

TAX, FEE, OR CHARGE AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the Municipal Telecommunications License Tax Act and the Sales and Use Tax Act relating to taxes, fees, or charges.

Highlighted Provisions:

This bill:

- ▶ addresses the procedures for the State Tax Commission to administer, collect, and enforce certain taxes;
- ▶ provides and modifies definitions;
- ▶ modifies the transactions that are subject to sales and use taxes;
- ▶ provides sales and use tax exemptions for:
 - amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle for purchasing the new vehicle; and
 - sales of certain tangible personal property to persons within the state if that tangible personal property is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;
- ▶ provides a credit for sales and use taxes relating to certain repossessions of a motor vehicle;
- ▶ grants rulemaking authority to the State Tax Commission;
- ▶ addresses criminal acts relating to refusing to make a return, making a false or fraudulent return or false statement on a return, evading the payment of a tax, or aiding or abetting an attempt to evade the payment of a tax;

- ▶ addresses amnesty relating to a tax, fee, or charge;
- ▶ addresses the payment of a monetary allowance to a seller that is registered under the Streamlined Sales and Use Tax Agreement or a certified service provider that is designated to be a seller's agent;
- ▶ addresses the distribution of certain sales and use tax revenues to counties, cities, and towns; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

AMENDS:

10-1-405, as last amended by Chapter 255, Laws of Utah 2004

59-12-102, as last amended by Chapters 1, 156, 255, 298 and 300, Laws of Utah 2004

59-12-103 (Effective 07/01/05), as last amended by Chapter 1, Laws of Utah 2004, Third Special Session

59-12-104, as last amended by Chapters 1, 156, 255, 298 and 320, Laws of Utah 2004

59-12-117, as last amended by Chapter 312, Laws of Utah 2003

59-12-121, as last amended by Chapter 1, Laws of Utah 2004, Third Special Session

59-12-122, as enacted by Chapter 255, Laws of Utah 2004

59-12-205 (Effective 07/01/05), as last amended by Chapter 255, Laws of Utah 2004

59-12-1201, as last amended by Chapters 156 and 255, Laws of Utah 2004

ENACTS:

59-12-104.3, Utah Code Annotated 1953

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

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

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

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

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

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

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

(A) except for:

~~[(F) Subsection 59-12-103(2)(d);]~~

~~[(H)]~~ (I) Subsection 59-12-103(2)(e);

~~[(H)]~~ (II) Section 59-12-104;

~~[(IV)]~~ (III) Section 59-12-104.1;

~~[(V)]~~ (IV) Section 59-12-104.2; and

~~[(VI)]~~ (V) Sections 59-12-107.1 through 59-12-107.3; and

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

(b) a uniform interlocal agreement:

(i) between:

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

(B) the commission;

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

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

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

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

- (i) transmit monies collected under this part:
 - (A) monthly; and
 - (B) by electronic funds transfer by the commission to the municipality;
- (ii) conduct audits of the municipal telecommunications license tax;
- (iii) charge the municipality for the commission's services under this section in an

amount:

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

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

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

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.

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

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

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

Section 2. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

(2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in Section 59-12-102.1.

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

- (a) listed under Subsection (4); and
- (b) that are imposed within a local taxing jurisdiction.

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

- (a) Subsection 59-12-103(2)(a)(i);
- (b) Section 59-12-204;
- (c) Section 59-12-401;
- (d) Section 59-12-402;
- (e) Section 59-12-501;
- (f) Section 59-12-502;
- (g) Section 59-12-703;
- (h) Section 59-12-802;
- (i) Section 59-12-804;
- (j) Section 59-12-1001;
- (k) Section 59-12-1102;
- (l) Section 59-12-1302;
- (m) Section 59-12-1402; or
- (n) Section 59-12-1503.

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

(6) "Alcoholic beverage" means a beverage that:

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

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

(8) "Authorized carrier" means:

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

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating

certificate or air carrier's operating certificate; or

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

(9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or
- (ii) other organic matter that is available on a renewable basis, including:
 - (A) slash and brush from forests and woodlands;
 - (B) animal waste;
 - (C) methane produced:
 - (I) at landfills; or
 - (II) as a byproduct of the treatment of wastewater residuals;
 - (D) aquatic plants; and
 - (E) agricultural products.
- (b) "Biomass energy" does not include:
 - (i) black liquor;
 - (ii) treated woods; or
 - (iii) biomass from municipal solid waste other than methane produced:
 - (A) at landfills; or
 - (B) as a byproduct of the treatment of wastewater residuals.

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

- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
 - (i) on a transaction; and
 - (ii) in the states that are members of the agreement;
- (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
- (c) maintains a record of the transaction described in Subsection (10)(a)(i).

(11) "Certified service provider" means an agent certified:

- (a) by the governing board of the agreement in accordance with Section 59-12-102.1; and
- (b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's own purchases.

(12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "clothing"; and
- (ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" means:

- (i) a coin-operated amusement, skill, or ride device;
- (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and
- (iii) includes a music machine, pinball machine, billiard machine, video game machine, arcade machine, and a mechanical or electronic skill game or ride.

(b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does not mean a coin-operated amusement device possessing a coinage mechanism that:

- (i) accepts and registers multiple denominations of coins; and
- (ii) allows the seller to collect the sales and use tax at the time an amusement device is activated and operated by a person inserting coins into the device.

(14) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (34) or residential use under Subsection ~~[(63)]~~ (66).

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

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

(ii) For purposes of Subsection (15)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(16) "Component part" includes:

- (a) poultry, dairy, and other livestock feed, and their components;
- (b) baling ties and twine used in the baling of hay and straw;
- (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
- (d) feed, seeds, and seedlings.

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

- (a) (i) in digital form; or
- (ii) in a form similar to digital form; and
- (b) manipulates that information for a result based on a sequence of instructions.

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

- (a) a computer to perform a task; or
- (b) automatic data processing equipment to perform a task.

