subsection (5), a tax under this section shall be imposed on
2678 the transactions described in Subsection 59-12-103(1) within the city or town.

2679 (5) A city or town may not impose a tax under this section on:

- 2680 (a) the sale of:
 - 2681 (i) a motor vehicle;
 - 2682 (ii) an aircraft;
 - 2683 (iii) a watercraft;
 - 2684 (iv) a modular home;
 - 2685 (v) a manufactured home; or
 - 2686 (vi) a mobile home;
- 2687 (b) the sales and uses described in:

2688 (i) Section 59-12-104 to the extent the sales and uses are exempt under Section

2689 [59-12-104](#); or

2690 (ii) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
2691 under Section [59-12-104.8](#); and

2692 (c) except as provided in Subsection (7), amounts paid or charged for food and food
2693 ingredients.

2694 (6) For purposes of this section, the location of a transaction shall be determined in
2695 accordance with Sections [59-12-211](#) through [59-12-215](#).

2696 (7) A city or town that imposes a tax under this section shall impose the tax on the
2697 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2698 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2699 ingredients and tangible personal property other than food and food ingredients.

2700 (8) A city or town may impose a tax under this section by majority vote of the
2701 members of the city or town legislative body.

2702 (9) A city or town that imposes a tax under this section is not subject to Section
2703 [59-12-405](#).

2704 (10) A military installation development authority may not impose a tax under this
2705 section.

2706 Section 15. Section [59-12-703](#) is amended to read:

2707 **[59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --](#)**
2708 **[Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date](#)**
2709 **[-- Notice requirements.](#)**

2710 (1) (a) Subject to the other provisions of this section, a county legislative body may
2711 submit an opinion question to the residents of that county, by majority vote of all members of
2712 the legislative body, so that each resident of the county, except residents in municipalities that
2713 have already imposed a sales and use tax under Part 14, City or Town Option Funding for
2714 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
2715 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
2716 .1% on the transactions described in Subsection [59-12-103\(1\)](#) located within the county, to:

2717 (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical
2718 organizations, cultural organizations, and zoological organizations, and rural radio stations, in
2719 that county; or

2720 (ii) provide funding for a botanical organization, cultural organization, or zoological
2721 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
2722 furtherance of the botanical organization's, cultural organization's, or zoological organization's
2723 primary purpose.

2724 (b) The opinion question required by this section shall state:

2725 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
2726 use tax for (list the purposes for which the revenue collected from the sales and use tax shall be
2727 expended)?"

2728 (c) A county legislative body may not impose a tax under this section on:

2729 (i) the sales and uses described in:

2730 (A) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
2731 Section [59-12-104](#); or

2732 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
2733 under Section [59-12-104.8](#);

2734 (ii) sales and uses within a municipality that has already imposed a sales and use tax
2735 under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and
2736 Zoological Organizations or Facilities; and

2737 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
2738 food ingredients.

2739 (d) For purposes of this Subsection (1), the location of a transaction shall be
2740 determined in accordance with Sections [59-12-211](#) through [59-12-215](#).

2741 (e) A county legislative body imposing a tax under this section shall impose the tax on
2742 the purchase price or sales price for amounts paid or charged for food and food ingredients if
2743 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2744 food ingredients and tangible personal property other than food and food ingredients.

2745 (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
2746 Government Bonding Act.

2747 (2) (a) If the county legislative body determines that a majority of the county's
2748 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2749 the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a
2750 majority vote of all members of the legislative body on the transactions:

2751 (i) described in Subsection (1); and

2752 (ii) within the county, including the cities and towns located in the county, except those
2753 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
2754 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
2755 Facilities.

2756 (b) A county legislative body may revise county ordinances to reflect statutory changes
2757 to the distribution formula or eligible recipients of revenue generated from a tax imposed under
2758 Subsection (2)(a) without submitting an opinion question to residents of the county.

2759 (3) Subject to Section [59-12-704](#), revenue collected from a tax imposed under
2760 Subsection (2) shall be expended:

2761 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
2762 within the county or a city or town located in the county, except a city or town that has already
2763 imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical,
2764 Cultural, Recreational, and Zoological Organizations or Facilities;

2765 (b) to fund ongoing operating expenses of:

2766 (i) recreational facilities described in Subsection (3)(a);

2767 (ii) botanical organizations, cultural organizations, and zoological organizations within
2768 the county; and

2769 (iii) rural radio stations within the county; and

2770 (c) as stated in the opinion question described in Subsection (1).

2771 (4) (a) A tax authorized under this part shall be:

2772 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

2773 accordance with:

2774 (A) the same procedures used to administer, collect, and enforce the tax under:

2775 (I) Part 1, Tax Collection; or

2776 (II) Part 2, Local Sales and Use Tax Act; and

2777 (B) Chapter 1, General Taxation Policies; and

2778 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2779 period in accordance with this section.

2780 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2781 (5) (a) For purposes of this Subsection (5):

2782 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
2783 County Annexation.

2784 (ii) "Annexing area" means an area that is annexed into a county.

2785 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2786 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2787 (A) on the first day of a calendar quarter; and

2788 (B) after a 90-day period beginning on the date the commission receives notice meeting
2789 the requirements of Subsection (5)(b)(ii) from the county.

2790 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

2791 (A) that the county will enact or repeal a tax under this part;

2792 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

2793 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

2794 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
2795 tax.

2796 (c) (i) If the billing period for a transaction begins before the effective date of the
2797 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2798 the first billing period that begins on or after the effective date of the enactment of the tax.

2799 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2800 period is produced on or after the effective date of the repeal of the tax imposed under this

2801 section.

2802 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2803 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

2804 Subsection (5)(b)(i) takes effect:

2805 (A) on the first day of a calendar quarter; and

2806 (B) beginning 60 days after the effective date of the enactment or repeal under

2807 Subsection (5)(b)(i).

2808 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2809 commission may by rule define the term "catalogue sale."

