

1                                   **SALES AND USE TAX RELATING TO FOOD**

2   2006 THIRD SPECIAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Ben C. Ferry**

5   Senate Sponsor: Lyle W. Hillyard

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies the Sales and Use Tax Act relating to food.

10 **Highlighted Provisions:**

11       This bill:

12       ▶ modifies the definitions of:

- 13           • "bundled transaction";
- 14           • "food and food ingredients"; and
- 15           • "prepared food";

16       ▶ repeals provisions relating to the taxation of a transaction involving the sale of food  
17 and food ingredients at the same location;

18       ▶ modifies an effective date relating to an appropriation to the State Tax Commission  
19 for distribution to certain sellers to reimburse some of their costs in complying with  
20 the reduced sales and use tax rate imposed on food and food ingredients;

21       ▶ modifies provisions relating to that appropriation; and

22       ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24       None

25 **Other Special Clauses:**

26       This bill provides an effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

29       **59-12-102 (Effective 01/01/07)**, as last amended by Chapters 181, 182, 218, 219, 220,

30 231, 268, 282 and 346, Laws of Utah 2006

31 **59-12-103 (Effective 01/01/07)**, as last amended by Chapters 11, 135, 181, 182, 253  
32 and 282, Laws of Utah 2006

33 **Uncodified Material Affected:**

34 AMENDS UNCODIFIED MATERIAL:

35 **Uncodified Section 5, Chapter 282, Laws of Utah 2006**

36 **Uncodified Section 6, Chapter 282, Laws of Utah 2006**



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

39 Section 1. Section **59-12-102 (Effective 01/01/07)** is amended to read:

40 **59-12-102 (Effective 01/01/07). Definitions.**

41 As used in this chapter:

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

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

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

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

48 (a) listed under Subsection (4); and

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

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

51 (a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);

52 (b) Section 59-12-204;

53 (c) Section 59-12-401;

54 (d) Section 59-12-402;

55 (e) Section 59-12-501;

56 (f) Section 59-12-502;

57 (g) Section 59-12-703;

- 58 (h) Section 59-12-802;
- 59 (i) Section 59-12-804;
- 60 (j) Section 59-12-1001;
- 61 (k) Section 59-12-1102;
- 62 (l) Section 59-12-1302;
- 63 (m) Section 59-12-1402; or
- 64 (n) Section 59-12-1503.
- 65 (5) "Aircraft" is as defined in Section 72-10-102.
- 66 (6) "Alcoholic beverage" means a beverage that:
  - 67 (a) is suitable for human consumption; and
  - 68 (b) contains .5% or more alcohol by volume.
- 69 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 70 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 71 device that is started and stopped by an individual:
  - 72 (a) who is not the purchaser or renter of the right to use or operate the amusement
  - 73 device, skill device, or ride device; and
  - 74 (b) at the direction of the seller of the right to use the amusement device, skill device,
  - 75 or ride device.
- 76 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 77 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 78 by an individual:
  - 79 (a) who is not the purchaser of the cleaning or washing of the tangible personal
  - 80 property; and
  - 81 (b) at the direction of the seller of the cleaning or washing of the tangible personal
  - 82 property.
- 83 (10) "Authorized carrier" means:
  - 84 (a) in the case of vehicles operated over public highways, the holder of credentials
  - 85 indicating that the vehicle is or will be operated pursuant to both the International Registration

86 Plan and the International Fuel Tax Agreement;

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

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

91 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the  
92 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

96 (B) animal waste;

97 (C) methane produced:

98 (I) at landfills; or

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

100 (D) aquatic plants; and

101 (E) agricultural products.

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

103 (i) black liquor;

104 (ii) treated woods; or

105 (iii) biomass from municipal solid waste other than methane produced:

106 (A) at landfills; or

107 (B) as a byproduct of the treatment of wastewater residuals.

108 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
109 property if:

110 (i) one or more of the items of tangible personal property is food and food ingredients;

111 and

112 (ii) the items of tangible personal property are:

113 (A) distinct and identifiable; and

114 (B) sold for one price that is not itemized~~[; and]~~.

115 [~~(C) not prepared food.~~]

116 (b) "Bundled transaction" does not include the sale of tangible personal property if the  
117 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of  
118 tangible personal property included in the transaction.

119 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct  
120 and identifiable does not include:

121 (i) packaging that:

122 (A) accompanies the sale of the tangible personal property; and

123 (B) is incidental or immaterial to the sale of the tangible personal property;

124 (ii) tangible personal property provided free of charge with the purchase of another  
125 item of tangible personal property; or

126 (iii) an item of tangible personal property included in the definition of "purchase  
127 price."

128 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is  
129 provided free of charge with the purchase of another item of tangible personal property if the  
130 sales price of the purchased item of tangible personal property does not vary depending on the  
131 inclusion of the tangible personal property provided free of charge.

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

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

136 (i) on a transaction; and

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

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

140 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

141 (14) "Certified service provider" means an agent certified:

142 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;  
143 and

144 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
145 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's  
146 own purchases.

147 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel  
148 suitable for general use.

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

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

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

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

155 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
156 fuels that does not constitute industrial use under Subsection (38) or residential use under  
157 Subsection (75).

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

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

163 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,  
164 Utah Administrative Rulemaking Act, the commission may make rules defining what  
165 constitutes a person's place of employment.

166 (19) "Component part" includes:

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

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

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

170 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
171 off-highway type farm machinery; and

172 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

184 (24) (a) "Delivery charge" means a charge:

185 (i) by a seller of:

186 (A) tangible personal property; or

187 (B) services; and

188 (ii) for preparation and delivery of the tangible personal property or services described  
189 in Subsection (24)(a)(i) to a location designated by the purchaser.

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

191 (i) transportation;

192 (ii) shipping;

193 (iii) postage;

194 (iv) handling;

195 (v) crating; or

196 (vi) packing.

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

- 198 (a) is intended to supplement the diet;
- 199 (b) contains one or more of the following dietary ingredients:
  - 200 (i) a vitamin;
  - 201 (ii) a mineral;
  - 202 (iii) an herb or other botanical;
  - 203 (iv) an amino acid;
  - 204 (v) a dietary substance for use by humans to supplement the diet by increasing the total
  - 205 dietary intake; or
  - 206 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
  - 207 described in Subsections (25)(b)(i) through (v);
  - 208 (c) (i) except as provided in Subsection (25)(c)(ii), is intended for ingestion in:
    - 209 (A) tablet form;
    - 210 (B) capsule form;
    - 211 (C) powder form;
    - 212 (D) softgel form;
    - 213 (E) gelcap form; or
    - 214 (F) liquid form; or
    - 215 (ii) notwithstanding Subsection (25)(c)(i), if the product is not intended for ingestion in
    - 216 a form described in Subsections (25)(c)(i)(A) through (F), is not represented:
      - 217 (A) as conventional food; and
      - 218 (B) for use as a sole item of:
        - 219 (I) a meal; or
        - 220 (II) the diet; and
      - 221 (d) is required to be labeled as a dietary supplement:
        - 222 (i) identifiable by the "Supplemental Facts" box found on the label; and
        - 223 (ii) as required by 21 C.F.R. Sec. 101.36.
      - 224 (26) (a) "Direct mail" means printed material delivered or distributed by United States
      - 225 mail or other delivery service:



- 226 (i) to:
- 227 (A) a mass audience; or
- 228 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 229 (ii) if the cost of the printed material is not billed directly to the recipients.
- 230 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 231 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 232 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 233 single address.
- 234 (27) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 235 compound, substance, or preparation that is:
- 236 (i) recognized in:
- 237 (A) the official United States Pharmacopoeia;
- 238 (B) the official Homeopathic Pharmacopoeia of the United States;
- 239 (C) the official National Formulary; or
- 240 (D) a supplement to a publication listed in Subsections (27)(a)(i)(A) through (C);
- 241 (ii) intended for use in the:
- 242 (A) diagnosis of disease;
- 243 (B) cure of disease;
- 244 (C) mitigation of disease;
- 245 (D) treatment of disease; or
- 246 (E) prevention of disease; or
- 247 (iii) intended to affect:
- 248 (A) the structure of the body; or
- 249 (B) any function of the body.
- 250 (b) "Drug" does not include:
- 251 (i) food and food ingredients;
- 252 (ii) a dietary supplement;
- 253 (iii) an alcoholic beverage; or

254 (iv) a prosthetic device.