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

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

(21) (a) "Delivery charge" means a charge:

- (i) by a seller of:
 - (A) tangible personal property; or
 - (B) services; and

(ii) for preparation and delivery of the tangible personal property or services described in Subsection (21)(a)(i) to a location designated by the purchaser.

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

- (i) transportation;
- (ii) shipping;
- (iii) postage;
- (iv) handling;
- (v) crating; or
- (vi) packing.

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

(a) is intended to supplement the diet;

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

- (i) a vitamin;
- (ii) a mineral;
- (iii) an herb or other botanical;
- (iv) an amino acid;

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

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (22)(b)(i) through (v);

(c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) notwithstanding Subsection (22)(c)(i), if the product is not intended for ingestion in a

form described in Subsections (22)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.

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

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(24) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

- (i) recognized in:
 - (A) the official United States Pharmacopoeia;
 - (B) the official Homeopathic Pharmacopoeia of the United States;
 - (C) the official National Formulary; or
 - (D) a supplement to a publication listed in Subsections (24)(a)(i)(A) through (C);
- (ii) intended for use in the:
 - (A) diagnosis of disease;
 - (B) cure of disease;

- (C) mitigation of disease;
- (D) treatment of disease; or
- (E) prevention of disease; or
- (iii) intended to affect:
 - (A) the structure of the body; or
 - (B) any function of the body.
- (b) "Drug" does not include:
 - (i) food and food ingredients;
 - (ii) a dietary supplement;
 - (iii) an alcoholic beverage; or
 - (iv) a prosthetic device.

(25) (a) Except as provided in Subsection (25)(c), "durable medical equipment" means equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body[;].

~~[(v) is listed as eligible for payment under:]~~

~~[(A) Title XVIII of the federal Social Security Act; or]~~

~~[(B) the state plan for medical assistance under Title XIX of the federal Social Security Act; and]~~

~~[(vi) is used for home use only.]~~

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (25)(a).

(c) Notwithstanding Subsection (25)(a), "durable medical equipment" does not include mobility enhancing equipment.

(26) "Electronic" means:

- (a) relating to technology; and

- (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (26)(b)(i) through (vi).

(27) (a) "Food and food ingredients" means substances:

- (i) regardless of whether the substances are in:

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

- (ii) that are:

- (A) sold for:

- (I) ingestion by humans; or
- (II) chewing by humans; and
- (B) consumed for the substance's:
 - (I) taste; or
 - (II) nutritional value.

(b) "Food and food ingredients" does not include:

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

(28) (a) "Fundraising sales" means sales:

- (i) (A) made by a school; or
- (B) made by a school student;
- (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
- (iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (28)(a)(iii), "officially sanctioned school activity" means a school activity:

- (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
- (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
- (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

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

(30) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(31) (a) "Hearing aid" means:

- (i) an instrument or device having an electronic component that is designed to:
 - (A) (I) improve impaired human hearing; or
 - (II) correct impaired human hearing; and
 - (B) (I) be worn in the human ear; or
 - (II) affixed behind the human ear;
 - (ii) an instrument or device that is surgically implanted into the cochlea; or
 - (iii) a telephone amplifying device.
- (b) "Hearing aid" does not include:

(i) except as provided in Subsection (31)(a)(i)(B) or (31)(a)(ii), an instrument or device having an electronic component that is designed to be worn on the body;

(ii) except as provided in Subsection (31)(a)(iii), an assistive listening device or system designed to be used by one individual, including:

(A) a personal amplifying system;

(B) a personal FM system;

(C) a television listening system; or

(D) a device or system similar to a device or system described in Subsections (31)(b)(ii)(A) through (C); or

(iii) an assistive listening device or system designed to be used by more than one individual, including:

(A) a device or system installed in:

(I) an auditorium;

(II) a church;

(III) a conference room;

(IV) a synagogue; or

(V) a theater; or

(B) a device or system similar to a device or system described in Subsections (31)(b)(iii)(A)(I) through (V).

(32) (a) "Hearing aid accessory" means a hearing aid:

(i) component;

(ii) attachment; or

(iii) accessory.

(b) "Hearing aid accessory" includes:

(i) a hearing aid neck loop;

(ii) a hearing aid cord;

(iii) a hearing aid ear mold;

(iv) hearing aid tubing;

(v) a hearing aid ear hook; or

(vi) a hearing aid remote control.

(c) "Hearing aid accessory" does not include:

(i) a component, attachment, or accessory designed to be used only with an:

(A) instrument or device described in Subsection (31)(b)(i); or

(B) assistive listening device or system described in Subsection (31)(b)(ii) or (iii); or

(ii) a hearing aid battery.

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

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

(a) in mining or extraction of minerals;

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

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

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

(v) other farming activities;

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

(d) by a scrap recycler if:

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

(A) iron;

- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (34)(d)(i) would otherwise be made with nonrecycled materials.

(35) (a) Except as provided in Subsection (35)(b), "installation charge" means a charge for installing tangible personal property.

(b) Notwithstanding Subsection (35)(a), "installation charge" does not include a charge for repairs or renovations of tangible personal property.

~~[(35)]~~ (36) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property for:

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

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

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

- (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- (ii) a transfer of possession or control of property under an agreement~~[-(A)]~~ that requires the transfer of title;

(A) upon completion of required payments; and

(B) ~~[in which]~~ if the payment of an option price does not exceed the greater of:

- (I) \$100; or
- (II) 1% of the total required payments; or

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

(d) For purposes of Subsection [~~(35)~~] (36)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

~~[(36)]~~ (37) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

~~[(37)]~~ (38) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

~~[(38)]~~ (39) "Manufactured home" is as defined in Section 58-56-3.

~~[(39)]~~ (40) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(b) a scrap recycler if:

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

- (A) iron;
- (B) steel;
- (C) nonferrous metal;

- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection [~~(39)~~] (40)(b)(i) would otherwise be made with nonrecycled materials.