2810 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2811 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
2812 part for an annexing area, the enactment or repeal shall take effect:

2813 (A) on the first day of a calendar quarter; and

2814 (B) after a 90-day period beginning on the date the commission receives notice meeting
2815 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

2816 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

2817 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
2818 repeal of a tax under this part for the annexing area;

2819 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

2820 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

2821 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

2822 (f) (i) If the billing period for a transaction begins before the effective date of the
2823 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2824 the first billing period that begins on or after the effective date of the enactment of the tax.

2825 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2826 period is produced on or after the effective date of the repeal of the tax imposed under this
2827 section.

2828 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

2829 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2830 Subsection (5)(e)(i) takes effect:

2831 (A) on the first day of a calendar quarter; and

2832 (B) beginning 60 days after the effective date of the enactment or repeal under
2833 Subsection (5)(e)(i).

2834 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2835 commission may by rule define the term "catalogue sale."

2836 Section 16. Section **59-12-802** is amended to read:

2837 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
2838 **tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax --**
2839 **Administrative charge.**

2840 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
2841 may impose a sales and use tax of up to 1% on the transactions described in Subsection
2842 [59-12-103](#)(1) located within the county.

2843 (b) Subject to Subsection (3), the money collected from a tax under this section may be
2844 used to fund:

2845 (i) for a county of the third or fourth class, rural county health care facilities in that
2846 county; or

2847 (ii) for a county of the fifth or sixth class:

2848 (A) rural emergency medical services in that county;

2849 (B) federally qualified health centers in that county;

2850 (C) freestanding urgent care centers in that county;

2851 (D) rural county health care facilities in that county;

2852 (E) rural health clinics in that county; or

2853 (F) a combination of Subsections (1)(b)(ii)(A) through (E).

2854 (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
2855 under this section on:

2856 (i) (A) the sales and uses described in Section [59-12-104](#) to the extent the sales and

2857 uses are exempt from taxation under Section [59-12-104](#); or

2858 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
2859 under Section [59-12-104.8](#);

2860 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
2861 a city that imposes a tax under Section [59-12-804](#); and

2862 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
2863 food ingredients.

2864 (d) For purposes of this Subsection (1), the location of a transaction shall be
2865 determined in accordance with Sections [59-12-211](#) through [59-12-215](#).

2866 (e) A county legislative body imposing a tax under this section shall impose the tax on
2867 the purchase price or sales price for amounts paid or charged for food and food ingredients if
2868 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2869 food ingredients and tangible personal property other than food and food ingredients.

2870 (2) (a) Before imposing a tax under Subsection (1), a county legislative body shall
2871 obtain approval to impose the tax from a majority of the:

2872 (i) members of the county's legislative body; and

2873 (ii) county's registered voters voting on the imposition of the tax.

2874 (b) The county legislative body shall conduct the election according to the procedures
2875 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

2876 (3) (a) The money collected from a tax imposed under Subsection (1) by a county
2877 legislative body of a county of the third or fourth class may only be used for the financing of:

2878 (i) ongoing operating expenses of a rural county health care facility within that county;

2879 (ii) the acquisition of land for a rural county health care facility within that county; or

2880 (iii) the design, construction, equipping, or furnishing of a rural county health care
2881 facility within that county.

2882 (b) The money collected from a tax imposed under Subsection (1) by a county of the
2883 fifth or sixth class may only be used to fund:

2884 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection

2885 (1)(b)(ii) within that county;

2886 (ii) the acquisition of land for a center, clinic, or facility described in Subsection

2887 (1)(b)(ii) within that county;

2888 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility

2889 described in Subsection (1)(b)(ii) within that county; or

2890 (iv) rural emergency medical services within that county.

2891 (4) (a) A tax under this section shall be:

2892 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

2893 accordance with:

2894 (A) the same procedures used to administer, collect, and enforce the tax under:

2895 (I) Part 1, Tax Collection; or

2896 (II) Part 2, Local Sales and Use Tax Act; and

2897 (B) Chapter 1, General Taxation Policies; and

2898 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year

2899 period by the county legislative body as provided in Subsection (1).

2900 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

2901 (c) A county legislative body shall distribute money collected from a tax under this

2902 section quarterly.

2903 (5) The commission shall retain and deposit an administrative charge in accordance

2904 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

2905 Section 17. Section 59-12-804 is amended to read:

2906 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**

2907 **collection, and enforcement of tax -- Administrative charge.**

2908 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

2909 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

2910 and

2911 (ii) to fund rural city hospitals in that city.

2912 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax

2913 under this section on:

2914 (i) the sales and uses described in:

2915 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under

2916 Section 59-12-104; or

2917 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation

2918 under Section 59-12-104.8; and

2919 (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
2920 ingredients.

2921 (c) For purposes of this Subsection (1), the location of a transaction shall be
2922 determined in accordance with Sections 59-12-211 through 59-12-215.

2923 (d) A city legislative body imposing a tax under this section shall impose the tax on the
2924 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2925 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2926 ingredients and tangible personal property other than food and food ingredients.

2927 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
2928 obtain approval to impose the tax from a majority of the:

2929 (i) members of the city legislative body; and

2930 (ii) city's registered voters voting on the imposition of the tax.

2931 (b) The city legislative body shall conduct the election according to the procedures and
2932 requirements of Title 11, Chapter 14, Local Government Bonding Act.

2933 (3) The money collected from a tax imposed under Subsection (1) may only be used to
2934 fund:

2935 (a) ongoing operating expenses of a rural city hospital;

2936 (b) the acquisition of land for a rural city hospital; or

2937 (c) the design, construction, equipping, or furnishing of a rural city hospital.

2938 (4) (a) A tax under this section shall be:

2939 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2940 accordance with:

2941 (A) the same procedures used to administer, collect, and enforce the tax under:
2942 (I) Part 1, Tax Collection; or
2943 (II) Part 2, Local Sales and Use Tax Act; and
2944 (B) Chapter 1, General Taxation Policies; and
2945 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2946 period by the city legislative body as provided in Subsection (1).