255 (28) (a) Except as provided in Subsection (28)(c), "durable medical equipment" means  
256 equipment that:

257 (i) can withstand repeated use;

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

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

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

261 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
262 equipment described in Subsection (28)(a).

263 (c) Notwithstanding Subsection (28)(a), "durable medical equipment" does not include  
264 mobility enhancing equipment.

265 (29) "Electronic" means:

266 (a) relating to technology; and

267 (b) having:

268 (i) electrical capabilities;

269 (ii) digital capabilities;

270 (iii) magnetic capabilities;

271 (iv) wireless capabilities;

272 (v) optical capabilities;

273 (vi) electromagnetic capabilities; or

274 (vii) capabilities similar to Subsections (29)(b)(i) through (vi).

275 (30) "Employee" is as defined in Section 59-10-401.

276 (31) (a) "Food and food ingredients" means substances:

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

278 (A) liquid form;

279 (B) concentrated form;

280 (C) solid form;

281 (D) frozen form;

- 282 (E) dried form; or
- 283 (F) dehydrated form; and
- 284 (ii) that are:
- 285 (A) sold for:
- 286 (I) ingestion by humans; or
- 287 (II) chewing by humans; and
- 288 (B) consumed for the substance's:
- 289 (I) taste; or
- 290 (II) nutritional value.
- 291 (b) "Food and food ingredients" includes an item described in Subsection (62)(b)(iii).
- 292 [~~(b)~~] (c) "Food and food ingredients" does not include:
- 293 (i) an alcoholic beverage;
- 294 (ii) tobacco; or
- 295 (iii) prepared food.
- 296 (32) (a) "Fundraising sales" means sales:
- 297 (i) (A) made by a school; or
- 298 (B) made by a school student;
- 299 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 300 materials, or provide transportation; and
- 301 (iii) that are part of an officially sanctioned school activity.
- 302 (b) For purposes of Subsection (32)(a)(iii), "officially sanctioned school activity"
- 303 means a school activity:
- 304 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 305 district governing the authorization and supervision of fundraising activities;
- 306 (ii) that does not directly or indirectly compensate an individual teacher or other
- 307 educational personnel by direct payment, commissions, or payment in kind; and
- 308 (iii) the net or gross revenues from which are deposited in a dedicated account
- 309 controlled by the school or school district.

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

312 (34) "Governing board of the agreement" means the governing board of the agreement  
313 that is:

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

316 (35) (a) "Hearing aid" means:

317 (i) an instrument or device having an electronic component that is designed to:

318 (A) (I) improve impaired human hearing; or

319 (II) correct impaired human hearing; and

320 (B) (I) be worn in the human ear; or

321 (II) affixed behind the human ear;

322 (ii) an instrument or device that is surgically implanted into the cochlea; or

323 (iii) a telephone amplifying device.

324 (b) "Hearing aid" does not include:

325 (i) except as provided in Subsection (35)(a)(i)(B) or (35)(a)(ii), an instrument or device  
326 having an electronic component that is designed to be worn on the body;

327 (ii) except as provided in Subsection (35)(a)(iii), an assistive listening device or system  
328 designed to be used by one individual, including:

329 (A) a personal amplifying system;

330 (B) a personal FM system;

331 (C) a television listening system; or

332 (D) a device or system similar to a device or system described in Subsections

333 (35)(b)(ii)(A) through (C); or

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

336 (A) a device or system installed in:

337 (I) an auditorium;

- 338 (II) a church;
- 339 (III) a conference room;
- 340 (IV) a synagogue; or
- 341 (V) a theater; or
- 342 (B) a device or system similar to a device or system described in Subsections
- 343 (35)(b)(iii)(A)(I) through (V).
- 344 (36) (a) "Hearing aid accessory" means a hearing aid:
- 345 (i) component;
- 346 (ii) attachment; or
- 347 (iii) accessory.
- 348 (b) "Hearing aid accessory" includes:
- 349 (i) a hearing aid neck loop;
- 350 (ii) a hearing aid cord;
- 351 (iii) a hearing aid ear mold;
- 352 (iv) hearing aid tubing;
- 353 (v) a hearing aid ear hook; or
- 354 (vi) a hearing aid remote control.
- 355 (c) "Hearing aid accessory" does not include:
- 356 (i) a component, attachment, or accessory designed to be used only with an:
- 357 (A) instrument or device described in Subsection (35)(b)(i); or
- 358 (B) assistive listening device or system described in Subsection (35)(b)(ii) or (iii); or
- 359 (ii) a hearing aid battery.
- 360 (37) "Hydroelectric energy" means water used as the sole source of energy to produce
- 361 electricity.
- 362 (38) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 363 other fuels:
- 364 (a) in mining or extraction of minerals;
- 365 (b) in agricultural operations to produce an agricultural product up to the time of

366 harvest or placing the agricultural product into a storage facility, including:

367 (i) commercial greenhouses;

368 (ii) irrigation pumps;

369 (iii) farm machinery;

370 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

371 registered under Title 41, Chapter 1a, Part 2, Registration; and

372 (v) other farming activities;

373 (c) in manufacturing tangible personal property at an establishment described in SIC

374 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

375 Executive Office of the President, Office of Management and Budget;

376 (d) by a scrap recycler if:

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

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

379 products:

380 (A) iron;

381 (B) steel;

382 (C) nonferrous metal;

383 (D) paper;

384 (E) glass;

385 (F) plastic;

386 (G) textile; or

387 (H) rubber; and

388 (ii) the new products under Subsection (38)(d)(i) would otherwise be made with

389 nonrecycled materials; or

390 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

391 cogeneration facility as defined in Section 54-2-1.

392 (39) (a) Except as provided in Subsection (39)(b), "installation charge" means a charge

393 for installing tangible personal property.

394 (b) Notwithstanding Subsection (39)(a), "installation charge" does not include a charge  
395 for repairs or renovations of tangible personal property.

396 (40) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
397 personal property for:

398 (i) (A) a fixed term; or

399 (B) an indeterminate term; and

400 (ii) consideration.