[~~(40)~~] (41) "Mobile home" is as defined in Section 58-56-3.

[~~(41)~~] (42) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(42)~~] (43) (a) Except as provided in Subsection [~~(42)~~] (43)(c), "mobility enhancing equipment" means equipment that is:

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

(ii) appropriate for use in a:

- (A) home; or
- (B) motor vehicle; and

(iii) not generally used by persons with normal mobility[~~and~~].

[~~(iv) listed as eligible for payment under:~~]

[~~(A) Title XVIII of the federal Social Security Act; or~~]

[~~(B) the state plan for medical assistance under Title XIX of the federal Social Security Act~~].

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(42)~~] (43)(a).

(c) Notwithstanding Subsection [~~(42)~~] (43)(a), "mobility enhancing equipment" does not include:

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

vehicle manufacturer;

- (iii) durable medical equipment; or
- (iv) a prosthetic device.

~~[(43)]~~ (44) "Model 1 seller" means a seller that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's own purchases.

~~[(44)]~~ (45) "Model 2 seller" means a seller that:

- (a) except as provided in Subsection ~~[(44)]~~ (45)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
- (b) notwithstanding Subsection ~~[(44)]~~ (45)(a), retains responsibility for remitting all of the sales tax:
 - (i) collected by the seller; and
 - (ii) to the appropriate local taxing jurisdiction.

~~[(45)]~~ (46) (a) Subject to Subsection ~~[(45)]~~ (46)(b), "model 3 seller" means a seller that has:

- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.
- (b) For purposes of Subsection ~~[(45)]~~ (46)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

~~[(46)]~~ (47) "Modular home" means a modular unit as defined in Section 58-56-3.

~~[(47)]~~ (48) "Motor vehicle" is as defined in Section 41-1a-102.

~~[(48)]~~ (49) (a) "Other fuels" means products that burn independently to produce heat or energy.

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

(50) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose; or

(ii) the detachment of tangible personal property from real property other than the detachment described in Subsection (50)(b)(ii).

~~[(49)]~~ (51) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

~~[(50)]~~ (52) "Place of primary use":

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

- (i) the residential street address of the purchaser; or
- (ii) the primary business street address of the purchaser; or
- (b) for mobile telecommunications service, is as defined in the Mobile

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

~~[(51)]~~ (53) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(60)(a).

~~[(52)]~~ (54) (a) "Prepared food" means:

- (i) food:
 - (A) sold in a heated state; or
 - (B) heated by a seller;
- (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection ~~[(52)]~~ (54)(c), food sold with an eating utensil provided by the seller, including a:

- (A) plate;
- (B) knife;
- (C) fork;
- (D) spoon;
- (E) glass;
- (F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [~~(52)~~] (54)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(52)~~] (54)(b)(ii)(A) to prevent food borne illness.

(c) Notwithstanding Subsection [~~(52)~~] (54)(a)(iii), an eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

[~~(53)~~] (55) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[~~(54)~~] (56) (a) Except as provided in Subsection [~~(54)~~] (56)(b)(ii) or (iii), "prewritten

computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) notwithstanding Subsection ~~[(54)]~~ (56)(a), computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) notwithstanding Subsection ~~[(54)]~~ (56)(a) and except as provided in Subsection ~~[(54)]~~ (56)(c), prewritten computer software or a prewritten portion of prewritten computer software:

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

(B) if the modification or enhancement described in Subsection ~~[(54)]~~ (56)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) Notwithstanding Subsection ~~[(54)]~~ (56)(b)(iii), "prewritten computer software" does not include a modification or enhancement described in Subsection ~~[(54)]~~ (56)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

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

~~[(55)]~~ (57) (a) "Prosthetic device" means a device that is ~~[(+)]~~ worn on or in the body to:

~~[(A)]~~ (i) artificially replace a missing portion of the body;

~~[(B)]~~ (ii) prevent or correct a physical deformity or physical malfunction; or

~~[(C)]~~ (iii) support a weak or deformed portion of the body ~~[-and]~~.

~~[(ii) listed as eligible for payment under:]~~

~~[(A) Title XVIII of the federal Social Security Act, or]~~

~~[(B) the state plan for medical assistance under Title XIX of the federal Social Security Act.]~~

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device; or
- (ii) replacement parts for a prosthetic device.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses;
- (ii) contact lenses;
- (iii) hearing aids; or
- (iv) dental prostheses.

~~[(56)]~~ (58) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

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

~~[(57)]~~ (59) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.

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

(i) the seller's cost of the tangible personal property or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

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

(G) a tax imposed on the seller; or

(iii) a charge by the seller for any service necessary to complete the sale[;].

~~[(iv) a delivery charge; or]~~

~~[(v) an installation charge.]~~

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

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

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

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

(ii) the following if separately stated on an invoice, bill of sale, or similar document

provided to the purchaser:

(A) the amount of a trade-in;

(B) the following from credit extended on the sale of tangible personal property or

services:

(I) interest charges;

- (II) financing charges; or
- (III) carrying charges; [~~or~~]
- (C) a tax or fee legally imposed directly on the consumer[-];
- (D) a delivery charge; or
- (E) an installation charge.

[~~(58)~~] (60) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made; or
- (b) a service is furnished.

[~~(59)~~] (61) "Regularly rented" means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for

value.

[~~(60)~~] (62) "Renewable energy" means:

- (a) biomass energy;
- (b) hydroelectric energy;
- (c) geothermal energy;
- (d) solar energy; or
- (e) wind energy.

[~~(61)~~] (63) (a) "Renewable energy production facility" means a facility that:

- (i) uses renewable energy to produce electricity; and
- (ii) has a production capacity of 20 kilowatts or greater.

(b) A facility is a renewable energy production facility regardless of whether the facility

is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

[~~(62)~~] (64) "Rental" is as defined in Subsection [~~(35)~~] (36).

