

Senator Wayne L. Niederhauser proposes the following substitute bill:

TAX AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title and the Rural Health Services chapter.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the Utah Tax Review Commission to include the chairs of the Revenue and Taxation Interim Committee;
- ▶ repeals a repeal date for tax credits for research activities in the state;
- ▶ increases the percentage of expenses or payments that serve as the basis for calculating tax credits for research activities in the state;
- ▶ provides a nonrefundable tax credit equal to 5% of a taxpayer's qualified research expenses for the current taxable year in addition to other tax credits for research activities in the state allowed under current statute;
- ▶ provides that the tax credits for qualified research expenses may not be carried forward;
- ▶ requires a review of the tax credits for research activities in the state by the Utah Tax Review Commission;
- ▶ extends the availability of the renewable energy tax credit;
- ▶ provides for the Utah Tax Review Commission to review the renewable energy tax



- 26 credit;
- 27 ▶ expands the renewable energy tax credit to include some geothermal sources;
- 28 ▶ makes the renewable energy tax credit on commercial energy systems a refundable
- 29 tax credit;
- 30 ▶ changes the calculation of the tax credit for commercial energy systems;
- 31 ▶ removes language reimbursing the Uniform School Fund for renewable energy tax
- 32 credits taken;
- 33 ▶ provides that a tax under the Individual Income Tax Act that is imposed on the basis
- 34 of graduated brackets and rates may not be imposed for taxable years beginning on
- 35 or after January 1, 2008;
- 36 ▶ provides and modifies definitions;
- 37 ▶ reduces the single rate individual income tax rate from 5.35% to 5%;
- 38 ▶ enacts a nonrefundable tax credit under the Single Rate Individual Income Tax Act
- 39 allowed on the basis of:
- 40 • the deductions a person claims; and
- 41 • personal exemptions;
- 42 ▶ enacts a nonrefundable retirement tax credit under the Single Rate Individual
- 43 Income Tax Act;
- 44 ▶ phases out the above nonrefundable tax credits under the Single Rate Individual
- 45 Income Tax Act at certain income levels;
- 46 ▶ requires the apportionment of the above nonrefundable tax credits under the Single
- 47 Rate Individual Income Tax Act for a nonresident individual or part-year resident
- 48 individual;
- 49 ▶ modifies the definition of "prosthetic device," the sale of which is exempt from
- 50 sales and use taxation, to include a dental prosthesis;
- 51 ▶ reduces the state sales and use tax rate from 4.75% to 4.65%;
- 52 ▶ reduces the state sales and use tax rate imposed on food and food ingredients,
- 53 except with respect to certain bundled transactions;
- 54 ▶ provides a sales and use tax exemption for certain machinery, equipment, or repair
- 55 or replacement parts purchased or leased by certain establishments relating to
- 56 mining that are listed under the North American Industry Classification System;

- 57 ▶ modifies State Tax Commission rulemaking authority;
- 58 ▶ authorizes certain counties, cities, or towns to increase certain tax rates from .25%
- 59 to .30% and exempts those tax rate increases from voter approval requirements;
- 60 ▶ provides that food and food ingredients are not subject to certain local sales and use
- 61 taxes, except with respect to certain bundled transactions;
- 62 ▶ addresses State Tax Commission notice requirements to enact, repeal, or change the
- 63 tax rate of certain local sales and use taxes;
- 64 ▶ creates a restricted special revenue fund to distribute monies to fund rural health
- 65 care facilities and services that are impacted by providing that food and food
- 66 ingredients are not generally subject to local sales and use taxes for rural health care
- 67 facilities and services, including:
- 68 • addressing the distribution and expenditure of fund revenues; and
- 69 • providing that unexpended monies remaining in the fund at the end of a fiscal
- 70 year lapse into the General Fund;
- 71 ▶ requires the State Tax Commission to provide data to the executive director of the
- 72 Department of Health;
- 73 ▶ increases the maximum tax rate for the resort communities local sales and use tax
- 74 from 1% to 1.1%; and
- 75 ▶ provides a nonrefundable tax credit under the Multi-Channel Video or Audio
- 76 Service Tax Act for a multi-channel video or audio service provider;
- 77 ▶ requires a multi-channel video or audio service provider to pass through an amount
- 78 equal to the tax credit to purchasers located within the state;
- 79 ▶ provides that a tax on amounts paid or charged for multi-channel video or audio
- 80 service may not be reduced as a result of the amount a multi-channel video or audio
- 81 service provider passes through to its customers within the state;
- 82 ▶ requires a Revenue and Taxation Interim Committee study on repealing the state
- 83 individual income tax imposed on the basis of graduated brackets and rates; and
- 84 ▶ makes technical changes.

85 **Monies Appropriated in this Bill:**

86 This bill appropriates:

- 87 ▶ for fiscal year 2007-08 only, \$277,500 from the General Fund to the Rural Health

88 Care Facilities Fund; and
89 ▶ as an ongoing appropriation subject to future budget constraints, \$555,000 from the
90 General Fund for fiscal year 2008-09 to the Rural Health Care Facilities Fund.

91 **Other Special Clauses:**

92 This bill provides effective dates.

93 This bill provides revisor instructions.

94 **Utah Code Sections Affected:**

95 AMENDS:

- 96 **59-1-210**, as last amended by Chapter 271, Laws of Utah 1995
- 97 **59-1-901**, as last amended by Chapter 243, Laws of Utah 1996
- 98 **59-7-612**, as last amended by Chapter 9, Laws of Utah 2001
- 99 **59-10-104**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 100 **59-10-1012**, as renumbered and amended by Chapter 223, Laws of Utah 2006
- 101 **59-10-1014**, as renumbered and amended by Chapter 223, Laws of Utah 2006
- 102 **59-10-1202**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 103 **59-10-1203**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session
- 104 **59-12-102**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 105 **59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session
- 106 **59-12-104**, as last amended by Chapters 181, 182, 217, 218, 219, 220, 246, 268 and
107 346, Laws of Utah 2006
- 108 **59-12-401**, as last amended by Chapter 253, Laws of Utah 2006
- 109 **59-12-402**, as last amended by Chapter 253, Laws of Utah 2006
- 110 **59-12-403**, as last amended by Chapter 253, Laws of Utah 2006
- 111 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2006
- 112 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006
- 113 **59-12-504**, as last amended by Chapter 253, Laws of Utah 2006
- 114 **59-12-703**, as last amended by Chapter 253, Laws of Utah 2006
- 115 **59-12-802**, as last amended by Chapters 253 and 302, Laws of Utah 2006
- 116 **59-12-804**, as last amended by Chapter 253, Laws of Utah 2006
- 117 **59-12-1001**, as last amended by Chapter 253, Laws of Utah 2006
- 118 **59-12-1302**, as last amended by Chapter 253, Laws of Utah 2006