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

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

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

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

411 (A) upon completion of required payments; and

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

413 (I) \$100; or

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

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

418 (d) For purposes of Subsection (40)(c)(iii), an operator is necessary for equipment to  
419 perform as designed if the operator's duties exceed the:

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

421 (ii) maintenance of tangible personal property; or

- 422 (iii) inspection of tangible personal property.
- 423 (41) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 424 if the tangible storage media is not physically transferred to the purchaser.
- 425 (42) "Local taxing jurisdiction" means a:
  - 426 (a) county that is authorized to impose an agreement sales and use tax;
  - 427 (b) city that is authorized to impose an agreement sales and use tax; or
  - 428 (c) town that is authorized to impose an agreement sales and use tax.
- 429 (43) "Manufactured home" is as defined in Section 58-56-3.
- 430 (44) For purposes of Section 59-12-104, "manufacturing facility" means:
  - 431 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
  - 432 Industrial Classification Manual of the federal Executive Office of the President, Office of
  - 433 Management and Budget;
  - 434 (b) a scrap recycler if:
    - 435 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
    - 436 one or more of the following items into prepared grades of processed materials for use in new
    - 437 products:
      - 438 (A) iron;
      - 439 (B) steel;
      - 440 (C) nonferrous metal;
      - 441 (D) paper;
      - 442 (E) glass;
      - 443 (F) plastic;
      - 444 (G) textile; or
      - 445 (H) rubber; and
    - 446 (ii) the new products under Subsection (44)(b)(i) would otherwise be made with
    - 447 nonrecycled materials; or
    - 448 (c) a cogeneration facility as defined in Section 54-2-1.
  - 449 (45) "Member of the immediate family of the producer" means a person who is related



450 to a producer described in Subsection 59-12-104(20)(a) as a:

451 (a) child or stepchild, regardless of whether the child or stepchild is:

452 (i) an adopted child or adopted stepchild; or

453 (ii) a foster child or foster stepchild;

454 (b) grandchild or stepgrandchild;

455 (c) grandparent or stepgrandparent;

456 (d) nephew or stepnephew;

457 (e) niece or stepniece;

458 (f) parent or stepparent;

459 (g) sibling or stepsibling;

460 (h) spouse;

461 (i) person who is the spouse of a person described in Subsections (45)(a) through (g);

462 or

463 (j) person similar to a person described in Subsections (45)(a) through (i) as

464 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

465 Administrative Rulemaking Act.

466 (46) "Mobile home" is as defined in Section 58-56-3.

467 (47) "Mobile telecommunications service" is as defined in the Mobile

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

469 (48) (a) Except as provided in Subsection (48)(c), "mobility enhancing equipment"

470 means equipment that is:

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

473 (ii) appropriate for use in a:

474 (A) home; or

475 (B) motor vehicle; and

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

477 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

478 the equipment described in Subsection (48)(a).

479 (c) Notwithstanding Subsection (48)(a), "mobility enhancing equipment" does not  
480 include:

481 (i) a motor vehicle;

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

484 (iii) durable medical equipment; or

485 (iv) a prosthetic device.

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

490 (50) "Model 2 seller" means a seller that:

491 (a) except as provided in Subsection (50)(b), has selected a certified automated system  
492 to perform the seller's sales tax functions for agreement sales and use taxes; and

493 (b) notwithstanding Subsection (50)(a), retains responsibility for remitting all of the  
494 sales tax:

495 (i) collected by the seller; and

496 (ii) to the appropriate local taxing jurisdiction.

497 (51) (a) Subject to Subsection (51)(b), "model 3 seller" means a seller that has:

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

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

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

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

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

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

504 (b) For purposes of Subsection (51)(a), "model 3 seller" includes an affiliated group of  
505 sellers using the same proprietary system.

- 506 (52) "Modular home" means a modular unit as defined in Section 58-56-3.
- 507 (53) "Motor vehicle" is as defined in Section 41-1a-102.
- 508 (54) "Oil shale" means a group of fine black to dark brown shales containing  
509 bituminous material that yields petroleum upon distillation.
- 510 (55) (a) "Other fuels" means products that burn independently to produce heat or  
511 energy.
- 512 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
513 personal property.
- 514 (56) "Pawnbroker" is as defined in Section 13-32a-102.
- 515 (57) "Pawn transaction" is as defined in Section 13-32a-102.
- 516 (58) (a) "Permanently attached to real property" means that for tangible personal  
517 property attached to real property:
- 518 (i) the attachment of the tangible personal property to the real property:  
519 (A) is essential to the use of the tangible personal property; and  
520 (B) suggests that the tangible personal property will remain attached to the real  
521 property in the same place over the useful life of the tangible personal property; or  
522 (ii) if the tangible personal property is detached from the real property, the detachment  
523 would:
- 524 (A) cause substantial damage to the tangible personal property; or  
525 (B) require substantial alteration or repair of the real property to which the tangible  
526 personal property is attached.
- 527 (b) "Permanently attached to real property" includes:
- 528 (i) the attachment of an accessory to the tangible personal property if the accessory is:  
529 (A) essential to the operation of the tangible personal property; and  
530 (B) attached only to facilitate the operation of the tangible personal property;
- 531 (ii) a temporary detachment of tangible personal property from real property for a  
532 repair or renovation if the repair or renovation is performed where the tangible personal  
533 property and real property are located; or

534 (iii) an attachment of the following tangible personal property to real property,  
535 regardless of whether the attachment to real property is only through a line that supplies water,  
536 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by  
537 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

538 (A) property attached to oil, gas, or water pipelines, other than the property listed in  
539 Subsection (58)(c)(iii);

540 (B) a hot water heater;

541 (C) a water softener system; or

542 (D) a water filtration system, other than a water filtration system manufactured as part  
543 of a refrigerator.

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

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

547 (A) convenience;

548 (B) stability; or

549 (C) for an obvious temporary purpose;

550 (ii) the detachment of tangible personal property from real property other than the  
551 detachment described in Subsection (58)(b)(ii); or

552 (iii) an attachment of the following tangible personal property to real property if the  
553 attachment to real property is only through a line that supplies water, electricity, gas, telephone,  
554 cable, or supplies a similar item as determined by the commission by rule made in accordance  
555 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

556 (A) a refrigerator;

557 (B) a washer;

558 (C) a dryer;

559 (D) a stove;

560 (E) a television;

561 (F) a computer;

562 (G) a telephone; or

563 (H) tangible personal property similar to Subsections (58)(c)(iii)(A) through (G) as  
564 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah  
565 Administrative Rulemaking Act.

566 (59) "Person" includes any individual, firm, partnership, joint venture, association,  
567 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
568 municipality, district, or other local governmental entity of the state, or any group or  
569 combination acting as a unit.

570 (60) "Place of primary use":

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

574 (i) the residential street address of the purchaser; or

575 (ii) the primary business street address of the purchaser; or

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

578 (61) "Postproduction" means an activity related to the finishing or duplication of a  
579 medium described in Subsection 59-12-104(56)(a).

580 (62) (a) "Prepared food" means:

581 (i) food:

582 (A) sold in a heated state; or

583 (B) heated by a seller;

584 (ii) two or more food ingredients mixed or combined by the seller for sale as a single  
585 item; or

586 (iii) except as provided in Subsection (62)(c), food sold with an eating utensil provided  
587 by the seller, including a:

588 (A) plate;

589 (B) knife;

590 (C) fork;  
591 (D) spoon;  
592 (E) glass;  
593 (F) cup;  
594 (G) napkin; or  
595 (H) straw.  
596 (b) "Prepared food" does not include:  
597 (i) food that a seller only:  
598 (A) cuts;  
599 (B) repackages; or  
600 (C) pasteurizes; or  
601 (ii) (A) the following:  
602 (I) raw egg;  
603 (II) raw fish;  
604 (III) raw meat;  
605 (IV) raw poultry; or  
606 (V) a food containing an item described in Subsections (62)(b)(ii)(A)(I) through (IV);  
607 and  
608 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
609 Food and Drug Administration's Food Code that a consumer cook the items described in  
610 Subsection (62)(b)(ii)(A) to prevent food borne illness[-]; or  
611 (iii) the following if sold without eating utensils provided by the seller:  
612 (A) food and food ingredients sold by a seller if the seller's proper primary  
613 classification under the 2002 North American Industry Classification System of the federal  
614 Executive Office of the President, Office of Management and Budget, is manufacturing in  
615 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
616 Manufacturing;  
617 (B) food and food ingredients sold in an unheated state:

618 (I) by weight or volume; and

619 (II) as a single item; or

620 (C) a bakery item, including:

621 (I) a bagel;

622 (II) a bar;

623 (III) a biscuit;

624 (IV) bread;

625 (V) a bun;

626 (VI) a cake;

627 (VII) a cookie;

628 (VIII) a croissant;

629 (IX) a danish;

630 (X) a donut;

631 (XI) a muffin;

632 (XII) a pastry;

633 (XIII) a pie;

634 (XIV) a roll;

635 (XV) a tart;

636 (XVI) a torte; or

637 (XVII) a tortilla.