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

- (a) a repair or renovation of tangible personal property that is not permanently attached to

real property; or

(b) attaching tangible personal property to other tangible personal property if the other tangible personal property to which the tangible personal property is attached is not permanently attached to real property.

~~[(63)]~~ (66) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(64)]~~ (67) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

~~[(65)]~~ (68) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

~~[(66)]~~ (69) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

chapter;

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

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession

would be taxable if an outright sale were made.

~~[(67)]~~ (70) "Sale at retail" is as defined in Subsection ~~[(64)]~~ (67).

~~[(68)]~~ (71) "Sale-leaseback transaction" means a transaction by which title to tangible personal property that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property;

(ii) the sale of the tangible personal property to the lessor is intended as a form of financing:

(A) for the property; and

(B) to the purchaser-lessee; and

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

(A) capitalize the property for financial reporting purposes; and

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

~~[(69)]~~ (72) "Sales price" is as defined in Subsection ~~[(57)]~~ (59).

~~[(70)]~~ (73) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

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

including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

- (V) safety equipment;
- (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
 - (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
 - (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
- (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
 - (I) food and food ingredients; or
 - (II) prepared food; or
 - (D) transportation charges for official school activities; or
 - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
- (b) "Sales relating to schools" does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection [~~(70)~~] (73)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

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

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

~~[(71)]~~ (74) For purposes of this section and Section 59-12-104, "school" means:

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

(i) is a:

(A) public school; or

(B) private school; and

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

(b) a public school district.

~~[(72)]~~ (75) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property; or

(b) a service.

~~[(73)]~~ (76) (a) "Semiconductor fabricating or processing materials" means tangible personal property:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

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

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating or processing materials" includes:

(i) parts used in the repairs or renovations of tangible personal property described in Subsection ~~[(73)]~~ (76)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

- (I) chemical change; or
- (II) physical change;
- (B) remove impurities from a semiconductor; or
- (C) improve the marketable condition of a semiconductor.

~~[(74)]~~ (77) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(75)]~~ (78) "Simplified electronic return" means the electronic return:

- (a) described in Section 318(C) of the agreement; and
- (b) approved by the governing board of the agreement.

~~[(76)]~~ (79) "Solar energy" means the sun used as the sole source of energy for producing electricity.

~~[(77)]~~ (80) (a) "Sports or recreational equipment" means an item:

- (i) designed for human use; and
- (ii) that is:
 - (A) worn in conjunction with:

- (I) an athletic activity; or
- (II) a recreational activity; and
- (B) not suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "sports or recreational equipment"; and
- (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

~~[(78)]~~ (81) "State" means the state of Utah, its departments, and agencies.

~~[(79)]~~ (82) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(80)]~~ (83) (a) "Tangible personal property" means personal property that:

- (i) may be:
 - (A) seen;
 - (B) weighed;
 - (C) measured;
 - (D) felt; or
 - (E) touched; or
- (ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

- (i) electricity;
- (ii) water;
- (iii) gas;
- (iv) steam; or
- (v) prewritten computer software.

~~[(81)]~~ (84) (a) "Telephone service" means a two-way transmission:

- (i) by:
 - (A) wire;
 - (B) radio;
 - (C) lightwave; or
 - (D) other electromagnetic means; and
- (ii) of one or more of the following:
 - (A) a sign;
 - (B) a signal;
 - (C) writing;
 - (D) an image;
 - (E) sound;
 - (F) a message;
 - (G) data; or
 - (H) other information of any nature.

(b) "Telephone service" includes:

- (i) mobile telecommunications service;
- (ii) private communications service; or
- (iii) automated digital telephone answering service.

(c) "Telephone service" does not include a service or a transaction that a state or a political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet Tax Freedom Act, Pub. L. No. 105-277.

~~[(82)]~~ (85) Notwithstanding where a call is billed or paid, "telephone service address" means:

(a) if the location described in this Subsection ~~[(82)]~~ (85)(a) is known, the location of the telephone service equipment:

- (i) to which a call is charged; and
- (ii) from which the call originates or terminates;

(b) if the location described in Subsection ~~[(82)]~~ (85)(a) is not known but the location described in this Subsection ~~[(82)]~~ (85)(b) is known, the location of the origination point of the signal of the telephone service first identified by:

- (i) the telecommunications system of the seller; or
- (ii) if the system used to transport the signal is not that of the seller, information received by the seller from its service provider; or

(c) if the locations described in Subsection ~~[(82)]~~ (85)(a) or (b) are not known, the location of a purchaser's primary place of use.

~~[(83)]~~ (86) (a) "Telephone service provider" means a person that:

- (i) owns, controls, operates, or manages a telephone service; and
- (ii) engages in an activity described in Subsection ~~[(83)]~~ (86)(a)(i) for the shared use with or resale to any person of the telephone service.

(b) A person described in Subsection ~~[(83)]~~ (86)(a) is a telephone service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or

(ii) the telephone service that the person owns, controls, operates, or manages.

~~[(84)]~~ (87) "Tobacco" means:

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

~~[(85)]~~ (88) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of that property in the regular course of business and held for resale.

~~[(86)]~~ (89) (a) Subject to Subsection ~~[(86)]~~ (89)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

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

(b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

- (i) a vehicle described in Subsection ~~[(86)]~~ (89)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

~~[(87)]~~ (90) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection ~~[(86)]~~ (89).

~~[(88)]~~ (91) (a) Except as provided in Subsection ~~[(88)]~~ (91)(b), "waste energy facility" means a facility that generates electricity:

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

- (A) tires;
- (B) waste coal; or
- (C) oil shale; and

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

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

- (i) municipal solid waste;
- (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

~~[(89)]~~ (92) "Watercraft" means a vessel as defined in Section 73-18-2.

~~[(90)]~~ (93) "Wind energy" means wind used as the sole source of energy to produce electricity.

~~[(91)]~~ (94) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 3. Section **59-12-103 (Effective 07/01/05)** is amended to read:

59-12-103 (Effective 07/01/05). Sales and use tax base -- Rates -- Effective dates --

Use of sales and use tax revenues.