- 119 **59-12-1402**, as last amended by Chapter 253, Laws of Utah 2006
- 120 **59-12-1503**, as last amended by Chapter 253, Laws of Utah 2006
- 121 **59-12-1703**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 122 **59-26-102**, as enacted by Chapter 300, Laws of Utah 2004
- 123 **59-26-103**, as enacted by Chapter 300, Laws of Utah 2004

124 ENACTS:

- 125 **26-9-4**, Utah Code Annotated 1953
- 126 **59-10-1106**, Utah Code Annotated 1953
- 127 **59-10-1206.1**, Utah Code Annotated 1953
- 128 **59-10-1206.2**, Utah Code Annotated 1953
- 129 **59-10-1206.9**, Utah Code Annotated 1953
- 130 **59-26-104.5**, Utah Code Annotated 1953

131 REPEALS AND REENACTS:

- 132 **59-7-614**, as last amended by Chapter 223, Laws of Utah 2006

133 **Uncodified Material Affected:**

134 ENACTS UNCODIFIED MATERIAL



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

137 Section 1. Section **26-9-4** is enacted to read:

138 **26-9-4. Rural Health Care Facilities Fund -- Source of revenues -- Interest --**
 139 **Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into**
 140 **the General Fund.**

141 (1) As used in this section:

- 142 (a) "Emergency medical services" is as defined in Section 26-8a-102.
- 143 (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.
- 144 (c) "Fiscal year" means a one-year period beginning on July 1 of each year.
- 145 (d) "Freestanding urgent care center" is as defined in Section 59-12-801.
- 146 (e) "Fund" means the Rural Health Care Facilities Fund created by this section.
- 147 (f) "Nursing care facility" is as defined in Section 26-21-2.
- 148 (g) "Rural city hospital" is as defined in Section 59-12-801.
- 149 (h) "Rural county health care facility" is as defined in Section 59-12-801.

- 150 (i) "Rural county hospital" is as defined in Section 59-12-801.
- 151 (j) "Rural county nursing care facility" is as defined in Section 59-12-801.
- 152 (k) "Rural emergency medical services" is as defined in Section 59-12-801.
- 153 (l) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.
- 154 (2) There is created a restricted special revenue fund known as the Rural Health Care
155 Facilities Fund.
- 156 (3) (a) The fund shall be funded by amounts appropriated by the Legislature.
- 157 (b) Any interest earned on the fund shall be deposited into the General Fund.
- 158 (4) Subject to Subsection (5), the executive director shall for a fiscal year distribute
159 monies deposited into the fund to each:
- 160 (a) county legislative body of a county that, on January 1, 2007, imposes a tax in
161 accordance with Section 59-12-802; or
- 162 (b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance
163 with Section 59-12-804.
- 164 (5) (a) For purposes of the distribution required by Subsection (4), the executive
165 director shall:
- 166 (i) estimate for each county and city described in Subsection (4) the amount by which
167 the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for
168 fiscal year 2005-06 would have been reduced had:
- 169 (A) the amendments made by this bill to Sections 59-12-802 and 59-12-804 been in
170 effect for fiscal year 2005-06; and
- 171 (B) each county and city described in Subsection (4) imposed the tax under Sections
172 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;
- 173 (ii) calculate a percentage for each county and city described in Subsection (4) by
174 dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i)
175 by \$555,000; and
- 176 (iii) distribute to each county and city described in Subsection (4) an amount equal to
177 the product of:
- 178 (I) the percentage calculated in accordance with Subsection (5)(a)(ii); and
- 179 (II) the amount appropriated by the Legislature to the fund for the fiscal year.
- 180 (b) The executive director shall make the estimations, calculations, and distributions

181 required by Subsection (5)(a) on the basis of data provided to the executive director by the
182 State Tax Commission.

183 (6) (a) Subject to Subsection (6)(b), a county legislative body shall distribute the
184 monies the county legislative body receives in accordance with Subsection (5):

185 (i) for a county of the third, fourth, or fifth class, to fund rural county health care
186 facilities in that county; and

187 (ii) for a county of the sixth class, to fund:

188 (A) emergency medical services in that county;

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

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

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

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

193 (F) a combination of Subsections (6)(a)(ii)(A) through (E).

194 (b) A county legislative body shall distribute a percentage of the monies the county
195 legislative body receives in accordance with Subsection (5) to each center, clinic, facility, or
196 service described in Subsection (6)(a) equal to the same percentage that the county legislative
197 body distributes to that center, clinic, facility, or service in accordance with Section 59-12-803
198 for the calendar year ending on the December 31 immediately preceding the first day of the
199 fiscal year for which the county legislative body receives the distribution in accordance with
200 Subsection (5).

201 (c) A center, clinic, facility, or service that receives a distribution in accordance with
202 this Subsection (6) shall expend that distribution for the same purposes for which monies
203 generated by a tax under Section 59-12-802 may be expended.

204 (7) (a) Subject to Subsection (7)(b), a city legislative body shall distribute the monies
205 the city legislative body receives in accordance with Subsection (5) to fund rural city hospitals
206 in that city.

207 (b) A city legislative body shall distribute a percentage of the monies the city
208 legislative body receives in accordance with Subsection (5) to each rural city hospital described
209 in Subsection (7)(a) equal to the same percentage that the city legislative body distributes to
210 that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on
211 the December 31 immediately preceding the first day of the fiscal year for which the city

212 legislative body receives the distribution in accordance with Subsection (5).

213 (c) A rural city hospital that receives a distribution in accordance with this Subsection
214 (7) shall expend that distribution for the same purposes for which monies generated by a tax
215 under Section 59-12-804 may be expended.

216 (8) Any monies remaining in the Rural Health Care Facilities Fund at the end of a
217 fiscal year after the executive director makes the distributions required by this section shall
218 lapse into the General Fund.

219 Section 2. Section **59-1-210** is amended to read:

220 **59-1-210. General powers and duties.**

221 The powers and duties of the commission are as follows:

222 (1) to sue and be sued in its own name;

223 (2) to adopt rules and policies consistent with the Constitution and laws of this state to
224 govern the commission, executive director, division directors, and commission employees in
225 the performance of their duties;

226 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to
227 govern county boards and officers in the performance of any duty relating to assessment,
228 equalization, and collection of taxes;

229 (4) to prescribe the use of forms relating to the assessment of property for state or local
230 taxation, the equalization of those assessments, the reporting of property or income for state or
231 local taxation purposes, or for the computation of those taxes and the reporting of any
232 information, statistics, or data required by the commission;

233 (5) to administer and supervise the tax laws of the state;

234 (6) to prepare and maintain from year to year a complete record of all lands subject to
235 taxation in this state, and all machinery used in mining and all property or surface
236 improvements upon or appurtenant to mines or mining claims;

237 (7) to exercise general supervision over assessors and county boards of equalization
238 including the authority to enforce Section 59-2-303.1, and over other county officers in the
239 performance of their duties relating to the assessment of property and collection of taxes, so
240 that all assessments of property are just and equal, according to fair market value, and that the
241 tax burden is distributed without favor or discrimination;