2947 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

2948 (5) The commission shall retain and deposit an administrative charge in accordance
2949 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

2950 Section 18. Section 59-12-1102 is amended to read:

2951 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
2952 **Administration -- Administrative charge -- Commission requirement to retain an amount**
2953 **to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal**
2954 **of tax -- Effective date -- Notice requirements.**

2955 (1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax
2956 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
2957 of .25% upon the transactions described in Subsection 59-12-103(1).

2958 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
2959 section on the sales and uses described in:

2960 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2961 Section 59-12-104[-]; or

2962 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2963 under Section 59-12-104.8.

2964 (b) For purposes of this Subsection (1), the location of a transaction shall be
2965 determined in accordance with Sections 59-12-211 through 59-12-215.

2966 (c) The county option sales and use tax under this section shall be imposed:

2967 (i) upon transactions that are located within the county, including transactions that are
2968 located within municipalities in the county; and

2969 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
2970 January:

2971 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
2972 ordinance is adopted on or before May 25; or

2973 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
2974 ordinance is adopted after May 25.

2975 (d) The county option sales and use tax under this section shall be imposed:

2976 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
2977 September 4, 1997; or

2978 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
2979 but after September 4, 1997.

2980 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
2981 county shall hold two public hearings on separate days in geographically diverse locations in
2982 the county.

2983 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
2984 time of no earlier than 6 p.m.

2985 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
2986 days after the day the first advertisement required by Subsection (2)(c) is published.

2987 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
2988 shall advertise:

2989 (A) its intent to adopt a county option sales and use tax;

2990 (B) the date, time, and location of each public hearing; and

2991 (C) a statement that the purpose of each public hearing is to obtain public comments
2992 regarding the proposed tax.

2993 (ii) The advertisement shall be published:

2994 (A) in a newspaper of general circulation in the county once each week for the two
2995 weeks preceding the earlier of the two public hearings; and

2996 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for two weeks

2997 preceding the earlier of the two public hearings.

2998 (iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8
2999 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch
3000 border.

3001 (iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that
3002 portion of the newspaper where legal notices and classified advertisements appear.

3003 (v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

3004 (A) the advertisement shall appear in a newspaper that is published at least five days a
3005 week, unless the only newspaper in the county is published less than five days a week; and

3006 (B) the newspaper selected shall be one of general interest and readership in the
3007 community, and not one of limited subject matter.

3008 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
3009 to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part
3010 6, Local Referenda - Procedures.

3011 (3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a
3012 county option sales and use tax under Subsection (1) is less than 75% of the state population,
3013 the tax levied under Subsection (1) shall be distributed to the county in which the tax was
3014 collected.

3015 (b) Subject to Subsection (5), if the aggregate population of the counties imposing a
3016 county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state
3017 population:

3018 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
3019 the county in which the tax was collected; and

3020 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
3021 (1) in each county shall be distributed proportionately among all counties imposing the tax,
3022 based on the total population of each county.

3023 (c) Except as provided in Subsection (5), the amount to be distributed annually to a
3024 county under Subsection (3)(b)(ii), when combined with the amount distributed to the county

3025 under Subsection (3)(b)(i), does not equal at least \$75,000, then:

3026 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
3027 be increased so that, when combined with the amount distributed to the county under
3028 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

3029 (ii) the amount to be distributed annually to all other counties under Subsection
3030 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
3031 Subsection (3)(c)(i).

3032 (d) The commission shall establish rules to implement the distribution of the tax under
3033 Subsections (3)(a), (b), and (c).

3034 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
3035 shall be administered, collected, and enforced in accordance with:

3036 (i) the same procedures used to administer, collect, and enforce the tax under:

- 3037 (A) Part 1, Tax Collection; or
- 3038 (B) Part 2, Local Sales and Use Tax Act; and
- 3039 (ii) Chapter 1, General Taxation Policies.

3040 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3041 (c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an
3042 administrative charge in accordance with Section 59-1-306 from the revenue the commission
3043 collects from a tax under this part.

3044 (ii) Notwithstanding Section 59-1-306, the administrative charge described in
3045 Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of
3046 the distribution amounts resulting after:

- 3047 (A) the applicable distribution calculations under Subsection (3) have been made; and
- 3048 (B) the commission retains the amount required by Subsection (5).

3049 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion
3050 of the sales and use tax collected under this part as provided in this Subsection (5).

3051 (b) For a county that imposes a tax under this part, the commission shall calculate a
3052 percentage each month by dividing the sales and use tax collected under this part for that

3053 month within the boundaries of that county by the total sales and use tax collected under this
3054 part for that month within the boundaries of all of the counties that impose a tax under this part.

3055 (c) For a county that imposes a tax under this part, the commission shall retain each
3056 month an amount equal to the product of:

3057 (i) the percentage the commission determines for the month under Subsection (5)(b)
3058 for the county; and

3059 (ii) \$6,354.

3060 (d) The commission shall deposit an amount the commission retains in accordance
3061 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section
3062 [35A-8-1009](#).

3063 (e) An amount the commission deposits into the Qualified Emergency Food Agencies
3064 Fund shall be expended as provided in Section [35A-8-1009](#).

3065 (6) (a) For purposes of this Subsection (6):

3066 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
3067 Consolidations and Annexations.

3068 (ii) "Annexing area" means an area that is annexed into a county.

3069 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a
3070 county enacts or repeals a tax under this part:

3071 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

3072 (II) the repeal shall take effect on the first day of a calendar quarter; and

3073 (B) after a 90-day period beginning on the date the commission receives notice meeting
3074 the requirements of Subsection (6)(b)(ii) from the county.

3075 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

3076 (A) that the county will enact or repeal a tax under this part;

3077 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

3078 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

3079 (D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the
3080 tax.

3081 (c) (i) If the billing period for a transaction begins before the effective date of the
3082 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day
3083 of the first billing period that begins on or after the effective date of the enactment of the tax.

3084 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3085 period is produced on or after the effective date of the repeal of the tax imposed under
3086 Subsection (1).

3087 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3088 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3089 Subsection (6)(b)(i) takes effect:

3090 (A) on the first day of a calendar quarter; and

3091 (B) beginning 60 days after the effective date of the enactment or repeal under
3092 Subsection (6)(b)(i).