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

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

(b) amounts paid:

(i) (A) to a common carrier; or

(B) whether the following are municipally or privately owned, to a:

(I) telephone service provider; or

(II) telegraph corporation as defined in Section 54-2-1; and

(ii) for:

(A) all transportation;

(B) telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

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

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback

rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services~~[-(i)]~~ for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

~~[(A)]~~ (i) the tangible personal property; and

~~[(B)]~~ (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i)~~[(A)]~~, whether or not any parts are actually used in the repairs or renovations of that tangible personal property; ~~[or]~~

~~[(ii) to install tangible personal property in connection with other tangible personal property, unless the tangible personal property being installed is exempt from sales and use tax under Section 59-12-104;]~~

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

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

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

(k) amounts paid or charged for leases or rentals of tangible personal property if~~[-(i) the tangible personal property's situs is in this state; (ii) the lessee took possession of the tangible personal property in this state; or (iii)]~~ within this state the tangible personal property is:

~~[(A)]~~ (i) stored;

~~[(B)]~~ (ii) used; or

~~[(C)]~~ (iii) otherwise consumed;

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

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for prepaid telephone calling cards.

(2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 4.75%; and

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

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

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

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

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

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

(ii) Subsection (2)(b)(i).

(d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(I) Subsection (2)(a)(i); or

(II) Subsection (2)(b)(i).

(ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;

and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).

(iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection (1)(b);
- (B) Subsection (1)(c);
- (C) Subsection (1)(d);
- (D) Subsection (1)(e);
- (E) Subsection (1)(f);
- (F) Subsection (1)(g);
- (G) Subsection (1)(h);
- (H) Subsection (1)(i);
- (I) Subsection (1)(j); or
- (J) Subsection (1)(k).

(e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate imposed under Subsection (2)(a)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change under Subsection (2)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsections (4) through (7), the following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i); or
- (ii) the tax imposed by Subsection (2)(b)(i).

(b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to a county, city, or town as provided in this chapter.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

(iii) At the end of each fiscal year:

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

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

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

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

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

(ii) At the end of each fiscal year:

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

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

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

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

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

(A) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

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

(C) fund state required dam safety improvements; and

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

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

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

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

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

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b) through (d):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$18,743,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(a) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(ii) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(b)(i) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(a) shall be transferred each year as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in

Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

(6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year 2004-05, the commission shall each year on or before the September 30 immediately following the last day of the fiscal year deposit the difference described in Subsection (7)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater than \$0.

(b) The difference described in Subsection (7)(a) is equal to the difference between:

(i) the total amount of the following revenues the commission received from sellers collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (7)(a):

(A) revenues under Subsection (2)(a)(i); and

(B) revenues under Subsection (2)(b)(i); and

(ii) \$7,279,673.

Section 4. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

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

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

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

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction

materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)~~(a)~~(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) sales of the following to a commercial airline carrier for in-flight consumption:

(a) food and food ingredients;

(b) prepared food; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in aircraft operated by common carriers in interstate or foreign commerce;

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

(7) sales of cleaning or washing of tangible personal property by a coin-operated laundry or dry cleaning machine;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

fulfilled;

(9) sales of vehicles of a type required to be registered under the motor vehicle laws of this state which are made to bona fide nonresidents of this state and are not afterwards registered or used in this state except as necessary to transport them to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) sales or use of property, materials, or services used in the construction of or incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided [at] for a patient by:

- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
 - (i) food and food ingredients;
 - (ii) prepared food; or
 - (iii) alcoholic beverages;

(13) isolated or occasional sales by persons not regularly engaged in business, except the sale of vehicles or vessels required to be titled or registered under the laws of this state in which case the tax is based upon:

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

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle or vessel being sold as determined by the commission;

(14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

(i) machinery and equipment:

(A) used in the manufacturing process;

(B) having an economic life of three or more years; and

(C) used:

(I) to manufacture an item sold as tangible personal property; and

(II) in new or expanding operations in a manufacturing facility in the state; and

(ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

(A) have an economic life of three or more years;

(B) are used in the manufacturing process in a manufacturing facility in the state;

(C) are used to replace or adapt an existing machine to extend the normal estimated useful life of the machine; and

(D) do not include repairs and maintenance;

(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in

Subsection (14)(a)(ii) is exempt;

(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in Subsection (14)(a)(ii) is exempt; and

(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(c) for purposes of this Subsection (14), the commission shall by rule define the terms "new or expanding operations" and "establishment"; and

(d) on or before October 1, 1991, and every five years after October 1, 1991, the commission shall:

(i) review the exemptions described in Subsection (14)(a) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in

Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title

to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) intrastate movements of:

(a) freight by common carriers; or

(b) passengers:

(i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget, if the transportation originates and terminates within a county of the first, second, or third class; or

(iii) transported by the following described in SIC Code 4789 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget:

(A) a horse-drawn cab; or

(B) a horse-drawn carriage;

(17) sales of newspapers or newspaper subscriptions;

(18) (a) except as provided in Subsection (18)(b), tangible personal property traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

commission; and

(b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the following items of tangible personal property traded in as full or part payment of the purchase price:

- (i) money;
- (ii) electricity;
- (iii) water;
- (iv) gas; or
- (v) steam;

(19) sprays and insecticides used to control insects, diseases, and weeds for commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and insecticides used in the processing of the products;

(20) (a) (i) sales of tangible personal property used or consumed primarily and directly in farming operations, including sales of irrigation equipment and supplies used for agricultural production purposes, whether or not they become part of real estate and whether or not installed by farmer, contractor, or subcontractor, but not sales of:

(A) machinery, equipment, materials, and supplies used in a manner that is incidental to farming, such as hand tools and maintenance and janitorial equipment and supplies;

(B) tangible personal property used in any activities other than farming, such as office equipment and supplies, equipment and supplies used in sales or distribution of farm products, in research, or in transportation; or