242 (8) to reconvene any county board of equalization which, when reconvened, may only

243 address business approved by the commission and extend the time for which any county board
244 of equalization may sit for the equalization of assessments;

245 (9) to confer with, advise, and direct county treasurers, assessors, and other county
246 officers in matters relating to the assessment and equalization of property for taxation and the
247 collection of taxes;

248 (10) to provide for and hold annually at such time and place as may be convenient a
249 district or state convention of county assessors, auditors, and other county officers to consider
250 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative
251 to taxation and methods of assessment, to which county assessors and other officers called to
252 attend shall attend at county expense;

253 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the
254 penalties, liabilities, and punishments of public officers, persons, and officers or agents of
255 corporations for failure or neglect to comply with the statutes governing the reporting,
256 assessment, and taxation of property;

257 (12) to cause complaints to be made in the proper court seeking removal from office of
258 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing
259 officers, who are guilty of official misconduct or neglect of duty;

260 (13) to require county attorneys to immediately institute and prosecute actions and
261 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the
262 laws relating to the assessment and taxation of property in their respective counties;

263 (14) to require any person to furnish any information required by the commission to
264 ascertain the value and the relative burden borne by all kinds of property in the state, and to
265 require from all state and local officers any information necessary for the proper discharge of
266 the duties of the commission;

267 (15) to examine all records relating to the valuation of property of any person;

268 (16) to subpoena witnesses to appear and give testimony and produce records relating
269 to any matter before the commission;

270 (17) to cause depositions of witnesses to be taken as in civil actions at the request of
271 the commission or any party to any matter or proceeding before the commission;

272 (18) to authorize any member or employee of the commission to administer oaths and
273 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the

274 commission;

275 (19) to visit periodically each county of the state, to investigate and direct the work and
276 methods of local assessors and other officials in the assessment, equalization, and taxation of
277 property, and to ascertain whether the law requiring the assessment of all property not exempt
278 from taxation, and the collection of taxes, have been properly administered and enforced;

279 (20) to carefully examine all cases where evasion or violation of the laws for
280 assessment and taxation of property is alleged, to ascertain whether existing laws are defective
281 or improperly administered;

282 (21) to furnish to the governor from time to time such assistance and information as the
283 governor requires;

284 (22) to transmit to the governor and to each member of the Legislature
285 recommendations as to legislation which will correct or eliminate defects in the operation of
286 the tax laws and will equalize the burden of taxation within the state;

287 (23) to correct any error in any assessment made by it at any time before the tax is due
288 and report the correction to the county auditor, who shall enter the corrected assessment upon
289 the assessment roll;

290 (24) to compile and publish statistics relating to taxation in the state and prepare and
291 submit an annual budget to the governor for inclusion in the state budget to be submitted to the
292 Legislature;

293 (25) to perform any further duties imposed by law, and exercise all powers necessary in
294 the performance of its duties;

295 (26) to adopt a schedule of fees assessed for services provided by the commission,
296 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the
297 cost of services provided. Each fee established in this manner shall be submitted to and
298 approved by the Legislature as part of the commission's annual appropriations request. The
299 commission may not charge or collect any fee proposed in this manner without approval by the
300 Legislature; ~~and~~

301 (27) to comply with the procedures and requirements of Title 63, Chapter 46b,
302 Administrative Procedures Act, in its adjudicative proceedings[-]; and

303 (28) to provide data to the executive director of the Department of Health for purposes
304 of the distributions required by Section 26-9-4.

305 Section 3. Section **59-1-901** is amended to read:

306 **59-1-901. Creation -- Members -- Terms.**

307 (1) There is created a state commission to be known as the Utah Tax Review
308 Commission.

309 (2) (a) The [~~review commission~~] Utah Tax Review Commission shall be composed of
310 [~~14~~] 16 members as follows:

311 (i) [~~Two~~] two members shall be appointed by the speaker of the House of
312 Representatives from the House of Representatives, not more than one of whom may be from
313 the same political party[-];

314 (ii) [~~Two~~] two members shall be appointed by the president of the Senate from the
315 Senate, not more than one of whom may be from the same political party[-];

316 (iii) [~~Five~~] five members shall be appointed by the governor, not more than three of
317 whom may be from the same political party[-];

318 (iv) [~~A~~] one member who is a member of the State Tax Commission, appointed by the
319 State Tax Commission, shall be an ex officio member of the [~~review commission~~] Utah Tax
320 Review Commission;

321 (v) one member who is the House of Representatives chair of the Revenue and
322 Taxation Interim Committee shall be an ex officio member of the Utah Tax Review
323 Commission; and

324 (vi) one member who is the Senate chair of the Revenue and Taxation Interim
325 Committee shall be an ex officio member of the Utah Tax Review Commission.

326 (b) The [~~ten~~] 12 members appointed under Subsection (2)(a) shall then select four
327 additional members with consideration to be given to achieving ethnic, cultural, and gender
328 diversity, representation from the major geographical areas of the state, and equal bipartisan
329 representation.

330 (3) (a) Except for members appointed under Subsections (2)(a)(i) [~~and~~], (ii), (v), and
331 (vi), and except as required by Subsection (3)(b), members shall be appointed to four-year
332 terms.

333 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
334 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
335 commission members are staggered so that approximately half of the commission is appointed

336 every two years.

337 Section 4. Section **59-7-612** is amended to read:

338 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
339 **forward -- Commission to report modification or repeal of certain federal provisions --**
340 **Utah Tax Review Commission study.**

341 (1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~
342 ~~December 31, 2010, a] A taxpayer meeting the requirements of this section [~~shall qualify for~~
343 ~~may claim~~ the following nonrefundable tax credits [~~for increasing research activities in this~~
344 ~~state~~]:~~

345 (i) a research tax credit of [~~6%~~] 7% of the taxpayer's qualified research expenses for
346 the current taxable year that exceed the base amount provided for under Subsection (4); [~~and~~

347 (ii) a tax credit for payments to qualified organizations for basic research as provided
348 in Section 41(e), Internal Revenue Code, of [~~6%~~] 7% for the current taxable year that exceed
349 the base amount provided for under Subsection (4)[~~]; and~~

350 (iii) a tax credit equal to 5% of the taxpayer's qualified research expenses for the
351 current taxable year.

352 [~~(b) If a taxpayer qualifying for a credit under Subsection (1)(a) seeks to claim the~~
353 ~~credit, the taxpayer shall:~~

354 (b) (i) Except as provided in Subsection (1)(b)(ii), a taxpayer may:

355 (i) (A) claim the tax credit or a portion of the tax credit for the taxable year
356 immediately following the taxable year for which the taxpayer qualifies for the tax credit;

357 (i) (B) carry forward the tax credit or a portion of the tax credit [~~forward~~] as
358 provided in Subsection [~~(4)(f)] (5); or~~

359 (i) (C) claim a portion of the tax credit and carry forward a portion of the tax credit
360 as provided in Subsections (1)(b)(i)(A) and (i) (B).