3093 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3094 commission may by rule define the term "catalogue sale."

3095 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
3096 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3097 part for an annexing area, the enactment or repeal shall take effect:

3098 (A) on the first day of a calendar quarter; and

3099 (B) after a 90-day period beginning on the date the commission receives notice meeting
3100 the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

3101 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

3102 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
3103 repeal of a tax under this part for the annexing area;

3104 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

3105 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

3106 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

3107 (f) (i) If the billing period for a transaction begins before the effective date of the
3108 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day

3109 of the first billing period that begins on or after the effective date of the enactment of the tax.

3110 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3111 period is produced on or after the effective date of the repeal of the tax imposed under
3112 Subsection (1).

3113 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3114 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3115 Subsection (6)(e)(i) takes effect:

3116 (A) on the first day of a calendar quarter; and

3117 (B) beginning 60 days after the effective date of the enactment or repeal under
3118 Subsection (6)(e)(i).

3119 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3120 commission may by rule define the term "catalogue sale."

3121 Section 19. Section **59-12-1302** is amended to read:

3122 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
3123 **rate change -- Effective date -- Notice requirements -- Administration, collection, and**
3124 **enforcement of tax -- Administrative charge.**

3125 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
3126 tax as provided in this part in an amount that does not exceed 1%.

3127 (2) A town may impose a tax as provided in this part if the town imposed a license fee
3128 or tax on businesses based on gross receipts under Section **10-1-203** on or before January 1,
3129 1996.

3130 (3) A town imposing a tax under this section shall:

3131 (a) except as provided in Subsection (4), impose the tax on the transactions described
3132 in Subsection **59-12-103**(1) located within the town; and

3133 (b) provide an effective date for the tax as provided in Subsection (5).

3134 (4) (a) A town may not impose a tax under this section on:

3135 (i) the sales and uses described in:

3136 (A) Section **59-12-104** to the extent the sales and uses are exempt from taxation under

3137 Section [59-12-104](#); or

3138 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
3139 under Section [59-12-104.8](#); and

3140 (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food
3141 ingredients.

3142 (b) For purposes of this Subsection (4), the location of a transaction shall be
3143 determined in accordance with Sections [59-12-211](#) through [59-12-215](#).

3144 (c) A town imposing a tax under this section shall impose the tax on the purchase price
3145 or sales price for amounts paid or charged for food and food ingredients if the food and food
3146 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
3147 and tangible personal property other than food and food ingredients.

3148 (5) (a) For purposes of this Subsection (5):

3149 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3150 Annexation.

3151 (ii) "Annexing area" means an area that is annexed into a town.

3152 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3153 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3154 or change shall take effect:

3155 (A) on the first day of a calendar quarter; and

3156 (B) after a 90-day period beginning on the date the commission receives notice meeting
3157 the requirements of Subsection (5)(b)(ii) from the town.

3158 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3159 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3160 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3161 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3162 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3163 (5)(b)(ii)(A), the rate of the tax.

3164 (c) (i) If the billing period for the transaction begins before the effective date of the

3165 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3166 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
3167 on or after the effective date of the enactment of the tax or the tax rate increase.

3168 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3169 statement for the billing period is produced on or after the effective date of the repeal of the tax
3170 or the tax rate decrease imposed under Subsection (1).

3171 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3172 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3173 a tax described in Subsection (5)(b)(i) takes effect:

3174 (A) on the first day of a calendar quarter; and

3175 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3176 rate of the tax under Subsection (5)(b)(i).

3177 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3178 commission may by rule define the term "catalogue sale."

3179 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3180 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3181 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3182 effect:

3183 (A) on the first day of a calendar quarter; and

3184 (B) after a 90-day period beginning on the date the commission receives notice meeting
3185 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3186 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3187 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
3188 repeal, or change in the rate of a tax under this part for the annexing area;

3189 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3190 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3191 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
3192 (5)(e)(ii)(A), the rate of the tax.

3193 (f) (i) If the billing period for a transaction begins before the effective date of the
3194 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3195 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
3196 on or after the effective date of the enactment of the tax or the tax rate increase.

3197 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3198 statement for the billing period is produced on or after the effective date of the repeal of the tax
3199 or the tax rate decrease imposed under Subsection (1).

3200 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3201 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3202 a tax described in Subsection (5)(e)(i) takes effect:

3203 (A) on the first day of a calendar quarter; and

3204 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3205 rate of the tax under Subsection (5)(e)(i).

3206 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3207 commission may by rule define the term "catalogue sale."

3208 (6) The commission shall:

3209 (a) distribute the revenue generated by the tax under this section to the town imposing
3210 the tax; and

3211 (b) except as provided in Subsection (8), administer, collect, and enforce the tax
3212 authorized under this section in accordance with:

3213 (i) the same procedures used to administer, collect, and enforce the tax under:

3214 (A) Part 1, Tax Collection; or

3215 (B) Part 2, Local Sales and Use Tax Act; and

3216 (ii) Chapter 1, General Taxation Policies.

3217 (7) The commission shall retain and deposit an administrative charge in accordance
3218 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

3219 (8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3220 Section 20. Section 59-12-1402 is amended to read:

3221 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**
3222 **Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice**
3223 **requirements.**

3224 (1) (a) Subject to the other provisions of this section, a city or town legislative body
3225 subject to this part may submit an opinion question to the residents of that city or town, by
3226 majority vote of all members of the legislative body, so that each resident of the city or town
3227 has an opportunity to express the resident's opinion on the imposition of a local sales and use
3228 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or
3229 town, to:

3230 (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical
3231 organizations, cultural organizations, and zoological organizations in that city or town; or

3232 (ii) provide funding for a botanical organization, cultural organization, or zoological
3233 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
3234 furtherance of the botanical organization's, cultural organization's, or zoological organization's
3235 primary purpose.

3236 (b) The opinion question required by this section shall state:

3237 "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales
3238 and use tax for (list the purposes for which the revenue collected from the sales and use tax
3239 shall be expended)?"