638 (c) Notwithstanding Subsection (62)(a)(iii), an eating utensil provided by the seller

639 does not include the following used to transport the food:

640 (i) a container; or

641 (ii) packaging.

642 (63) "Prescription" means an order, formula, or recipe that is issued:

643 (a) (i) orally;

644 (ii) in writing;

645 (iii) electronically; or

- 646 (iv) by any other manner of transmission; and
- 647 (b) by a licensed practitioner authorized by the laws of a state.
- 648 (64) (a) Except as provided in Subsection (64)(b)(ii) or (iii), "prewritten computer
- 649 software" means computer software that is not designed and developed:
- 650 (i) by the author or other creator of the computer software; and
- 651 (ii) to the specifications of a specific purchaser.
- 652 (b) "Prewritten computer software" includes:
- 653 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 654 software is not designed and developed:
- 655 (A) by the author or other creator of the computer software; and
- 656 (B) to the specifications of a specific purchaser;
- 657 (ii) notwithstanding Subsection (64)(a), computer software designed and developed by
- 658 the author or other creator of the computer software to the specifications of a specific purchaser
- 659 if the computer software is sold to a person other than the purchaser; or
- 660 (iii) notwithstanding Subsection (64)(a) and except as provided in Subsection (64)(c),
- 661 prewritten computer software or a prewritten portion of prewritten computer software:
- 662 (A) that is modified or enhanced to any degree; and
- 663 (B) if the modification or enhancement described in Subsection (64)(b)(iii)(A) is
- 664 designed and developed to the specifications of a specific purchaser.
- 665 (c) Notwithstanding Subsection (64)(b)(iii), "prewritten computer software" does not
- 666 include a modification or enhancement described in Subsection (64)(b)(iii) if the charges for
- 667 the modification or enhancement are:
- 668 (i) reasonable; and
- 669 (ii) separately stated on the invoice or other statement of price provided to the
- 670 purchaser.
- 671 (65) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 672 (i) artificially replace a missing portion of the body;
- 673 (ii) prevent or correct a physical deformity or physical malfunction; or



- 674 (iii) support a weak or deformed portion of the body.
- 675 (b) "Prosthetic device" includes:
- 676 (i) parts used in the repairs or renovation of a prosthetic device; or
- 677 (ii) replacement parts for a prosthetic device.
- 678 (c) "Prosthetic device" does not include:
- 679 (i) corrective eyeglasses;
- 680 (ii) contact lenses;
- 681 (iii) hearing aids; or
- 682 (iv) dental prostheses.
- 683 (66) (a) "Protective equipment" means an item:
- 684 (i) for human wear; and
- 685 (ii) that is:
- 686 (A) designed as protection:
- 687 (I) to the wearer against injury or disease; or
- 688 (II) against damage or injury of other persons or property; and
- 689 (B) not suitable for general use.
- 690 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 691 commission shall make rules:
- 692 (i) listing the items that constitute "protective equipment"; and
- 693 (ii) that are consistent with the list of items that constitute "protective equipment"
- 694 under the agreement.
- 695 (67) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 696 (i) valued in money; and
- 697 (ii) for which tangible personal property or services are:
- 698 (A) sold;
- 699 (B) leased; or
- 700 (C) rented.
- 701 (b) "Purchase price" and "sales price" include:

- 702 (i) the seller's cost of the tangible personal property or services sold;
- 703 (ii) expenses of the seller, including:
  - 704 (A) the cost of materials used;
  - 705 (B) a labor cost;
  - 706 (C) a service cost;
  - 707 (D) interest;
  - 708 (E) a loss;
  - 709 (F) the cost of transportation to the seller; or
  - 710 (G) a tax imposed on the seller; or
- 711 (iii) a charge by the seller for any service necessary to complete the sale.
- 712 (c) "Purchase price" and "sales price" do not include:
  - 713 (i) a discount:
    - 714 (A) in a form including:
      - 715 (I) cash;
      - 716 (II) term; or
      - 717 (III) coupon;
    - 718 (B) that is allowed by a seller;
    - 719 (C) taken by a purchaser on a sale; and
    - 720 (D) that is not reimbursed by a third party; or
  - 721 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
722 provided to the purchaser:
    - 723 (A) the amount of a trade-in;
    - 724 (B) the following from credit extended on the sale of tangible personal property or  
725 services:
      - 726 (I) interest charges;
      - 727 (II) financing charges; or
      - 728 (III) carrying charges;
      - 729 (C) a tax or fee legally imposed directly on the consumer;

- 730 (D) a delivery charge; or
- 731 (E) an installation charge.
- 732 (68) "Purchaser" means a person to whom:
  - 733 (a) a sale of tangible personal property is made; or
  - 734 (b) a service is furnished.
- 735 (69) "Regularly rented" means:
  - 736 (a) rented to a guest for value three or more times during a calendar year; or
  - 737 (b) advertised or held out to the public as a place that is regularly rented to guests for
  - 738 value.
- 739 (70) "Renewable energy" means:
  - 740 (a) biomass energy;
  - 741 (b) hydroelectric energy;
  - 742 (c) geothermal energy;
  - 743 (d) solar energy; or
  - 744 (e) wind energy.
- 745 (71) (a) "Renewable energy production facility" means a facility that:
  - 746 (i) uses renewable energy to produce electricity; and
  - 747 (ii) has a production capacity of 20 kilowatts or greater.
- 748 (b) A facility is a renewable energy production facility regardless of whether the
- 749 facility is:
  - 750 (i) connected to an electric grid; or
  - 751 (ii) located on the premises of an electricity consumer.
- 752 (72) "Rental" is as defined in Subsection (40).
- 753 (73) "Repairs or renovations of tangible personal property" means:
  - 754 (a) a repair or renovation of tangible personal property that is not permanently attached
  - 755 to real property; or
  - 756 (b) attaching tangible personal property to other tangible personal property if the other
  - 757 tangible personal property to which the tangible personal property is attached is not

758 permanently attached to real property.

759 (74) "Research and development" means the process of inquiry or experimentation  
760 aimed at the discovery of facts, devices, technologies, or applications and the process of  
761 preparing those devices, technologies, or applications for marketing.

762 (75) "Residential use" means the use in or around a home, apartment building, sleeping  
763 quarters, and similar facilities or accommodations.

764 (76) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
765 than:

766 (a) resale;

767 (b) sublease; or

768 (c) subrent.

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

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

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

777 (b) "Sale" includes:

778 (i) installment and credit sales;

779 (ii) any closed transaction constituting a sale;

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

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

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

786 would be taxable if an outright sale were made.

787 (79) "Sale at retail" is as defined in Subsection (76).

788 (80) "Sale-leaseback transaction" means a transaction by which title to tangible  
789 personal property that is subject to a tax under this chapter is transferred:

790 (a) by a purchaser-lessee;

791 (b) to a lessor;

792 (c) for consideration; and

793 (d) if:

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

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

798 (A) for the property; and

799 (B) to the purchaser-lessee; and

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

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

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

804 (81) "Sales price" is as defined in Subsection (67).