361 (ii) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

362 (c) The tax credits provided for in this section do not include the alternative
363 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

364 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
365 in Section 59-7-101 is considered to be one taxpayer.

366 (3) Except as specifically provided for in this section:

367 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
368 Section 41, Internal Revenue Code; and

369 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
370 the tax credits authorized under Subsection (1).

371 (4) For purposes of this section:

372 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
373 Internal Revenue Code, except that:

374 (i) the base amount does not include the calculation of the alternative incremental
375 credit provided for in Section 41(c)(4), Internal Revenue Code;

376 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
377 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah
378 UDITPA Provisions; and

379 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
380 the base amount, a taxpayer:

381 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
382 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
383 and

384 (B) may not revoke an election to be treated as a start-up company under Subsection
385 (4)(a)(iii)(A);

386 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
387 that the term includes only basic research conducted in this state;

388 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
389 that the term includes only qualified research conducted in this state;

390 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
391 Revenue Code, except that the term includes only ~~[those expenses incurred in conducting~~
392 ~~qualified research in this state;]~~;

393 (i) in-house research expenses incurred in this state; and

394 (ii) contract research expenses incurred in this state; and

395 (e) ~~[notwithstanding the provisions of Section 41(h), Internal Revenue Code, the~~
396 ~~credits] a tax credit~~ provided for in this section ~~[shall] is not [terminate] terminated~~ if ~~[the~~
397 ~~credits terminate] a credit terminates~~ under Section 41, Internal Revenue Code~~[- and]~~.

398 ~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~
399 ~~governing the carry forward and carry back of federal tax credits, if]~~

400 (5) If the amount of a tax credit claimed by a taxpayer under [this section] Subsection
401 (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the
402 amount of the tax credit exceeding the tax liability:

403 ~~[(†)] (a)~~ may be carried forward for a period that does not exceed the next 14 taxable
404 years; and

405 ~~[(†)] (b)~~ may not be carried back to a taxable year preceding the current taxable year.

406 ~~[(5)] (6)~~ In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
407 Act, the commission may make rules for purposes of this section prescribing a certification
408 process for qualified organizations to ensure that amounts paid to the qualified organizations
409 are for basic research conducted in this state.

410 ~~[(6)] (7)~~ If a ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code,
411 is modified or repealed, the commission shall report the modification or repeal to the Utah Tax
412 Review Commission within 60 days after the day on which the modification or repeal becomes
413 effective.

414 ~~[(7)] (8) (a) [Except as provided in Subsection (7)(b), the]~~ The Utah Tax Review
415 Commission shall review the tax credits provided for in this section on or before ~~[the earlier of:~~
416 ~~(†)]~~ October 1 of the year after the year in which the commission reports under Subsection ~~[(6)]~~
417 (7) a modification or repeal of a ~~[federal tax credit under]~~ provision of Section 41, Internal
418 Revenue Code~~]; or (ii) October 1, 2004].~~

419 (b) Notwithstanding Subsection ~~[(7)] (8)(a)~~, the Utah Tax Review Commission is not
420 required to review the tax credits provided for in this section if the only modification to a
421 ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code, is the extension of
422 the termination date provided for in Section 41(h), Internal Revenue Code.

423 (c) The Utah Tax Review Commission shall address in a review under this section
424 ~~[the]:~~

425 (i) the cost of the [credit] tax credits provided for in this section;

426 (ii) the purpose and effectiveness of the [credit] tax credits provided for in this section;

427 (iii) whether the [credit benefits] tax credits provided for in this section benefit the
428 state; and

429 (iv) whether the [credit] tax credits provided for in this section should be:

430 (A) continued;

431 (B) modified; or

432 (C) repealed.

433 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
434 section, the Utah Tax Review Commission shall report its findings to the Revenue and
435 Taxation Interim Committee on or before the November interim meeting of the year in which
436 the Utah Tax Review Commission reviews the tax credits.

437 Section 5. Section **59-7-614** is repealed and reenacted to read:

438 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
439 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
440 **authority.**

441 (1) As used in this section:

442 (a) "Active solar system":

443 (i) means a system of equipment capable of collecting and converting incident solar
444 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
445 by a separate apparatus to storage or to the point of use; and

446 (ii) includes water heating, space heating or cooling, and electrical or mechanical
447 energy generation.

448 (b) "Biomass system" means any system of apparatus and equipment for use in
449 converting material into biomass energy, as defined in Section 59-12-102, and transporting that
450 energy by separate apparatus to the point of use or storage.

451 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
452 association, corporation, cooperative, or other entity under which business is conducted or
453 transacted.

454 (d) "Commercial energy system" means any active solar, passive solar, geothermal
455 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
456 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

457 (e) "Commercial enterprise" means a business entity whose purpose is to produce
458 electrical, mechanical, or thermal energy for sale from a commercial energy system.

459 (f) (i) "Commercial unit" means any building or structure that a business entity uses to

460 transact its business.

461 (ii) Notwithstanding Subsection (1)(f)(i):

462 (A) in the case of an active solar system used for agricultural water pumping or a wind
463 system, each individual energy generating device shall be a commercial unit; and

464 (B) if an energy system is the building or structure that a business entity uses to
465 transact its business, a commercial unit is the complete energy system itself.

466 (g) "Direct-use geothermal system" means a system of apparatus and equipment
467 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,
468 that is contained in the earth to meet energy needs, including heating a building, an industrial
469 process, and aquaculture.

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

472 (i) "Geothermal heat-pump system" means a system of apparatus and equipment
473 enabling the use of thermal properties contained in the earth at temperatures well below 100
474 degrees Fahrenheit to help meet heating and cooling needs of a structure.

475 (j) "Hydroenergy system" means a system of apparatus and equipment capable of
476 intercepting and converting kinetic water energy into electrical or mechanical energy and
477 transferring this form of energy by separate apparatus to the point of use or storage.

478 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
479 59-10-103 and an individual as defined in Section 59-10-103.

480 (l) "Passive solar system":

481 (i) means a direct thermal system that utilizes the structure of a building and its
482 operable components to provide for collection, storage, and distribution of heating or cooling
483 during the appropriate times of the year by utilizing the climate resources available at the site;
484 and

485 (ii) includes those portions and components of a building that are expressly designed
486 and required for the collection, storage, and distribution of solar energy.

487 (m) "Residential energy system" means any active solar, passive solar, biomass,
488 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
489 supply energy to or for any residential unit.

490 (n) "Residential unit" means any house, condominium, apartment, or similar dwelling

491 unit that serves as a dwelling for a person, group of persons, or a family but does not include
492 property subject to a fee under:

493 (i) Section 59-2-404;

494 (ii) Section 59-2-405;

495 (iii) Section 59-2-405.1;

496 (iv) Section 59-2-405.2; or

497 (v) Section 59-2-405.3.

498 (o) "Utah Geological Survey" means the Utah Geological Survey established in Section
499 63-73-5.