3240 (c) A city or town legislative body may not impose a tax under this section:

3241 (i) if the county in which the city or town is located imposes a tax under Part 7, County
3242 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
3243 Facilities;

3244 (ii) on the sales and uses described in:

3245 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
3246 Section 59-12-104; or

3247 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
3248 under Section 59-12-104.8; and

3249 (iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and
3250 food ingredients.

3251 (d) For purposes of this Subsection (1), the location of a transaction shall be
3252 determined in accordance with Sections 59-12-211 through 59-12-215.

3253 (e) A city or town legislative body imposing a tax under this section shall impose the
3254 tax on the purchase price or sales price for amounts paid or charged for food and food
3255 ingredients if the food and food ingredients are sold as part of a bundled transaction attributable
3256 to food and food ingredients and tangible personal property other than food and food
3257 ingredients.

3258 (f) Except as provided in Subsection (6), the election shall be held at a regular general
3259 election or a municipal general election, as those terms are defined in Section 20A-1-102, and
3260 shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

3261 (2) If the city or town legislative body determines that a majority of the city's or town's
3262 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3263 the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by
3264 a majority vote of all members of the legislative body.

3265 (3) Subject to Section 59-12-1403, revenue collected from a tax imposed under
3266 Subsection (2) shall be expended:

3267 (a) to finance cultural facilities, recreational facilities, and zoological facilities within
3268 the city or town or within the geographic area of entities that are parties to an interlocal
3269 agreement, to which the city or town is a party, providing for cultural facilities, recreational
3270 facilities, or zoological facilities;

3271 (b) to finance ongoing operating expenses of:

3272 (i) recreational facilities described in Subsection (3)(a) within the city or town or
3273 within the geographic area of entities that are parties to an interlocal agreement, to which the
3274 city or town is a party, providing for recreational facilities; or

3275 (ii) botanical organizations, cultural organizations, and zoological organizations within
3276 the city or town or within the geographic area of entities that are parties to an interlocal

3277 agreement, to which the city or town is a party, providing for the support of botanical
3278 organizations, cultural organizations, or zoological organizations; and
3279 (c) as stated in the opinion question described in Subsection (1).
3280 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall
3281 be:
3282 (i) administered, collected, and enforced in accordance with:
3283 (A) the same procedures used to administer, collect, and enforce the tax under:
3284 (I) Part 1, Tax Collection; or
3285 (II) Part 2, Local Sales and Use Tax Act; and
3286 (B) Chapter 1, General Taxation Policies; and
3287 (ii) (A) levied for a period of eight years; and
3288 (B) may be reauthorized at the end of the eight-year period in accordance with this
3289 section.
3290 (b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the
3291 tax shall be levied for a period of 10 years.
3292 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or
3293 after July 1, 2011, the tax shall be reauthorized for a ten-year period.
3294 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).
3295 (5) (a) For purposes of this Subsection (5):
3296 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3297 4, Annexation.
3298 (ii) "Annexing area" means an area that is annexed into a city or town.
3299 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3300 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
3301 (A) on the first day of a calendar quarter; and
3302 (B) after a 90-day period beginning on the date the commission receives notice meeting
3303 the requirements of Subsection (5)(b)(ii) from the city or town.
3304 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

- 3305 (A) that the city or town will enact or repeal a tax under this part;
- 3306 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 3307 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 3308 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
- 3309 the tax.

3310 (c) (i) If the billing period for a transaction begins before the effective date of the
3311 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3312 the first billing period that begins on or after the effective date of the enactment of the tax.

3313 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3314 period is produced on or after the effective date of the repeal of the tax imposed under this
3315 section.

3316 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3317 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3318 Subsection (5)(b)(i) takes effect:

3319 (A) on the first day of a calendar quarter; and

3320 (B) beginning 60 days after the effective date of the enactment or repeal under
3321 Subsection (5)(b)(i).

3322 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3323 commission may by rule define the term "catalogue sale."

3324 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3325 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3326 part for an annexing area, the enactment or repeal shall take effect:

3327 (A) on the first day of a calendar quarter; and

3328 (B) after a 90-day period beginning on the date the commission receives notice meeting
3329 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3330 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3331 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3332 repeal a tax under this part for the annexing area;

- 3333 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 3334 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 3335 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3336 (f) (i) If the billing period for a transaction begins before the effective date of the
3337 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3338 the first billing period that begins on or after the effective date of the enactment of the tax.

3339 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3340 period is produced on or after the effective date of the repeal of the tax imposed under this
3341 section.

3342 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3343 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3344 Subsection (5)(e)(i) takes effect:

3345 (A) on the first day of a calendar quarter; and

3346 (B) beginning 60 days after the effective date of the enactment or repeal under
3347 Subsection (5)(e)(i).

3348 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3349 commission may by rule define the term "catalogue sale."

3350 (6) (a) Before a city or town legislative body submits an opinion question to the
3351 residents of the city or town under Subsection (1), the city or town legislative body shall:

3352 (i) submit to the county legislative body in which the city or town is located a written
3353 notice of the intent to submit the opinion question to the residents of the city or town; and

3354 (ii) receive from the county legislative body:

3355 (A) a written resolution passed by the county legislative body stating that the county
3356 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
3357 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3358 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
3359 opinion question submitted to the residents of the county under Part 7, County Option Funding
3360 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city

3361 or town legislative body to submit the opinion question to the residents of the city or town in
3362 accordance with this part.

3363 (b) (i) Within 60 days after the day the county legislative body receives from a city or
3364 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
3365 opinion question to the residents of the city or town, the county legislative body shall provide
3366 the city or town legislative body:

3367 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

3368 (B) written notice that the county legislative body will submit an opinion question to
3369 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
3370 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
3371 that part.

3372 (ii) If the county legislative body provides the city or town legislative body the written
3373 notice that the county legislative body will submit an opinion question as provided in
3374 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
3375 later than, from the date the county legislative body sends the written notice, the later of:

3376 (A) a 12-month period;

3377 (B) the next regular primary election; or

3378 (C) the next regular general election.