805 (82) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
806 amounts charged by a school:

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

808 including:

809 (A) the sale of:

810 (I) textbooks;

811 (II) textbook fees;

812 (III) laboratory fees;

813 (IV) laboratory supplies; or

- 814 (V) safety equipment;
- 815 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 816 that:
- 817 (I) a student is specifically required to wear as a condition of participation in a
- 818 school-related event or school-related activity; and
- 819 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 820 place of ordinary clothing;
- 821 (C) sales of the following if the net or gross revenues generated by the sales are
- 822 deposited into a school district fund or school fund dedicated to school meals:
- 823 (I) food and food ingredients; or
- 824 (II) prepared food; or
- 825 (D) transportation charges for official school activities; or
- 826 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 827 event or school-related activity.
- 828 (b) "Sales relating to schools" does not include:
- 829 (i) bookstore sales of items that are not educational materials or supplies;
- 830 (ii) except as provided in Subsection (82)(a)(i)(B):
- 831 (A) clothing;
- 832 (B) clothing accessories or equipment;
- 833 (C) protective equipment; or
- 834 (D) sports or recreational equipment; or
- 835 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 836 event or school-related activity if the amounts paid or charged are passed through to a person:
- 837 (A) other than a:
- 838 (I) school;
- 839 (II) nonprofit organization authorized by a school board or a governing body of a
- 840 private school to organize and direct a competitive secondary school activity; or
- 841 (III) nonprofit association authorized by a school board or a governing body of a

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

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

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

846 (83) For purposes of this section and Section 59-12-104, "school" means:

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

848 (i) is a:

849 (A) public school; or

850 (B) private school; and

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

852 (b) a public school district.

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

854 (a) tangible personal property; or

855 (b) a service.

856 (85) (a) "Semiconductor fabricating, processing, research, or development materials"  
857 means tangible personal property:

858 (i) used primarily in the process of:

859 (A) (I) manufacturing a semiconductor;

860 (II) fabricating a semiconductor; or

861 (III) research or development of a:

862 (Aa) semiconductor; or

863 (Bb) semiconductor manufacturing process; or

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

865 (ii) consumed primarily in the process of:

866 (A) (I) manufacturing a semiconductor;

867 (II) fabricating a semiconductor; or

868 (III) research or development of a:

869 (Aa) semiconductor; or

- 870 (Bb) semiconductor manufacturing process; or
- 871 (B) maintaining an environment suitable for a semiconductor.
- 872 (b) "Semiconductor fabricating, processing, research, or development materials"
- 873 includes:
- 874 (i) parts used in the repairs or renovations of tangible personal property described in
- 875 Subsection (85)(a); or
- 876 (ii) a chemical, catalyst, or other material used to:
- 877 (A) produce or induce in a semiconductor a:
- 878 (I) chemical change; or
- 879 (II) physical change;
- 880 (B) remove impurities from a semiconductor; or
- 881 (C) improve the marketable condition of a semiconductor.
- 882 (86) "Senior citizen center" means a facility having the primary purpose of providing
- 883 services to the aged as defined in Section 62A-3-101.
- 884 (87) "Simplified electronic return" means the electronic return:
- 885 (a) described in Section 318(C) of the agreement; and
- 886 (b) approved by the governing board of the agreement.
- 887 (88) "Solar energy" means the sun used as the sole source of energy for producing
- 888 electricity.
- 889 (89) (a) "Sports or recreational equipment" means an item:
- 890 (i) designed for human use; and
- 891 (ii) that is:
- 892 (A) worn in conjunction with:
- 893 (I) an athletic activity; or
- 894 (II) a recreational activity; and
- 895 (B) not suitable for general use.
- 896 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 897 commission shall make rules:



- 898 (i) listing the items that constitute "sports or recreational equipment"; and
- 899 (ii) that are consistent with the list of items that constitute "sports or recreational
- 900 equipment" under the agreement.
- 901 (90) "State" means the state of Utah, its departments, and agencies.
- 902 (91) "Storage" means any keeping or retention of tangible personal property or any
- 903 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 904 sale in the regular course of business.
- 905 (92) (a) "Tangible personal property" means personal property that:
- 906 (i) may be:
- 907 (A) seen;
- 908 (B) weighed;
- 909 (C) measured;
- 910 (D) felt; or
- 911 (E) touched; or
- 912 (ii) is in any manner perceptible to the senses.
- 913 (b) "Tangible personal property" includes:
- 914 (i) electricity;
- 915 (ii) water;
- 916 (iii) gas;
- 917 (iv) steam; or
- 918 (v) prewritten computer software.
- 919 (93) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
- 920 and require further processing other than mechanical blending before becoming finished
- 921 petroleum products.
- 922 (94) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 923 software" means an item listed in Subsection (94)(b) if that item is purchased or leased
- 924 primarily to enable or facilitate one or more of the following to function:
- 925 (i) telecommunications switching or routing equipment, machinery, or software; or

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

927 (b) The following apply to Subsection (94)(a):

928 (i) a pole;

929 (ii) software;

930 (iii) a supplementary power supply;

931 (iv) temperature or environmental equipment or machinery;

932 (v) test equipment;

933 (vi) a tower; or

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

935 Subsections (94)(b)(i) through (vi) as determined by the commission by rule made in

936 accordance with Subsection (94)(c).

937 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

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

939 functions similarly to an item listed in Subsections (94)(b)(i) through (vi).

940 (95) "Telecommunications equipment, machinery, or software required for 911

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

942 Sec. 20.18.

943 (96) "Telecommunications maintenance or repair equipment, machinery, or software"

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

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

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

947 following:

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

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

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

951 (97) (a) "Telecommunications switching or routing equipment, machinery, or software"

952 means an item listed in Subsection (97)(b) if that item is purchased or leased primarily for

953 switching or routing:

- 954 (i) voice communications;
- 955 (ii) data communications; or
- 956 (iii) telephone service.
- 957 (b) The following apply to Subsection (97)(a):
- 958 (i) a bridge;
- 959 (ii) a computer;
- 960 (iii) a cross connect;
- 961 (iv) a modem;
- 962 (v) a multiplexer;
- 963 (vi) plug in circuitry;
- 964 (vii) a router;
- 965 (viii) software;
- 966 (ix) a switch; or
- 967 (x) equipment, machinery, or software that functions similarly to an item listed in
- 968 Subsections (97)(b)(i) through (ix) as determined by the commission by rule made in
- 969 accordance with Subsection (97)(c).
- 970 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 971 commission may by rule define what constitutes equipment, machinery, or software that
- 972 functions similarly to an item listed in Subsections (97)(b)(i) through (ix).
- 973 (98) (a) "Telecommunications transmission equipment, machinery, or software" means
- 974 an item listed in Subsection (98)(b) if that item is purchased or leased primarily for sending,
- 975 receiving, or transporting:
- 976 (i) voice communications;
- 977 (ii) data communications; or
- 978 (iii) telephone service.
- 979 (b) The following apply to Subsection (98)(a):
- 980 (i) an amplifier;
- 981 (ii) a cable;

- 982 (iii) a closure;
- 983 (iv) a conduit;
- 984 (v) a controller;
- 985 (vi) a duplexer;
- 986 (vii) a filter;
- 987 (viii) an input device;
- 988 (ix) an input/output device;
- 989 (x) an insulator;
- 990 (xi) microwave machinery or equipment;
- 991 (xii) an oscillator;
- 992 (xiii) an output device;
- 993 (xiv) a pedestal;
- 994 (xv) a power converter;
- 995 (xvi) a power supply;
- 996 (xvii) a radio channel;
- 997 (xviii) a radio receiver;
- 998 (xix) a radio transmitter;
- 999 (xx) a repeater;
- 1000 (xxi) software;
- 1001 (xxii) a terminal;
- 1002 (xxiii) a timing unit;
- 1003 (xxiv) a transformer;
- 1004 (xxv) a wire; or
- 1005 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1006 Subsections (98)(b)(i) through (xxv) as determined by the commission by rule made in
- 1007 accordance with Subsection (98)(c).