500 (p) "Wind system" means a system of apparatus and equipment capable of intercepting
501 and converting wind energy into mechanical or electrical energy and transferring these forms of
502 energy by a separate apparatus to the point of use, sale, or storage.

503 (2) (a) (i) For taxable years beginning on or after January 1, 2008, a business entity that
504 purchases and completes or participates in the financing of a residential energy system to
505 supply all or part of the energy required for a residential unit owned or used by the business
506 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
507 Subsection (2)(a).

508 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs
509 of each residential energy system installed with respect to each residential unit it owns or uses,
510 including installation costs, against any tax due under this chapter for the taxable year in which
511 the energy system is completed and placed in service.

512 (B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000
513 per residential unit.

514 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
515 completed and placed in service on or after January 1, 2008.

516 (iii) If a business entity sells a residential unit to an individual taxpayer before making
517 a claim for the tax credit under this Subsection (2)(a), the business entity may:

518 (A) assign its right to this tax credit to the individual taxpayer; and

519 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
520 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
521 individual taxpayer had completed or participated in the costs of the residential energy system

522 under Section 59-10-1014.

523 (b) (i) For taxable years beginning on or after January 1, 2008, a business entity that
524 purchases or participates in the financing of a commercial energy system situated in Utah is
525 entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial
526 energy system does not use wind, geothermal electricity, or biomass equipment capable of
527 producing a total of 660 or more kilowatts of electricity, and:

528 (A) the commercial energy system supplies all or part of the energy required by
529 commercial units owned or used by the business entity; or

530 (B) the business entity sells all or part of the energy produced by the commercial
531 energy system as a commercial enterprise.

532 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs
533 of any commercial energy system installed, including installation costs, against any tax due
534 under this chapter for the taxable year in which the commercial energy system is completed and
535 placed in service.

536 (B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this
537 Subsection (2)(b) may not exceed \$50,000 per commercial unit.

538 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
539 system completed and placed in service on or after January 1, 2008.

540 (iii) A business entity that leases a commercial energy system installed on a
541 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
542 confirm that the lessor irrevocably elects not to claim the credit.

543 (iv) Only the principal recovery portion of the lease payments, which is the cost
544 incurred by a business entity in acquiring a commercial energy system, excluding interest
545 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

546 (v) A business entity that leases a commercial energy system is eligible to use the tax
547 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
548 of the lease.

549 (c) (i) For taxable years beginning on or after January 1, 2008, a business entity that
550 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
551 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
552 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

553 (A) the commercial energy system supplies all or part of the energy required by
554 commercial units owned or used by the business entity; or

555 (B) the business entity sells all or part of the energy produced by the commercial
556 energy system as a commercial enterprise.

557 (ii) (A) A business entity is entitled to a tax credit under this section equal to the
558 product of:

559 (I) 0.35 cents; and

560 (II) the kilowatt hours of electricity produced and either used or sold during the taxable
561 year.

562 (B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for
563 production occurring during a period of 48 months beginning with the month in which the
564 commercial energy system is placed in commercial service.

565 (II) The credit allowed by this Subsection (2)(c) for each year may not be carried
566 forward or carried back.

567 (C) The credit under this Subsection (2)(c) is allowed for any commercial energy
568 system completed and placed in service on or after January 1, 2008.

569 (iii) A business entity that leases a commercial energy system installed on a
570 commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can
571 confirm that the lessor irrevocably elects not to claim the credit.

572 (d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year
573 in which the energy system is completed and placed in service.

574 (ii) Additional energy systems or parts of energy systems may be claimed for
575 subsequent years.

576 (iii) If the amount of a tax credit under Subsection (2)(a) or (b) exceeds a business
577 entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the
578 liability may be carried over for a period which does not exceed the next four taxable years.

579 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
580 credits provided under the laws or rules and regulations of the United States.

581 (b) (i) The Utah Geological Survey may set standards for residential and commercial
582 energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety,
583 reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems

584 eligible for the tax credit use the state's renewable and nonrenewable energy resources in an
585 appropriate and economic manner.

586 (ii) The Utah Geological Survey may set standards for residential and commercial
587 energy systems that establish the reasonable costs of an energy system, as used in Subsections
588 (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

589 (iii) A tax credit may not be taken under Subsection (2) until the Utah Geological
590 Survey has certified that the energy system has been completely installed and is a viable system
591 for saving or production of energy from renewable resources.

592 (c) The Utah Geological Survey and the commission may make rules in accordance
593 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
594 implement this section.

595 (4) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
596 Review Commission shall review the tax credit provided by this section and make
597 recommendations to the Revenue and Taxation Interim Committee concerning whether the
598 credit should be continued, modified, or repealed.

599 (b) The Utah Tax Review Commission's report under Subsection (4)(a) shall include
600 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
601 the state's benefit from the credit.

602 Section 6. Section **59-10-104** is amended to read:

603 **59-10-104. Tax basis -- Rates -- Adjustment for changes in the consumer price**
604 **index -- Exemption.**

605 (1) Except as provided in Subsection (5) or Part 12, Single Rate Individual Income Tax
606 Act, for taxable years beginning on or after January 1, 2006, but beginning on or before
607 December 31, 2007, a tax is imposed on the state taxable income of every resident individual
608 as provided in this section.

609 (2) For an individual, other than a husband and wife or head of household required to
610 use the tax table under Subsection (3), the tax under this section is imposed in accordance with
611 the following income brackets:

612 If the state taxable income is:	The tax is:
613 Less than or equal to \$1,000	2.3% of the state taxable income
614 Greater than \$1,000 but less than	\$23, plus 3.3% of state taxable

615	or equal to \$2,000	income greater than \$1,000
616	Greater than \$2,000 but less than	\$56, plus 4.2% of state taxable
617	or equal to \$3,000	income greater than \$2,000
618	Greater than \$3,000 but less than	\$98, plus 5.2% of state taxable
619	or equal to \$4,000	income greater than \$3,000
620	Greater than \$4,000 but less than	\$150, plus 6% of state taxable
621	or equal to \$5,500	income greater than \$4,000
622	Greater than \$5,500	\$240, plus 6.98% of state taxable
623		income greater than \$5,500

624 (3) For a husband and wife filing a single return jointly, or a head of household as
 625 defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section
 626 is imposed in accordance with the following income brackets:

627	If the state taxable income is:	The tax is:
628	Less than or equal to \$2,000	2.3% of the state taxable income
629	Greater than \$2,000 but less than	\$46, plus 3.3% of state taxable
630	or equal to \$4,000	income greater than \$2,000
631	Greater than \$4,000 but less than	\$112, plus 4.2% of state taxable
632	or equal to \$6,000	income greater than \$4,000
633	Greater than \$6,000 but less than	\$196, plus 5.2% of state taxable
634	or equal to \$8,000	income greater than \$6,000
635	Greater than \$8,000 but less than	\$300, plus 6% of state taxable
636	or equal to \$11,000	income greater than \$8,000
637	Greater than \$11,000	\$480, plus 6.98% of state taxable
638		income greater than \$11,000