3379 (iii) Within 30 days of the date of the canvass of the election at which the opinion
3380 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
3381 city or town legislative body described in Subsection (6)(a) written results of the opinion
3382 question submitted by the county legislative body under Part 7, County Option Funding for
3383 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

3384 (A) (I) the city or town legislative body may not impose a tax under this part because a
3385 majority of the county's registered voters voted in favor of the county imposing the tax and the
3386 county legislative body by a majority vote approved the imposition of the tax; or

3387 (II) for at least 12 months from the date the written results are submitted to the city or
3388 town legislative body, the city or town legislative body may not submit to the county legislative

3389 body a written notice of the intent to submit an opinion question under this part because a
3390 majority of the county's registered voters voted against the county imposing the tax and the
3391 majority of the registered voters who are residents of the city or town described in Subsection
3392 (6)(a) voted against the imposition of the county tax; or

3393 (B) the city or town legislative body may submit the opinion question to the residents
3394 of the city or town in accordance with this part because although a majority of the county's
3395 registered voters voted against the county imposing the tax, the majority of the registered voters
3396 who are residents of the city or town voted for the imposition of the county tax.

3397 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
3398 provide a city or town legislative body described in Subsection (6)(a) a written resolution
3399 passed by the county legislative body stating that the county legislative body is not seeking to
3400 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
3401 Zoological Organizations or Facilities, which permits the city or town legislative body to
3402 submit under Subsection (1) an opinion question to the city's or town's residents.

3403 Section 21. Section **59-12-1802** is amended to read:

3404 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**
3405 **General Fund.**

3406 (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax,
3407 a tax shall be imposed within the county under this section by the state:

3408 (a) on the transactions described in Subsection [59-12-103\(1\)](#);

3409 (b) at a rate of .25%; and

3410 (c) beginning on January 1, 2008, and ending on the day on which the county imposes
3411 a tax under Part 11, County Option Sales and Use Tax.

3412 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
3413 sales and uses described in:

3414 (a) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
3415 Section [59-12-104](#)~~[-]~~; or

3416 (b) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation under

3417 Section 59-12-104.8.

3418 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
3419 accordance with Sections 59-12-211 through 59-12-215.

3420 (4) Revenues collected from the sales and use tax imposed by this section, after
3421 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
3422 into the General Fund.

3423 Section 22. Section 59-12-2003 is amended to read:

3424 **59-12-2003. Imposition -- Base -- Rate -- Revenue distributed to certain public**
3425 **transit districts.**

3426 (1) Subject to the other provisions of this section and except as provided in Subsection
3427 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
3428 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
3429 area of a county of the first or second class if, on January 1, 2008, there is a public transit
3430 district within any portion of that county of the first or second class.

3431 (2) The state may not impose a tax under this part within a county of the first or second
3432 class if within all of the cities, towns, and the unincorporated area of the county of the first or
3433 second class there is imposed a sales and use tax of:

3434 (a) .30% under Section 59-12-2213;

3435 (b) .30% under Section 59-12-2215; or

3436 (c) .30% under Section 59-12-2216.

3437 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax
3438 rate imposed within a city, town, or the unincorporated area of a county of the first or second
3439 class is a percentage equal to the difference between:

3440 (i) .30%; and

3441 (ii) (A) for a city within the county of the first or second class, the highest tax rate
3442 imposed within that city under:

3443 (I) Section 59-12-2213;

3444 (II) Section 59-12-2215; or

3445 (III) Section 59-12-2216;

3446 (B) for a town within the county of the first or second class, the highest tax rate

3447 imposed within that town under:

3448 (I) Section 59-12-2213;

3449 (II) Section 59-12-2215; or

3450 (III) Section 59-12-2216; or

3451 (C) for the unincorporated area of the county of the first or second class, the highest tax

3452 rate imposed within that unincorporated area under:

3453 (I) Section 59-12-2213;

3454 (II) Section 59-12-2215; or

3455 (III) Section 59-12-2216.

3456 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of

3457 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,

3458 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the

3459 first or second class is .30%, the state may not impose a tax under this part within that city,

3460 town, or unincorporated area.

3461 (4) (a) The state may not impose a tax under this part on:

3462 (i) (A) the sales and uses described in Section 59-12-104 to the extent the sales and

3463 uses are exempt from taxation under Section 59-12-104; or

3464 (B) the sales and uses described in Section 59-12-104.8 to the extent the sales and uses

3465 are exempt from taxation under Section 59-12-104.8; or

3466 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food

3467 ingredients.

3468 (b) The state shall impose a tax under this part on the purchase price or sales price for

3469 amounts paid or charged for food and food ingredients if the food and food ingredients are sold

3470 as part of a bundled transaction attributable to food and ingredients and tangible personal

3471 property other than food and food ingredients.

3472 (5) For purposes of Subsection (1), the location of a transaction shall be determined in

3473 accordance with Sections 59-12-211 through 59-12-215.

3474 (6) The commission shall distribute the revenues the state collects from the sales and
3475 use tax under this part, after subtracting amounts a seller retains in accordance with Section
3476 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3477 (a) within which the state imposes a tax under this part; and

3478 (b) in proportion to the revenues collected from the sales and use tax under this part
3479 within each city, town, and unincorporated area within which the state imposes a tax under this
3480 part.

3481 Section 23. Section 59-12-2103 is amended to read:

3482 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected**
3483 **from the tax -- Administration, collection, and enforcement of tax by commission --**
3484 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

3485 (1) (a) Subject to the other provisions of this section and except as provided in
3486 Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or
3487 town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the
3488 city or town would have received a tax revenue distribution of less than .75% of the taxable
3489 sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or
3490 town legislative body may impose a sales and use tax of up to .20% on the transactions:

3491 (i) described in Subsection 59-12-103(1); and

3492 (ii) within the city or town.

3493 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
3494 expend the revenue collected from the tax for the same purposes for which the city or town
3495 may expend the city's or town's general fund revenue.

3496 (c) For purposes of this Subsection (1), the location of a transaction shall be
3497 determined in accordance with Sections 59-12-211 through 59-12-215.