(C) any vehicle required to be registered by the laws of this state, without regard to the use to which the vehicle is put; or

(ii) sales of parts used in the repairs or renovations of tangible personal property if the tangible personal property is exempt under Subsection (20)(a); or

- (b) sales of hay;

(21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or other agricultural produce if sold by a producer during the harvest season;

(22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(24) property stored in the state for resale;

(25) property brought into the state by a nonresident for his or her own personal use or enjoyment while within the state, except property purchased for use in Utah by a nonresident living and working in Utah at the time of purchase;

(26) property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(27) property upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(29) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(31) sales of boats of a type required to be registered under Title 73, Chapter 18, State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this state and are not thereafter registered or used in this state except as necessary to transport them to

the borders of this state;

(32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

(33) amounts paid for the purchase of telephone service for purposes of providing telephone service;

(34) fares charged to persons transported directly by a public transit district created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

(35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

(36) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(37) sales relating to schools and fundraising sales;

(38) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (39)(a) that are not separately metered and accounted for in utility billings;

(40) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (40)(a) through (c);

(41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(42) sales or rentals of the right to use or operate for amusement, entertainment, or recreation a coin-operated amusement device as defined in Section 59-12-102;

(43) sales of cleaning or washing of tangible personal property by a coin-operated car

wash machine;

(44) sales by the state or a political subdivision of the state, except state institutions of higher education as defined in Section 53B-3-102, of:

(a) photocopies; or

(b) other copies of records held or maintained by the state or a political subdivision of the state;

(45) (a) amounts paid:

(i) to a person providing intrastate transportation to an employer's employee to or from the employee's primary place of employment;

(ii) by an:

(A) employee; or

(B) employer; and

(iii) pursuant to a written contract between:

(A) the employer; and

(B) (I) the employee; or

(II) a person providing transportation to the employer's employee; and

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may for purposes of Subsection (45)(a) make rules defining what constitutes an employee's primary place of employment;

(46) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(47) sales of telephone service charged to a prepaid telephone calling card;

(48) (a) sales of:

(i) hearing aids;

(ii) hearing aid accessories; or

(iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations of hearing aids or hearing aid accessories; and

(b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii), "parts" does not include batteries;

(49) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of whether the semiconductor fabricating or processing materials:

(i) actually come into contact with a semiconductor; or

(ii) ultimately become incorporated into real property;

(b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease described in Subsection (50)(a) is exempt;

(ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease described in Subsection (50)(a) is exempt; and

(iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or lease described in Subsection (50)(a) is exempt; and

(c) each year on or before the November interim meeting, the Revenue and Taxation Interim Committee shall:

(i) review the exemption described in this Subsection (50) and make recommendations concerning whether the exemption should be continued, modified, or repealed; and

(ii) include in the review under this Subsection (50)(c):

(A) the cost of the exemption;

(B) the purpose and effectiveness of the exemption; and

(C) the benefits of the exemption to the state;

(51) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(53) sales or uses of electricity, if the sales or uses are:

(a) made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) for an amount of electricity that is:

(i) unrelated to the amount of electricity used by the person purchasing the electricity under the tariff described in Subsection (53)(a); and

(ii) equivalent to the number of kilowatthours specified in the tariff described in Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);

(54) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(55) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(56) sales of currency or coinage that constitute legal tender of the United States or of a foreign nation;

(57) (a) sales of an item described in Subsection (57)(b) if the item:

(i) does not constitute legal tender of any nation; and

(ii) has a gold, silver, or platinum content of 80% or more; and

(b) Subsection (57)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

- (iv) decorative coin;
- (58) amounts paid on a sale-leaseback transaction;

(59) sales of a prosthetic device:

- (a) for use on or in a human;
- (b) for which a prescription is issued; and
- (c) to a person that presents a prescription for the prosthetic device;

(60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (60)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or
- (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the

commission by administrative rule made in accordance with Subsection (60)(d); or

(b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (60)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (60)(a) and (b):

- (i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on or before June 30, 2009, of machinery or equipment that:

(i) is leased or purchased for or by a facility that:

(A) is a renewable energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004 as a result of the use of the machinery or equipment;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (61)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or
(I) other equipment used for locating a power line or pole; and
(b) this Subsection (61) does not apply to:
(i) machinery or equipment used in construction of:
(A) a new renewable energy production facility; or
(B) the increase in the capacity of a renewable energy production facility;
(ii) contracted services required for construction and routine maintenance activities; and
(iii) unless the machinery or equipment is used or acquired for an increase in capacity of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or acquired after:

(A) the renewable energy production facility described in Subsection (61)(a)(i) is operational as described in Subsection (61)(a)(iii); or

(B) the increased capacity described in Subsection (61)(a)(i) is operational as described in Subsection (61)(a)(iii);

(62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on or before June 30, 2009, of machinery or equipment that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004 as a result of the use of the machinery or equipment;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (62)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

- (C) a power line;
- (D) substation equipment;
- (E) lighting;
- (F) fencing;
- (G) pipes; or
- (H) other equipment used for locating a power line or pole; and

(b) this Subsection (62) does not apply to:

(i) machinery or equipment used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the machinery or equipment is used or acquired for an increase in capacity

described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:

(A) the waste energy facility described in Subsection (62)(a)(i) is operational as described in Subsection (62)(a)(iii); or

(B) the increased capacity described in Subsection (62)(a)(i) is operational as described in Subsection (62)(a)(iii); [~~and~~]

(63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2009, of machinery or equipment that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from biomass energy including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as a result of the installation of the machinery or equipment;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (63)(a)(i);

(b) this Subsection (63) does not apply to:

(i) machinery or equipment used in construction of:

(A) a new facility described in Subsection (63)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (63)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the machinery or equipment is used or acquired for an increase in capacity

described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:

(A) the facility described in Subsection (63)(a)(i) is operational; or

(B) the increased capacity described in Subsection (63)(a)(i) is operational[-];

(64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle for purchasing the new vehicle; and

(65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons within this state that is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state, except to the extent that the other state or political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the other state or political entity allows a credit for taxes imposed by this chapter; and

(b) the exemption provided for in Subsection (65)(a):

(i) is allowed only if the exemption is applied:

(A) in calculating the purchase price of the tangible personal property; and

(B) to a written contract that is in effect on July 1, 2004; and

(ii) (A) does not apply beginning on the day on which the contract described in

Subsection (65)(b)(i):

(I) is substantially modified; or

(II) terminates; and

(B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule prescribe the circumstances under which a contract is substantially

modified.