639 (4) (a) For taxable years beginning on or after January 1, 2009, the commission shall:

640 (i) make the following adjustments to the income brackets under Subsection (2):

641 (A) increase or decrease the income brackets under Subsection (2) by a percentage

642 equal to the percentage difference between the consumer price index for the preceding calendar

643 year and the consumer price index for the calendar year 2007; and

644 (B) after making an increase or decrease under Subsection (4)(a)(i)(A), round the

645 income brackets under Subsection (2) to the nearest whole dollar;

646 (ii) after making the adjustments described in Subsection (4)(a)(i) to the income
647 brackets under Subsection (2), adjust the income brackets under Subsection (3) so that for each
648 income bracket under Subsection (2) there is a corresponding income bracket under Subsection
649 (3) that is equal to the product of:

650 (A) each income bracket under Subsection (2); and

651 (B) two; and

652 (iii) to the extent necessary to reflect an adjustment under Subsection (4)(a)(i) or (ii):

653 (A) increase or decrease the amount of tax under Subsection (2) or (3) prior to adding
654 in the portion of the tax calculated as a percentage of state taxable income; and

655 (B) after making an increase or decrease under Subsection (4)(a)(iii)(A), round the
656 amount of tax under Subsection (2) or (3) to the nearest whole dollar.

657 (b) The commission may not increase or decrease the tax rate percentages provided in
658 Subsection (2) or (3).

659 (c) For purposes of Subsection (4)(a)(i), the commission shall calculate the consumer
660 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

661 (5) This section does not apply to a resident individual exempt from taxation under
662 Section 59-10-104.1.

663 Section 7. Section **59-10-1012** is amended to read:

664 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
665 **forward -- Commission to report modification or repeal of certain federal provisions --**
666 **Utah Tax Review Commission study.**

667 (1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~
668 ~~December 31, 2010, a~~ A claimant, estate, or trust meeting the requirements of this section
669 [~~shall qualify for~~] may claim the following nonrefundable tax credits [~~for increasing research~~
670 ~~activities in this state~~]:

671 (i) a research tax credit of [~~6%~~] 7% of the claimant's, estate's, or trust's qualified
672 research expenses for the current taxable year that exceed the base amount provided for under
673 Subsection [~~(4)~~] (3); [~~and~~]

674 (ii) a tax credit for payments to qualified organizations for basic research as provided
675 in Section 41(e), Internal Revenue Code of [~~6%~~] 7% for the current taxable year that exceed
676 the base amount provided for under Subsection [~~(4)~~] (3); and

677 (iii) a tax credit equal to 5% of the claimant's, estate's, or trust's qualified research
678 expenses for the current taxable year.

679 (b) (i) [~~If a claimant, estate, or trust qualifying for a tax credit under Subsection (1)(a)~~
680 ~~seeks to claim the tax credit, the] Except as provided in Subsection (1)(b)(ii), a claimant, estate,
681 or trust [shall] may:~~

682 [(i)] (A) claim the tax credit or a portion of the tax credit for the taxable year
683 immediately following the taxable year for which the claimant, estate, or trust qualifies for the
684 tax credit;

685 [(ii)] (B) carry forward the tax credit or a portion of the tax credit [~~forward~~] as
686 provided in Subsection (4)[~~(f)~~]; or

687 [(iii)] (C) claim a portion of the tax credit and carry forward a portion of the tax credit
688 as provided in Subsections (1)(b)(i)(A) and [(ii)] (B).

689 (ii) A claimant, estate, or trust may not carry forward the tax credit allowed by
690 Subsection (1)(a)(iii).

691 (c) The tax credits provided for in this section do not include the alternative
692 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

693 [~~(2) For purposes of claiming a tax credit under this section, a unitary group as defined~~
694 ~~in Section 59-7-101 is considered to be one claimant.]~~

695 [(3)] (2) Except as specifically provided for in this section:

696 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
697 Section 41, Internal Revenue Code; and

698 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
699 the tax credits authorized under Subsection (1).

700 [(4)] (3) For purposes of this section:

701 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
702 Internal Revenue Code, except that:

703 (i) the base amount does not include the calculation of the alternative incremental
704 credit provided for in Section 41(c)(4), Internal Revenue Code;

705 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
706 attributable to sources within this state as provided in Section 59-10-118; and

707 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating

708 the base amount, a claimant, estate, or trust:

709 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
710 regardless of whether the claimant, estate, or trust meets the requirements of Section
711 41(c)(3)(B)(i)(I) or (II); and

712 (B) may not revoke an election to be treated as a start-up company under Subsection
713 ~~[(4)]~~ (3)(a)(iii)(A);

714 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
715 that the term includes only basic research conducted in this state;

716 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
717 that the term includes only qualified research conducted in this state;

718 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
719 Revenue Code, except that the term includes only ~~[those expenses incurred in conducting~~
720 ~~qualified research in this state;]~~;

721 (i) in-house research expenses incurred in this state; and

722 (ii) contract research expenses incurred in this state; and

723 (e) ~~[notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax~~
724 ~~credits]~~ a tax credit provided for in this section ~~[shall]~~ is not ~~[terminate]~~ terminated if ~~[the~~
725 ~~credits terminate]~~ a credit terminates under Section 41, Internal Revenue Code~~[-and]~~.

726 ~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~
727 ~~governing the carry forward and carry back of federal tax credits, if]~~

728 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under ~~[this~~
729 ~~section]~~ Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under
730 this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

731 ~~[(i)]~~ (a) may be carried forward for a period that does not exceed the next 14 taxable
732 years; and

733 ~~[(ii)]~~ (b) may not be carried back to a taxable year preceding the current taxable year.

734 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
735 commission may make rules for purposes of this section prescribing a certification process for
736 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
737 research conducted in this state.

738 (6) If a ~~[federal credit under]~~ provision of Section 41, Internal Revenue Code, is

739 modified or repealed, the commission shall report the modification or repeal to the Utah Tax
740 Review Commission within 60 days after the day on which the modification or repeal becomes
741 effective.

742 (7) (a) The Utah Tax Review Commission shall review the tax credits provided for in
743 this section on or before October 1 of the year after the year in which the commission reports
744 under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue
745 Code.

746 (b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not
747 required to review the tax credits provided for in this section if the only modification to a
748 provision of Section 41, Internal Revenue Code, is the extension of the termination date
749 provided for in Section 41(h), Internal Revenue Code.

750 (c) The Utah Tax Review Commission shall address in a review under this section:

751 (i) the cost of the tax credits provided for in this section;

752 (ii) the purpose and effectiveness of the tax credits provided for in this section;

753 (iii) whether the tax credits provided for in this section benefit the state; and

754 (iv) whether the tax credits provided for in this section should be:

755 (A) continued;

756 (B) modified; or

757 (C) repealed.