3498 (2) (a) A city or town legislative body may not impose a tax under this section on:

3499 (i) the sales and uses described in:

3500 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under

3501 Section [59-12-104](#); or

3502 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
3503 under Section [59-12-104.8](#); and

3504 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
3505 ingredients.

3506 (b) A city or town legislative body imposing a tax under this section shall impose the
3507 tax on the purchase price or sales price for amounts paid or charged for food and food
3508 ingredients if the food and food ingredients are sold as part of a bundled transaction attributable
3509 to food and food ingredients and tangible personal property other than food and food
3510 ingredients.

3511 (3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax
3512 under this part, a city or town legislative body shall obtain approval from a majority of the
3513 members of the city or town legislative body.

3514 (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or
3515 town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

3516 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or
3517 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before
3518 March 31, 2016, the city or town legislative body obtains approval from a majority vote of the
3519 members of the city or town legislative body to continue to impose the tax.

3520 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of
3521 the members of the city or town legislative body to continue to impose a tax under this part on
3522 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

3523 (4) The commission shall transmit revenue collected within a city or town from a tax
3524 under this part:

3525 (a) to the city or town legislative body;

3526 (b) monthly; and

3527 (c) by electronic funds transfer.

3528 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,

3529 collect, and enforce a tax under this part in accordance with:

3530 (i) the same procedures used to administer, collect, and enforce the tax under:

3531 (A) Part 1, Tax Collection; or

3532 (B) Part 2, Local Sales and Use Tax Act; and

3533 (ii) Chapter 1, General Taxation Policies.

3534 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3535 (6) The commission shall retain and deposit an administrative charge in accordance

3536 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

3537 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,

3538 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,

3539 repeal, or change shall take effect:

3540 (A) on the first day of a calendar quarter; and

3541 (B) after a 90-day period beginning on the date the commission receives notice meeting

3542 the requirements of Subsection (7)(a)(i) from the city or town.

3543 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

3544 (A) that the city or town will enact or repeal a tax or change the rate of the tax under

3545 this part;

3546 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

3547 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

3548 (D) if the city or town enacts the tax or changes the rate of the tax described in

3549 Subsection (7)(a)(ii)(A), the rate of the tax.

3550 (b) (i) If the billing period for a transaction begins before the enactment of the tax or

3551 the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes

3552 effect on the first day of the first billing period that begins on or after the effective date of the

3553 enactment of the tax or the tax rate increase.

3554 (ii) If the billing period for a transaction begins before the effective date of the repeal

3555 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax

3556 rate decrease applies to a billing period if the billing statement for the billing period is rendered

3557 on or after the effective date of the repeal of the tax or the tax rate decrease.

3558 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3559 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3560 described in Subsection (7)(a)(i) takes effect:

3561 (A) on the first day of a calendar quarter; and

3562 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3563 rate of the tax under Subsection (7)(a)(i).

3564 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3565 commission may by rule define the term "catalogue sale."

3566 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
3567 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
3568 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3569 effect:

3570 (A) on the first day of a calendar quarter; and

3571 (B) after a 90-day period beginning on the date the commission receives notice meeting
3572 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3573 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3574 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
3575 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3576 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3577 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3578 (D) if the city or town enacts the tax or changes the rate of the tax described in
3579 Subsection (7)(d)(ii)(A), the rate of the tax.

3580 (e) (i) If the billing period for a transaction begins before the effective date of the
3581 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
3582 rate increase takes effect on the first day of the first billing period that begins on or after the
3583 effective date of the enactment of the tax or the tax rate increase.

3584 (ii) If the billing period for a transaction begins before the effective date of the repeal

3585 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3586 rate decrease applies to a billing period if the billing statement for the billing period is rendered
3587 on or after the effective date of the repeal of the tax or the tax rate decrease.

3588 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3589 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3590 described in Subsection (7)(d)(i) takes effect:

3591 (A) on the first day of a calendar quarter; and

3592 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
3593 Subsection (7)(d)(i).

3594 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3595 commission may by rule define the term "catalogue sale."

3596 Section 24. Section **59-12-2204** is amended to read:

3597 **59-12-2204. Transactions that may not be subject to taxation under this part --**
3598 **Exception for food and food ingredients sold as part of a bundled transaction.**

3599 (1) A county, city, or town may not impose a sales and use tax under this part on:

3600 (a) the sales and uses described in:

3601 (i) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
3602 Section [59-12-104](#); or

3603 (ii) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
3604 under Section [59-12-104.8](#); and

3605 (b) except as provided in Subsection (2), amounts paid or charged for food and food
3606 ingredients.

3607 (2) A county, city, or town imposing a sales and use tax under this part shall impose
3608 the sales and use tax on the purchase price or sales price for amounts paid or charged for food
3609 and food ingredients if the food and food ingredients are sold as part of a bundled transaction
3610 attributable to food and food ingredients and tangible personal property other than food and
3611 food ingredients.

3612 Section 25. Section **63I-2-210** is amended to read:

3613 **63I-2-210. Repeal dates -- Title 10.**

3614 (1) If Subsection [10-1-405\(1\)\(a\)\(ii\)\(A\)\(VI\)](#) is not in effect by December 31, 2028,

3615 Subsection [10-1-405\(1\)\(a\)\(ii\)\(A\)\(VI\)](#) is repealed on December 31, 2028.

3616 [~~(1)~~] (2) On July 1, 2018, the following are repealed:

3617 (a) in Subsection [10-2-403\(5\)](#), the language that states "[10-2a-302](#) or";

3618 (b) in Subsection [10-2-403\(5\)\(b\)](#), the language that states "[10-2a-302](#) or";

3619 (c) in Subsection [10-2a-106\(2\)](#), the language that states "[10-2a-302](#) or";

3620 (d) Section [10-2a-302](#);

3621 (e) Subsection [10-2a-302.5\(2\)\(a\)](#);

3622 (f) in Subsection [10-2a-303\(1\)](#), the language that states "[10-2a-302](#) or";

3623 (g) in Subsection [10-2a-303\(4\)](#), the language that states "[10-2a-302\(7\)\(b\)\(v\)](#) or" and

3624 "[10-2a-302\(7\)\(b\)\(iv\)](#) or";

3625 (h) in Subsection [10-2a-304\(1\)\(a\)](#), the language that states "[10-2a-302](#) or"; and

3626 (i) in Subsection [10-2a-304\(1\)\(a\)\(ii\)](#), the language that states "Subsection [10-2a-302\(5\)](#)

3627 or".