Section 5. Section **59-12-104.3** is enacted to read:

59-12-104.3. Credit for certain repossessions of a motor vehicle.

(1) Subject to Subsection (2), a seller of a motor vehicle may claim a credit for a tax under this chapter:

(a) that the seller collected; and

(b) on a motor vehicle that:

(i) has been repossessed; and

(ii) that the seller resells.

(2) The amount of the credit allowed by Subsection (1) is equal to the product of:

(a) the portion of the motor vehicle's purchase price that:

(i) was subject to a tax under this chapter; and

(ii) remains unpaid at the time of the repossession of the motor vehicle; and

(b) the tax rate imposed by Subsection 59-12-103(2)(a):

(i) on the motor vehicle's purchase price; and

(ii) on the date the motor vehicle was purchased by the person that owns the motor vehicle at the time of the repossession.

Section 6. Section **59-12-117** is amended to read:

59-12-117. Refusal to make or falsifying returns -- Evasion of payment of a tax -- Aiding or abetting an attempt to evade the payment of a tax -- Penalties -- Criminal violations.

(1) It is unlawful for any seller to [~~refuse to~~]:

(a) refuse to make any return required to be made under this chapter;

(b) make any false or fraudulent return or false statement on any return;

(c) evade the payment of a tax, or any part of a tax imposed by this chapter; or

(d) aid or abet another in any attempt to evade the payment of the tax or any part imposed by this chapter.

(2) Any person violating any of the provisions of this chapter, except as provided in

Section 59-12-107, is guilty of a criminal violation as provided in Section 59-1-401.

(3) In addition to the penalties described in Subsection (2), any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement is guilty of the offense of perjury and on conviction of perjury shall be punished in the manner provided by law.

(4) Any company making a false return or a return containing a false statement is guilty of a criminal violation as provided in Section 59-1-401.

(5) Any person failing or refusing to furnish any return required to be made, failing or refusing to furnish a supplemental return or other data required by the commission, or rendering a false or fraudulent return is guilty of a criminal violation as provided in Section 59-1-401 for each offense.

(6) Any person required to make, render, sign, or verify any report under this chapter, who makes any false or fraudulent return with intent to defeat or evade the assessment or determination of amount due required by law to be made is guilty of a criminal violation as provided in Section 59-1-401 for each offense.

(7) Any violation of the provisions of this chapter, except as otherwise provided, shall be a criminal violation as provided in Section 59-1-401.

Section 7. Section **59-12-121** is amended to read:

59-12-121. Amnesty.

(1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:

(a) a tax, fee, or charge under:

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

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

~~[(ii)]~~ (iii) Section 19-6-714;

~~[(iii)]~~ (iv) Section 19-6-805;

(v) this chapter;

~~[(iv)]~~ (vi) Section 69-2-5.5; or

~~[(v) this chapter;]~~

(vii) Section 69-2-5.6;

(b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or

(c) interest on a tax, fee, or charge described in Subsection (1)(a).

(2) The commission shall grant a seller amnesty under this section if:

(a) (i) (A) the seller was not licensed under Section 59-12-106 at any time during the 12-month period prior to July 1, 2005; and

~~[(b)]~~ (B) the seller obtains a license under Section 59-12-106 within a 12-month period beginning on July 1, 2005; ~~and~~ or

(ii) the seller has been granted amnesty in:

(A) accordance with the agreement; and

(B) a state other than this state that is a member of the agreement; and

~~[(c)]~~ (b) the seller is registered under the agreement within a 12-month period beginning on July 1, 2005.

(3) A seller may not receive amnesty under this section for a tax, fee, or charge:

(a) collected by the seller;

(b) remitted to the commission by the seller;

(c) that the seller is required to remit to the commission on the seller's purchases; or

(d) arising from a transaction that occurred within a time period that is under audit by the commission if:

(i) the seller has received notice of the commencement of an audit prior to obtaining a license under Section 59-12-106; and

(ii) (A) the audit described in Subsection (3)(d)(i) has not been completed; or

(B) the seller has not exhausted all administrative and judicial remedies in connection with the audit described in Subsection (3)(d)(i).

(4) (a) Except as provided in Subsection (4)(b), amnesty granted to a seller by the commission under this section:

(i) applies to the time period during which a seller was not licensed under Section

59-12-106; and

(ii) remains in effect if, for a period of three years, the seller:

(A) remains registered under the agreement;

(B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and

(C) remits to the commission all taxes, fees, or charges described in Subsection (4)(a)(ii).

(b) Notwithstanding Subsection (4)(a), a seller may not be granted amnesty under this section if with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:

(i) fraud; or

(ii) an intentional misrepresentation of a material fact.

(5) (a) If a seller does not meet the requirements of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.

(b) Notwithstanding Section 59-12-110, and for purposes of requiring a seller to pay an amount described in Subsection (5)(a), the time period for the commission to make an assessment under Section 59-12-110 shall be extended for an additional three years.

Section 8. Section **59-12-122** is amended to read:

59-12-122. Monetary allowance for a seller or certified service provider registered under the agreement.

(1) A [seller that is registered under the agreement] person described in Subsection (2) shall receive the monetary allowance determined:

~~[(1)]~~ (a) by the governing board of the agreement; and

~~[(2)]~~ (b) in accordance with Article VI, Monetary Allowances for New Technological Models for Sales Tax Collection, of the agreement.