1008 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1009 commission may by rule define what constitutes equipment, machinery, or software that

1010 functions similarly to an item listed in Subsections (98)(b)(i) through (xxv).  
1011 (99) (a) "Telephone service" means a two-way transmission:  
1012 (i) by:  
1013 (A) wire;  
1014 (B) radio;  
1015 (C) lightwave; or  
1016 (D) other electromagnetic means; and  
1017 (ii) of one or more of the following:  
1018 (A) a sign;  
1019 (B) a signal;  
1020 (C) writing;  
1021 (D) an image;  
1022 (E) sound;  
1023 (F) a message;  
1024 (G) data; or  
1025 (H) other information of any nature.  
1026 (b) "Telephone service" includes:  
1027 (i) mobile telecommunications service;  
1028 (ii) private communications service; or  
1029 (iii) automated digital telephone answering service.  
1030 (c) "Telephone service" does not include a service or a transaction that a state or a  
1031 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet  
1032 Tax Freedom Act, Pub. L. No. 105-277.  
1033 (100) Notwithstanding where a call is billed or paid, "telephone service address"  
1034 means:  
1035 (a) if the location described in this Subsection (100)(a) is known, the location of the  
1036 telephone service equipment:  
1037 (i) to which a call is charged; and

1038 (ii) from which the call originates or terminates;

1039 (b) if the location described in Subsection (100)(a) is not known but the location

1040 described in this Subsection (100)(b) is known, the location of the origination point of the

1041 signal of the telephone service first identified by:

1042 (i) the telecommunications system of the seller; or

1043 (ii) if the system used to transport the signal is not that of the seller, information

1044 received by the seller from its service provider; or

1045 (c) if the locations described in Subsection (100)(a) or (b) are not known, the location

1046 of a purchaser's primary place of use.

1047 (101) (a) "Telephone service provider" means a person that:

1048 (i) owns, controls, operates, or manages a telephone service; and

1049 (ii) engages in an activity described in Subsection (101)(a)(i) for the shared use with or

1050 resale to any person of the telephone service.

1051 (b) A person described in Subsection (101)(a) is a telephone service provider whether

1052 or not the Public Service Commission of Utah regulates:

1053 (i) that person; or

1054 (ii) the telephone service that the person owns, controls, operates, or manages.

1055 (102) "Tobacco" means:

1056 (a) a cigarette;

1057 (b) a cigar;

1058 (c) chewing tobacco;

1059 (d) pipe tobacco; or

1060 (e) any other item that contains tobacco.

1061 (103) "Unassisted amusement device" means an amusement device, skill device, or

1062 ride device that is started and stopped by the purchaser or renter of the right to use or operate

1063 the amusement device, skill device, or ride device.

1064 (104) (a) "Use" means the exercise of any right or power over tangible personal

1065 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that

1066 property, item, or service.

1067 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
1068 the regular course of business and held for resale.

1069 (105) (a) Subject to Subsection (105)(b), "vehicle" means the following that are  
1070 required to be titled, registered, or titled and registered:

1071 (i) an aircraft as defined in Section 72-10-102;

1072 (ii) a vehicle as defined in Section 41-1a-102;

1073 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1074 (iv) a vessel as defined in Section 41-1a-102.

1075 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1076 (i) a vehicle described in Subsection (105)(a); or

1077 (ii) (A) a locomotive;

1078 (B) a freight car;

1079 (C) railroad work equipment; or

1080 (D) other railroad rolling stock.

1081 (106) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1082 exchanging a vehicle as defined in Subsection (105).

1083 (107) (a) Except as provided in Subsection (107)(b), "waste energy facility" means a  
1084 facility that generates electricity:

1085 (i) using as the primary source of energy waste materials that would be placed in a  
1086 landfill or refuse pit if it were not used to generate electricity, including:

1087 (A) tires;

1088 (B) waste coal; or

1089 (C) oil shale; and

1090 (ii) in amounts greater than actually required for the operation of the facility.

1091 (b) "Waste energy facility" does not include a facility that incinerates:

1092 (i) municipal solid waste;

1093 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

- 1094 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1095 (108) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1096 (109) "Wind energy" means wind used as the sole source of energy to produce
- 1097 electricity.
- 1098 (110) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1099 location by the United States Postal Service.

1100 Section 2. Section **59-12-103 (Effective 01/01/07)** is amended to read:

1101 **59-12-103 (Effective 01/01/07). Sales and use tax base -- Rates -- Effective dates --**  
1102 **Use of sales and use tax revenues.**

1103 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1104 charged for the following transactions:

1105 (a) retail sales of tangible personal property made within the state;

1106 (b) amounts paid:

1107 (i) (A) to a common carrier; or

1108 (B) whether the following are municipally or privately owned, to a:

1109 (I) telephone service provider; or

1110 (II) telegraph corporation as defined in Section 54-2-1; and

1111 (ii) for:

1112 (A) telephone service, other than mobile telecommunications service, that originates  
1113 and terminates within the boundaries of this state;

1114 (B) mobile telecommunications service that originates and terminates within the  
1115 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1116 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1117 (C) telegraph service;

1118 (c) sales of the following for commercial use:

1119 (i) gas;

1120 (ii) electricity;

1121 (iii) heat;



- 1122 (iv) coal;
- 1123 (v) fuel oil; or
- 1124 (vi) other fuels;
- 1125 (d) sales of the following for residential use:
- 1126 (i) gas;
- 1127 (ii) electricity;
- 1128 (iii) heat;
- 1129 (iv) coal;
- 1130 (v) fuel oil; or
- 1131 (vi) other fuels;
- 1132 (e) sales of prepared food;
- 1133 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1134 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1135 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1136 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1137 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1138 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1139 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1140 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1141 exhibition, cultural, or athletic activity;
- 1142 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1143 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1144 (i) the tangible personal property; and
- 1145 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1146 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 1147 of that tangible personal property;
- 1148 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1149 assisted cleaning or washing of tangible personal property;

- 1150 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1151 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1152 (j) amounts paid or charged for laundry or dry cleaning services;
- 1153 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 1154 this state the tangible personal property is:
  - 1155 (i) stored;
  - 1156 (ii) used; or
  - 1157 (iii) otherwise consumed;
- 1158 (l) amounts paid or charged for tangible personal property if within this state the
- 1159 tangible personal property is:
  - 1160 (i) stored;
  - 1161 (ii) used; or
  - 1162 (iii) consumed; and
  - 1163 (m) amounts paid or charged for prepaid telephone calling cards.
- 1164 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is
- 1165 imposed on a transaction described in Subsection (1) equal to the sum of:
  - 1166 (i) a state tax imposed on the transaction at a rate of 4.75%; and
  - 1167 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
  - 1168 transaction under this chapter other than this part.
- 1169 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection
- 1170 (1)(d) equal to the sum of:
  - 1171 (A) a state tax imposed on the transaction at a rate of 2%; and
  - 1172 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
  - 1173 transaction under this chapter other than this part; or
  - 1174 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
  - 1175 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
  - 1176 equal to the sum of:
    - 1177 (A) a state tax imposed on the transaction at a rate of:

1178 (I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or  
1179 (II) 2% for a transaction described in Subsection (1)(d); and

1180 (B) a local tax imposed on the transaction at a rate equal to the sum of the following  
1181 rates:

1182 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,  
1183 and towns in the state impose the tax under Section 59-12-204; and

1184 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
1185 state impose the tax under Section 59-12-1102.