758 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
759 section, the Utah Tax Review Commission shall report its findings to the Revenue and
760 Taxation Interim Committee on or before the November interim meeting of the year in which
761 the Utah Tax Review Commission reviews the tax credits.

762 Section 8. Section **59-10-1014** is amended to read:

763 **59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations --**
764 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
765 **authority.**

766 (1) As used in this part:

767 (a) "Active solar system":

768 (i) means a system of equipment capable of collecting and converting incident solar
769 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy

770 by a separate apparatus to storage or to the point of use; and

771 (ii) includes water heating, space heating or cooling, and electrical or mechanical
772 energy generation.

773 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
774 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
775 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
776 in converting material into biomass energy, as defined in Section 59-12-102, and transporting
777 that energy by separate apparatus to the point of use or storage.

778 (c) "Business entity" means any entity under which business is conducted or transacted.

779 [~~(d) "Commercial energy system" means any active solar, passive solar, wind,~~
780 ~~hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial~~
781 ~~enterprise.]~~

782 [~~(e) "Commercial enterprise" means a business entity whose purpose is to produce~~
783 ~~electrical, mechanical, or thermal energy for sale from a commercial energy system.]~~

784 [~~(f) (i) "Commercial unit" means any building or structure which that a business entity~~
785 ~~uses to transact its business, except as provided in Subsection (1)(f)(ii); and]~~

786 [~~(ii) (A) in the case of an active solar system used for agricultural water pumping or a~~
787 ~~wind system, each individual energy generating device shall be a commercial unit; and]~~

788 [~~(B) if an energy system is the building or structure which a business entity uses to~~
789 ~~transact its business, a commercial unit is the complete energy system itself.]~~

790 (d) "Direct-use geothermal system" means a system of apparatus and equipment
791 enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit,
792 that is contained in the earth to meet energy needs, including heating a building, an industrial
793 process, and aquaculture.

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

796 (f) "Geothermal heat-pump system" means a system of apparatus and equipment
797 enabling the use of thermal properties contained in the earth at temperatures well below 100
798 degrees Fahrenheit to help meet heating and cooling needs of a structure.

799 (g) "Hydroenergy system" means a system of apparatus and equipment capable of
800 intercepting and converting kinetic water energy into electrical or mechanical energy and

801 transferring this form of energy by separate apparatus to the point of use or storage.

802 (h) "Passive solar system":

803 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its
804 operable components to provide for collection, storage, and distribution of heating or cooling
805 during the appropriate times of the year by utilizing the climate resources available at the site;
806 and

807 (ii) includes those portions and components of a building that are expressly designed
808 and required for the collection, storage, and distribution of solar energy.

809 (i) "Residential energy system" means any active solar, passive solar, biomass,
810 direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to
811 supply energy to or for any residential unit.

812 (j) "Residential unit" means any house, condominium, apartment, or similar dwelling
813 unit [~~which~~] that serves as a dwelling for a person, group of persons, or a family but does not
814 include property subject to a fee under:

815 (i) Section 59-2-404;

816 (ii) Section 59-2-405;

817 (iii) Section 59-2-405.1;

818 (iv) Section 59-2-405.2; or

819 (v) Section 59-2-405.3.

820 (k) "Utah Geological Survey" means the Utah Geological Survey established in Section
821 63-73-5.

822 (l) "Wind system" means a system of apparatus and equipment capable of intercepting
823 and converting wind energy into mechanical or electrical energy and transferring these forms of
824 energy by a separate apparatus to the point of use or storage.

825 (2) For taxable years beginning on or after January 1, [~~2001~~] 2008, [~~but beginning on~~
826 ~~or before December 31, 2006;~~] a claimant, estate, or trust may claim a nonrefundable tax credit
827 as provided in this section if:

828 (a) a claimant, estate, or trust that is not a business entity purchases and completes or
829 participates in the financing of a residential energy system to supply all or part of the energy for
830 the claimant's, estate's, or trust's residential unit in the state; or

831 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to

832 another claimant, estate, or trust that is not a business entity [~~prior to~~] before making a claim
833 for a tax credit under Subsection (6) or Section 59-7-614; and

834 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit
835 to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or
836 Subsection 59-7-614(2)(a)(iii).

837 (3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable
838 costs of [~~the~~] each residential energy system, including installation costs, against any income
839 tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the
840 residential energy system is completed and placed in service.

841 (b) The total amount of [~~the~~] each tax credit under this section may not exceed \$2,000
842 per residential unit.

843 (c) The tax credit under this section is allowed for any residential energy system
844 completed and placed in service on or after January 1, [~~2001~~] 2008[~~, but on or before~~
845 ~~December 31, 2006~~].

846 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
847 taxable year in which the residential energy system is completed and placed in service.

848 (b) Additional residential energy systems or parts of residential energy systems may be
849 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
850 does not exceed \$2,000 per residential unit.

851 (c) If the amount of the tax credit under this section exceeds the income tax liability of
852 the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then
853 the amount not used may be carried over for a period [~~which~~] that does not exceed the next
854 four taxable years.

855 (5) (a) A claimant, estate, or trust that is not a business entity that leases a residential
856 energy system installed on a residential unit is eligible for the residential energy tax [~~credits~~]
857 credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the
858 tax credit.

859 (b) Only the principal recovery portion of the lease payments, which is the cost
860 incurred by the claimant, estate, or trust in acquiring the residential energy system excluding
861 interest charges and maintenance expenses, is eligible for the tax credits.

862 (c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits

863 for a period that does not exceed seven years from the initiation of the lease.

864 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes
865 or participates in the financing of a residential energy system to supply all or part of the energy
866 required for a residential unit owned or used by the claimant, estate, or trust that is a business
867 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
868 Subsection (6).

869 (b) (i) For taxable years beginning on or after January 1, ~~[2001]~~ 2008, ~~[but beginning~~
870 ~~on or before December 31, 2006,]~~ a claimant, estate, or trust that is a business entity is entitled
871 to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy
872 system installed with respect to each residential unit it owns or uses, including installation
873 costs, against any tax due under this chapter for the taxable year in which the energy system is
874 completed and placed in service.

875 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000
876 per residential unit.

877 (iii) The tax credit under this Subsection (6) is allowed for any residential energy
878 system completed and placed in service on or after January 1, ~~[2001]~~ 2008, ~~[but on or before~~
879 ~~December 31, 2006].~~

880 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to a
881 claimant, estate, or trust that is not a business entity ~~[prior to]~~ before making a claim for the tax
882 credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

883 (i) assign its right to this tax credit to the claimant, estate, or trust that is not a business
884 entity; and

885 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax
886 credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the
887 claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant,
888 estate, or trust that is not a business entity had completed or participated in the costs of the
889 residential energy system under this section.