(2) For purposes of Subsection (1), the person that shall receive the monetary allowance described in Subsection (1) is:

(a) if a seller that is registered under the agreement has not designated a certified service

provider to be the seller's agent, the seller; or

(b) if a seller that is registered under the agreement has designated a certified service provider to be the seller's agent, the certified service provider.

Section 9. Section **59-12-205 (Effective 07/01/05)** is amended to read:

59-12-205 (Effective 07/01/05). Ordinances to conform with statutory amendments -- Distribution of tax revenues -- Rulemaking authority -- Determination of population.

(1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate to sales and use taxes.

(2) Except as provided in Subsection (7):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) notwithstanding Sections 59-12-207.1 through [~~59-12-207.4~~] 59-12-207.3, 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town on the basis of the location where the transaction is consummated as determined under this section.

(3) For purposes of Subsection (2)(b), the location where a transaction is consummated is determined in accordance with Subsections (4) through (6).

(4) (a) For a transaction that is reported to the commission on a return other than a simplified electronic return, the location where the transaction is consummated is determined in accordance with Subsections (4)(b) through (h).

(b) (i) Except as provided in Subsections (4)(c) through (h), for a transaction described in Subsection (4)(b)(ii), the location where the transaction is consummated is the place of business of the seller.

(ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:

- (A) Subsection (4)(c)(ii);
- (B) Subsection (4)(d)(ii);
- (C) Subsection (4)(e)(ii);
- (D) Subsection (4)(f)(ii);
- (E) Subsection (4)(g)(ii); or
- (F) Subsection (4)(h).

(c) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(c)(ii), the location where the transaction is consummated is determined by allocating the total revenues remitted to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(c)(ii):

- (A) to each local taxing jurisdiction; and
- (B) on the basis of the population of each local taxing jurisdiction as compared to the population of the state.

(ii) Subsection (4)(c)(i) applies to a transaction:

- (A) made by a seller described in Subsection 59-12-107(1)(b); and
- (B) involving tangible personal property that is shipped from outside the state.

(d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(d)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(d)(ii):

- (A) to local taxing jurisdictions within a county; and
- (B) on the basis of the proportion of total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within a local taxing jurisdiction within that county as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within all local taxing jurisdictions within that county.

(ii) Subsection (4)(d)(i) applies to a transaction:

(A) made from a location in the state other than a fixed place of business in the state; or

(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

(II) involving tangible personal property that is shipped from outside the state.

(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(e)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(e)(ii):

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within the state.

(ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property purchased with a direct payment permit in accordance with Section 59-12-107.1.

(f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(f)(ii), the location where the transaction is consummated is each location where the good or service described in Subsection 59-12-107.2(1)(b) is used.

(ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:

(A) described in Subsection 59-12-107.2(1)(b);

(B) that is concurrently available for use in more than one location; and

(C) is purchased using the form described in Section 59-12-107.2.

(g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(g)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(g)(ii):

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within each

local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within the state.

(ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if the purchaser of the direct mail provides to the seller the form described in Subsection 59-12-107.3(1)(a) at the time of the purchase of the direct mail.

(h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a [telephone] service described in Section 59-12-207.4, the location where the transaction is consummated is the same as the location of the transaction determined under Section 59-12-207.4.

(5) (a) For a transaction that is reported to the commission on a simplified electronic return, the location where the transaction is consummated is determined in accordance with Subsections (5)(b) through (e).

(b) (i) Except as provided in Subsections (5)(c) through (e), the location where a transaction is consummated is determined by allocating the total revenues reported to the commission each month on the simplified electronic return:

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission in accordance with Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.

(ii) In making the allocations required by Subsection (5)(b)(i), the commission shall use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported to the commission:

(A) in the report required by Subsection 59-12-105(2); and

(B) if a local taxing jurisdiction reports revenues to the commission in accordance with Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).

(iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report to

the commission the revenues generated by a tax imposed by this chapter within the local taxing jurisdiction if a seller:

(I) opens an additional place of business within the local taxing jurisdiction after the seller makes an initial application for a license under Section 59-12-106; and

(II) estimates that the additional place of business will increase by 5% or more the revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.

(B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures and requirements for making the report described in this Subsection (5)(b).

(c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection (5)(c)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (5)(c)(ii):

(A) to local taxing jurisdictions within a county; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within a local taxing jurisdiction within that county as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within all local taxing jurisdictions within that county.

(ii) Subsection (5)(c)(i) applies to a transaction:

(A) made from a location in the state other than a fixed place of business in the state; or

(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

(II) involving tangible personal property that is shipped from outside the state.

(d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined by allocating the total revenues remitted to the commission each month that are generated by the tax imposed under this section on the transactions made by a seller described in Subsection 59-12-107(1)(b):

(i) to each local taxing jurisdiction; and

(ii) on the basis of the population of each local taxing jurisdiction as compared to the population of the state.

(e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection (5)(e)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (5)(e)(ii):

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within the state.

(ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property purchased with a direct payment permit in accordance with Section 59-12-107.1.

(6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a fixed place of business in the state.

(7) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

(b) The commission shall proportionally reduce quarterly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.

(8) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.

(b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(9) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Section 10. Section **59-12-1201** is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative fee -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under~~[-(F)]~~ Part 1, Tax Collection; ~~[or]~~ and

~~[(H) Part 2, Local Sales and Use Tax Act; and]~~

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to:

(A) Subsections 59-12-103(4) through (7); or

(B) Sections 59-12-107.1 through 59-12-107.3~~[-];~~

~~[(C) Subsections 59-12-205(2) through (9); or]~~

~~[(D) Sections 59-12-207.1 through 59-12-207.4.]~~

(b) The commission may retain a maximum of 1-1/2% of the tax collected under this section for the costs of rendering its services under this section.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section 72-2-117.

Section 11. **Effective date.**

This bill takes effect on July 1, 2005.