1186 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax  
1187 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to  
1188 the sum of:

1189 (A) a state tax imposed on the amounts paid or charged for food and food ingredients  
1190 at a rate of 2.75%; and

1191 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1192 amounts paid or charged for food and food ingredients under this chapter other than this part.

1193 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax  
1194 rate imposed under the following shall take effect on the first day of a calendar quarter:

1195 (i) Subsection (2)(a)(i);

1196 (ii) Subsection (2)(b)(i)(A);

1197 (iii) Subsection (2)(b)(ii)(A); or

1198 (iv) Subsection (2)(b)(iii)(A).

1199 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take  
1200 effect on the first day of the first billing period:

1201 (A) that begins after the effective date of the tax rate increase; and

1202 (B) if the billing period for the transaction begins before the effective date of a tax rate  
1203 increase imposed under:

1204 (I) Subsection (2)(a)(i);

1205 (II) Subsection (2)(b)(i)(A); or

1206 (III) Subsection (2)(b)(ii)(A).  
1207 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate  
1208 decrease shall take effect on the first day of the last billing period:  
1209 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
1210 and  
1211 (B) if the billing period for the transaction begins before the effective date of the repeal  
1212 of the tax or the tax rate decrease imposed under:  
1213 (I) Subsection (2)(a)(i);  
1214 (II) Subsection (2)(b)(i)(A); or  
1215 (III) Subsection (2)(b)(ii)(A).  
1216 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:  
1217 (A) Subsection (1)(b);  
1218 (B) Subsection (1)(c);  
1219 (C) Subsection (1)(d);  
1220 (D) Subsection (1)(e);  
1221 (E) Subsection (1)(f);  
1222 (F) Subsection (1)(g);  
1223 (G) Subsection (1)(h);  
1224 (H) Subsection (1)(i);  
1225 (I) Subsection (1)(j); or  
1226 (J) Subsection (1)(k).  
1227 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is  
1228 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
1229 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:  
1230 (A) on the first day of a calendar quarter; and  
1231 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change  
1232 under Subsection (2)(a)(i) or (2)(b)(ii)(A).  
1233 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

1234 the commission may by rule define the term "catalogue sale."

1235 (f) [(†)] If the price of a bundled transaction is attributable to [~~items of~~] food and food  
1236 ingredients and tangible personal property [~~and~~] other than food and food ingredients, the tax  
1237 imposed on the entire bundled transaction is the sum of the tax rates described in Subsection  
1238 (2)(a).

1239 [~~(ii) For a seller that sells food and food ingredients and prepared food at the same~~  
1240 ~~location:]~~

1241 [~~(A) if the location at which the food and food ingredients and prepared food is sold is~~  
1242 ~~a restaurant as defined in Section 59-12-602, the tax imposed on the food and food ingredients~~  
1243 ~~and prepared food is the sum of the tax rates described in Subsection (2)(a); or]~~

1244 [~~(B) if the location at which the food and food ingredients and prepared food is sold is~~  
1245 ~~not a restaurant as defined in Section 59-12-602, the tax imposed on the food and food~~  
1246 ~~ingredients and prepared food is the sum of the tax rates described in Subsection (2)(b)(iii).]~~

1247 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes  
1248 shall be deposited into the General Fund:

- 1249 (i) the tax imposed by Subsection (2)(a)(i);
- 1250 (ii) the tax imposed by Subsection (2)(b)(i)(A);
- 1251 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or
- 1252 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

1253 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)  
1254 shall be distributed to a county, city, or town as provided in this chapter.

1255 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the  
1256 state shall receive the county's, city's, or town's proportionate share of the revenues generated  
1257 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

1258 (ii) The commission shall determine a county's, city's, or town's proportionate share of  
1259 the revenues under Subsection (3)(c)(i) by:

1260 (A) calculating an amount equal to the population of the unincorporated area of the  
1261 county, city, or town divided by the total population of the state; and

1262 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total  
1263 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,  
1264 cities, and towns.

1265 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for  
1266 purposes of this section shall be derived from the most recent official census or census estimate  
1267 of the United States Census Bureau.

1268 (B) If a needed population estimate is not available from the United States Census  
1269 Bureau, population figures shall be derived from the estimate from the Utah Population  
1270 Estimates Committee created by executive order of the governor.

1271 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1272 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
1273 through (g):

1274 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1275 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1276 (B) for the fiscal year; or

1277 (ii) \$17,500,000.

1278 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
1279 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
1280 Department of Natural Resources to:

1281 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to  
1282 protect sensitive plant and animal species; or

1283 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
1284 act, to political subdivisions of the state to implement the measures described in Subsections  
1285 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1286 (ii) Money transferred to the Department of Natural Resources under Subsection  
1287 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
1288 person to list or attempt to have listed a species as threatened or endangered under the  
1289 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

- 1290 (iii) At the end of each fiscal year:
- 1291 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
- 1292 Conservation and Development Fund created in Section 73-10-24;
- 1293 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
- 1294 Program Subaccount created in Section 73-10c-5; and
- 1295 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
- 1296 Program Subaccount created in Section 73-10c-5.
- 1297 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
- 1298 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
- 1299 created in Section 4-18-6.
- 1300 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
- 1301 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
- 1302 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
- 1303 water rights.
- 1304 (ii) At the end of each fiscal year:
- 1305 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
- 1306 Conservation and Development Fund created in Section 73-10-24;
- 1307 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
- 1308 Program Subaccount created in Section 73-10c-5; and
- 1309 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
- 1310 Program Subaccount created in Section 73-10c-5.
- 1311 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
- 1312 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
- 1313 Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 1314 (ii) In addition to the uses allowed of the Water Resources Conservation and
- 1315 Development Fund under Section 73-10-24, the Water Resources Conservation and
- 1316 Development Fund may also be used to:
- 1317 (A) conduct hydrologic and geotechnical investigations by the Division of Water

1318 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1319 quantifying surface and ground water resources and describing the hydrologic systems of an  
1320 area in sufficient detail so as to enable local and state resource managers to plan for and  
1321 accommodate growth in water use without jeopardizing the resource;

1322 (B) fund state required dam safety improvements; and

1323 (C) protect the state's interest in interstate water compact allocations, including the  
1324 hiring of technical and legal staff.

1325 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1326 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1327 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1328 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1329 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
1330 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1331 (i) provide for the installation and repair of collection, treatment, storage, and  
1332 distribution facilities for any public water system, as defined in Section 19-4-102;

1333 (ii) develop underground sources of water, including springs and wells; and

1334 (iii) develop surface water sources.

1335 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1336 2006, the difference between the following amounts shall be expended as provided in this  
1337 Subsection (5), if that difference is greater than \$1:

1338 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1339 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1340 (ii) \$17,500,000.

1341 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1342 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
1343 credits; and

1344 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1345 restoration.



1346           (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1347 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
1348 created in Section 73-10-24.

1349           (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1350 remaining difference described in Subsection (5)(a) shall be:

1351               (A) transferred each fiscal year to the Division of Water Resources as dedicated  
1352 credits; and

1353               (B) expended by the Division of Water Resources for cloud-seeding projects  
1354 authorized by Title 73, Chapter 15, Modification of Weather.

1355           (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1356 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
1357 created in Section 73-10-24.

1358           (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
1359 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1360 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1361 Division of Water Resources for:

1362               (i) preconstruction costs:

1363                   (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1364 26, Bear River Development Act; and

1365                   (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
1366 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1367               (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1368 Chapter 26, Bear River Development Act;

1369               (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1370 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1371               (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
1372 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1373           (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water

1374 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1375 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to  
1376 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be  
1377 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
1378 incurred for employing additional technical staff for the administration of water rights.

1379 (g) At the end of each fiscal year, any unexpended dedicated credits described in  
1380 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development  
1381 Fund created in Section 73-10-24.