3628 [~~(2)~~] (3) Subsection [10-9a-304\(2\)](#) is repealed June 1, 2020.

3629 [~~(3)~~] (4) When repealing Subsection [10-9a-304\(2\)](#), the Office of Legislative Research

3630 and General Counsel shall, in addition to the office's authority under Subsection [36-12-12\(3\)](#),

3631 make necessary changes to subsection numbering and cross references.

3632 Section 26. Section **63I-2-259** is amended to read:

3633 **63I-2-259. Repeal dates -- Title 59.**

3634 (1) Subsection [59-2-1007\(14\)](#) is repealed on December 31, 2018.

3635 (2) If Section [59-12-104.8](#) is not in effect by December 31, 2028, Subsection

3636 [59-12-103.1\(5\)](#) is repealed on December 31, 2028.

3637 (3) If Subsection [59-12-104.5\(2\)](#) is not in effect by December 31, 2028, Subsection

3638 [59-12-104.5\(2\)](#) is repealed on December 31, 2028.

3639 (4) If Section [59-12-104.8](#) is not in effect by December 31, 2028, Section [59-12-104.8](#)

3640 is repealed on December 31, 2028.

- 3641 (5) If Subsection 59-12-106(3)(a)(ii)(B) is not in effect by December 31, 2028,
3642 Subsection 59-12-106(3)(a)(ii)(B) is repealed on December 31, 2028.
- 3643 (6) If Subsection 59-12-107(10)(a)(ii)(A)(III) is not in effect by December 31, 2028,
3644 Subsection 59-12-107(10)(a)(ii)(A)(III) is repealed on December 31, 2028.
- 3645 (7) If Subsection 59-12-204(2)(b)(ii) is not in effect by December 31, 2028, Subsection
3646 59-12-204(2)(b)(ii) is repealed on December 31, 2028.
- 3647 (8) If Subsection 59-12-204(6)(b)(ii) is not in effect by December 31, 2028, Subsection
3648 59-12-204(6)(b)(ii) is repealed on December 31, 2028.
- 3649 (9) If Subsection 59-12-401(1)(b)(ii)(B) is not in effect by December 31, 2028,
3650 Subsection 59-12-401(1)(b)(ii)(B) is repealed on December 31, 2028.
- 3651 (10) If Subsection 59-12-402(1)(b)(ii)(B) is not in effect by December 31, 2028,
3652 Subsection 59-12-402(1)(b)(ii)(B) is repealed on December 31, 2028.
- 3653 (11) If Subsection 59-12-402.1(5)(b)(ii) is not in effect by December 31, 2028,
3654 Subsection 59-12-402.1(5)(b)(ii) is repealed on December 31, 2028.
- 3655 (12) If Subsection 59-12-703(1)(c)(i)(B) is not in effect by December 31, 2028,
3656 Subsection 59-12-703(1)(c)(i)(B) is repealed on December 31, 2028.
- 3657 (13) If Subsection 59-12-802(1)(c)(i)(B) is not in effect by December 31, 2028,
3658 Subsection 59-12-802(1)(c)(i)(B) is repealed on December 31, 2028.
- 3659 (14) If Subsection 59-12-804(1)(b)(i)(B) is not in effect by December 31, 2028,
3660 Subsection 59-12-804(1)(b)(i)(B) is repealed on December 31, 2028.
- 3661 (15) If Subsection 59-12-1102(1)(a)(ii)(B) is not in effect by December 31, 2028,
3662 Subsection 59-12-1102(1)(a)(ii)(B) is repealed on December 31, 2028.
- 3663 (16) If Subsection 59-12-1302(4)(a)(i)(B) is not in effect by December 31, 2028,
3664 Subsection 59-12-1302(4)(a)(i)(B) is repealed on December 31, 2028.
- 3665 (17) If Subsection 59-12-1402(1)(c)(ii)(B) is not in effect by December 31, 2028,
3666 Subsection 59-12-1402(1)(c)(ii)(B) is repealed on December 31, 2028.
- 3667 (18) If Subsection 59-12-1802(2)(b) is not in effect by December 31, 2028, Subsection
3668 59-12-1802(2)(b) is repealed on December 31, 2028.

3669 (19) If Subsection 59-12-2003(4)(a)(i)(B) is not in effect by December 31, 2028,
3670 Subsection 59-12-2003(4)(a)(i)(B) is repealed on December 31, 2028.

3671 (20) If Subsection 59-12-2103(2)(a)(i)(B) is not in effect by December 31, 2028,
3672 Subsection 59-12-2103(2)(a)(i)(B) is repealed on December 31, 2028.

3673 (21) If Subsection 59-12-2204(1)(a)(ii) is not in effect by December 31, 2028,
3674 Subsection 59-12-2204(1)(a)(ii) is repealed on December 31, 2028.

3675 Section 27. **Repealer.**

3676 This bill repeals:

3677 Section **59-12-104.7, Reporting by purchaser of certain sales and use tax exempt**
3678 **purchases.**

3679 Section **63N-1-302, Reporting of certain sales and use tax exempt purchases.**

3680 Section 28. **Contingent effective date and effective date.**

3681 (1) Except as provided in Subsection (2), this bill takes effect on the first day of the
3682 calendar quarter after a 90-day period that begins on the day the legislative general counsel
3683 notifies the Legislative Management Committee that the Division of Finance has provided the
3684 notice required by Subsection 59-12-103.1(5).

3685 (2) The amendments to Sections 59-12-102, 59-12-103.1, 63I-2-210, and 63I-2-259
3686 take effect on July 1, 2018.