1382 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1383 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)  
1384 through (d):

1385 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1386 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1387 (B) for the fiscal year; or

1388 (ii) \$18,743,000.

1389 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described  
1390 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation  
1391 Revolving Loan Fund created in Section 72-2-117.

1392 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation  
1393 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made  
1394 by the Department of Transportation at the request of local governments.

1395 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
1396 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the  
1397 Department of Transportation for the State Park Access Highways Improvement Program  
1398 created in Section 72-3-207.

1399 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in  
1400 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as  
1401 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C

1402 roads.

1403           (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,  
1404 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
1405 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
1406 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
1407 transactions under Subsection (1).

1408           (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
1409 have been paid off and the highway projects completed that are intended to be paid from  
1410 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
1411 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
1412 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
1413 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
1414 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1415           (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
1416 year 2004-05, the commission shall each year on or before the September 30 immediately  
1417 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)  
1418 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
1419 greater than \$0.

1420           (b) The difference described in Subsection (8)(a) is equal to the difference between:

1421           (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)  
1422 the commission received from sellers collecting a tax in accordance with Subsection  
1423 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in  
1424 Subsection (8)(a); and

1425           (ii) \$7,279,673.

1426           (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
1427 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after  
1428 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund  
1429 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection

1430 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),  
1431 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales  
1432 and use tax revenues generated annually by the sales and use tax on vehicles and  
1433 vehicle-related products.

1434 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
1435 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
1436 highway projects completed that are intended to be paid from revenues deposited in the  
1437 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
1438 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
1439 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
1440 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described  
1441 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the  
1442 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
1443 on vehicles and vehicle-related products.

1444 Section 3. **Uncodified Section 5, Chapter 282, Laws of Utah 2006** is amended to  
1445 read:

1446 Section 5. **Appropriation.**

1447 (1) Subject to Subsection (2), there is appropriated from the General Fund, for fiscal  
1448 year 2006-07 only, \$6,000,000 to the State Tax Commission for distribution to certain business  
1449 locations to reimburse some of the business location's costs in complying with the reduced  
1450 sales and use tax rate imposed on food and food ingredients.

1451 (2) The Legislature intends that the State Tax Commission may expend up to 2% of the  
1452 amount appropriated for administrative costs.

1453 (3) The Legislature intends that, to the extent funds are available, the State Tax  
1454 Commission distribute these monies as provided in Subsections (4) [~~and (5)~~] through (6).

1455 (4) (a) Except as provided in Subsection (4)(b), the State Tax Commission shall  
1456 reimburse a business location:

1457 (i) that:

1458 (A) in 2005, remitted taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act, in  
1459 an amount greater than or equal to \$15,000 but less than or equal to [~~\$500,000~~] \$150,000;

1460 (B) remitted sales and use taxes on food and food ingredients as defined in Section  
1461 59-12-102 to the State Tax Commission before March 1, 2006; and

1462 (C) submits a request for reimbursement to the State Tax Commission postmarked  
1463 before January 1, 2007;

1464 (ii) for the verifiable amounts that the business location actually expended:

1465 (A) after May 1, 2006, but on or before December 31, 2006; and

1466 (B) to purchase computer hardware [~~and~~], software, or programming to account for  
1467 sales under the reduced sales and use tax rate imposed on food and food ingredients; and

1468 (iii) in an amount that does not exceed the lesser of:

1469 (A) [~~50%~~] 75% of the verifiable amounts described in Subsection (4)(a)(ii); or

1470 (B) [~~\$10,000~~] \$5,000.

1471 (b) If the total amount of requests for reimbursement under Subsection (4)(a) exceed  
1472 the monies that are available for reimbursement, the State Tax Commission shall reduce each  
1473 claim by a pro rata share.

1474 (5) (a) Except as provided in Subsection (5)(b), if, after the State Tax Commission  
1475 makes the reimbursements required by Subsection (4), monies described in Subsection (1)  
1476 remain for reimbursement, the State Tax Commission shall reimburse a business location:

1477 (i) that:

1478 (A) in 2005, remitted taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act, in  
1479 an amount greater than [~~or equal to \$15,000~~] \$150,000 but less than or equal to \$500,000;

1480 (B) remitted sales and use taxes on food and food ingredients as defined in Section  
1481 59-12-102 to the State Tax Commission before March 1, 2006; and

1482 (C) submits a request for reimbursement to the State Tax Commission postmarked  
1483 before January 1, 2007;

1484 (ii) for the verifiable amounts that the business location actually expended:

1485 (A) after May 1, 2006, but on or before December 31, 2006; and

1486 (B) to purchase computer hardware, software, or programming to account for sales  
1487 under the reduced sales and use tax rate imposed on food and food ingredients; and

1488 (iii) in an amount that does not exceed the lesser of:

1489 (A) 50% of the verifiable amounts described in Subsection (5)(a)(ii); or

1490 (B) \$10,000.

1491 (b) If the total amount of requests for reimbursement under Subsection (5)(a) exceed  
1492 the monies that are available for reimbursement, the State Tax Commission shall reduce each  
1493 claim by a pro rata share.

1494 (6) (a) Except as provided in Subsection (6)(b), if, after the State Tax Commission  
1495 makes the reimbursements required by Subsections (4) and (5), monies described in Subsection  
1496 (1) remain for reimbursement, the State Tax Commission shall reimburse a business location:

1497 (i) that:

1498 (A) in 2005, remitted taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act, in  
1499 an amount greater than or equal to \$15,000;

1500 (B) remitted sales and use taxes on food and food ingredients as defined in Section  
1501 59-12-102 to the State Tax Commission before March 1, 2006; and

1502 (C) submits a request for reimbursement to the State Tax Commission postmarked  
1503 before January 1, 2007;

1504 (ii) for the verifiable amounts that the business location actually expended:

1505 (A) after May 1, 2006, but on or before December 31, 2006; and

1506 (B) for a business location that, in 2005, remitted taxes imposed by Title 59, Chapter  
1507 12, Sales and Use Tax Act:

1508 (I) in an amount greater than or equal to \$15,000 but less than or equal to \$500,000, for  
1509 amounts expended to purchase computer hardware, software, or programming:

1510 (Aa) to account for sales under the reduced sales and use tax rate imposed on food and  
1511 food ingredients; and

1512 (Bb) that were not reimbursed in accordance with Subsection (4) or (5); or

1513 (II) in an amount greater than \$500,000, for amounts expended to purchase computer

1514 hardware, software, or programming to account for sales under the reduced sales and use tax  
1515 rate imposed on food and food ingredients; and

1516 (iii) in an amount that does not exceed 50% of the verifiable amounts described in  
1517 Subsection [~~(5)~~] (6)(a)(ii).

1518 (b) If the total amount of requests for reimbursement under Subsection [~~(5)~~] (6)(a)  
1519 exceed the monies that are available for reimbursement, the State Tax Commission shall  
1520 reduce each claim by a pro rata share.

1521 Section 4. **Uncodified Section 6, Chapter 282, Laws of Utah 2006** is amended to  
1522 read:

1523 Section 6. **Effective date.**

1524 [~~This~~] (1) Except as provided in Subsection (2), this bill takes effect on January 1,  
1525 2007.

1526 (2) If approved by two-thirds of all the members elected to each house, the uncodified  
1527 Section 5, Appropriation, takes effect on July 1, 2006.

1528 Section 5. **Effective date.**

1529 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2007.

1530 (2) If approved by two-thirds of all the members elected to each house, Section 3 of  
1531 this bill, which is the uncodified Section 5, Appropriation, in Chapter 282, Laws of Utah 2006,  
1532 takes effect on July 1, 2006.