890 ~~[(7) (a) A claimant, estate, or trust that is a business entity that purchases or~~
891 ~~participates in the financing of a commercial energy system is entitled to a nonrefundable tax~~
892 ~~credit as provided in this Subsection (7) if:]~~

893 ~~[(i) the commercial energy system supplies all or part of the energy required by~~

894 ~~commercial units owned or used by the claimant, estate, or trust that is a business entity; or]~~
895 ~~[(ii) the claimant, estate, or trust that is a business entity sells all or part of the energy~~
896 ~~produced by the commercial energy system as a commercial enterprise.]~~

897 ~~[(b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit~~
898 ~~equal to 10% of the costs of any commercial energy system installed, including installation~~
899 ~~costs, against any tax due under this chapter for the taxable year in which the commercial~~
900 ~~energy system is completed and placed in service.]~~

901 ~~[(ii) The total amount of the tax credit under this Subsection (7) may not exceed~~
902 ~~\$50,000 per commercial unit.]~~

903 ~~[(iii) The tax credit under this Subsection (7) is allowed for any commercial energy~~
904 ~~system completed and placed in service on or after January 1, 2001, but on or before~~
905 ~~December 31, 2006.]~~

906 ~~[(c) A claimant, estate, or trust that is a business entity that leases a commercial energy~~
907 ~~system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if~~
908 ~~the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax~~
909 ~~credit.]~~

910 ~~[(d) Only the principal recovery portion of the lease payments, which is the cost~~
911 ~~incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial~~
912 ~~energy system, excluding interest charges and maintenance expenses, is eligible for the tax~~
913 ~~credit under this Subsection (7).]~~

914 ~~[(e) A claimant, estate, or trust that is a business entity that leases a commercial energy~~
915 ~~system is eligible to use the tax credit under this Subsection (7) for a period that does not~~
916 ~~exceed seven years from the initiation of the lease.]~~

917 ~~[(8)] (7) (a) A tax credit under this section may be claimed for the taxable year in~~
918 ~~which the residential energy system is completed and placed in service.~~

919 ~~(b) Additional residential energy systems or parts of residential energy systems may be~~
920 ~~claimed for subsequent years.~~

921 ~~(c) If the amount of a tax credit under this section exceeds the tax liability of the~~
922 ~~claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount~~
923 ~~of the tax credit exceeding the tax liability may be carried over for a period which does not~~
924 ~~exceed the next four taxable years.~~

925 ~~[(9)]~~ (8) The tax credits provided for under this section are in addition to any tax
926 credits provided under the laws or rules and regulations of the United States.

927 ~~[(10)]~~ (9) (a) The Utah Geological Survey may set standards for residential ~~[and~~
928 ~~commercial]~~ energy systems that cover the safety, reliability, efficiency, leasing, and technical
929 feasibility of the systems to ensure that the systems eligible for the tax credit use the state's
930 renewable and nonrenewable energy resources in an appropriate and economic manner.

931 (b) The Utah Geological Survey may set standards for residential and commercial
932 energy systems that establish the reasonable costs of an energy system, as used in Subsections
933 (3)(a) and (6)(b)(i), as an amount per unit of energy production.

934 ~~[(b)]~~ (c) A tax credit may not be taken under this section until the Utah Geological
935 Survey has certified that the energy system has been completely installed and is a viable system
936 for saving or production of energy from renewable resources.

937 ~~[(H)]~~ (10) The Utah Geological Survey and the commission ~~[are authorized to~~
938 ~~promulgate]~~ may make rules in accordance with Title 63, Chapter 46a, Utah Administrative
939 Rulemaking Act, ~~[which]~~ that are necessary to implement this section.

940 ~~[(12) The Uniform School Fund shall be reimbursed by transfers from the General~~
941 ~~Fund for any tax credits taken under this section.]~~

942 (11) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
943 Review Commission shall review the tax credit provided by this section and make
944 recommendations to the Revenue and Taxation Interim Committee concerning whether the
945 credit should be continued, modified, or repealed.

946 (b) The Utah Tax Review Commission's report under Subsection (11)(a) shall include
947 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
948 the state's benefit from the credit.

949 Section 9. Section **59-10-1106** is enacted to read:

950 **59-10-1106. Renewable energy tax credit.**

951 (1) As used in this section:

952 (a) "Active solar system" is as defined in Section 59-10-1014.

953 (b) "Biomass system" is as defined in Section 59-10-1014.

954 (c) "Business entity" is as defined in Section 59-10-1014.

955 (d) "Commercial energy system" means any active solar, passive solar, geothermal

956 electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or
957 biomass system used to supply energy to a commercial unit or as a commercial enterprise.

958 (e) "Commercial enterprise" means a business entity whose purpose is to produce
959 electrical, mechanical, or thermal energy for sale from a commercial energy system.

960 (f) (i) "Commercial unit" means any building or structure that a business entity uses to
961 transact its business.

962 (ii) Notwithstanding Subsection (1)(f)(i):

963 (A) in the case of an active solar system used for agricultural water pumping or a wind
964 system, each individual energy generating device shall be a commercial unit; and

965 (B) if an energy system is the building or structure that a business entity uses to
966 transact its business, a commercial unit is the complete energy system itself.

967 (g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

968 (h) "Geothermal electricity" is as defined in Section 59-10-1014.

969 (i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

970 (j) "Hydroenergy system" is as defined in Section 59-10-1014.

971 (k) "Individual taxpayer" means any person who is a taxpayer as defined in Section
972 59-10-103 and an individual as defined in Section 59-10-103.

973 (l) "Passive solar system" is as defined in Section 59-10-1014.

974 (m) "Utah Geological Survey" means the Utah Geological Survey established in
975 Section 63-73-5.

976 (n) "Wind system" is as defined in Section 59-10-1014.

977 (2) (a) (i) For taxable years beginning on or after January 1, 2008, a business entity that
978 purchases or participates in the financing of a commercial energy system situated in Utah is
979 entitled to a refundable tax credit as provided in this Subsection (2)(a) if the commercial energy
980 system does not use wind, geothermal electricity, or biomass equipment capable of producing a
981 total of 660 or more kilowatts of electricity and:

982 (A) the commercial energy system supplies all or part of the energy required by
983 commercial units owned or used by the business entity; or

984 (B) the business entity sells all or part of the energy produced by the commercial
985 energy system as a commercial enterprise.

986 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs

987 of any commercial energy system installed, including installation costs, against any tax due
988 under this chapter for the taxable year in which the commercial energy system is completed and
989 placed in service.

990 (B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this
991 Subsection (2)(a) may not exceed \$50,000 per commercial unit.

992 (C) The credit under this Subsection (2)(a) is allowed for any commercial energy
993 system completed and placed in service on or after January 1, 2008.

994 (iii) A business entity that leases a commercial energy system installed on a
995 commercial unit is eligible for the tax credit under this Subsection (2)(a) if the lessee can
996 confirm that the lessor irrevocably elects not to claim the credit.

997 (iv) Only the principal recovery portion of the lease payments, which is the cost
998 incurred by a business entity in acquiring a commercial energy system, excluding interest
999 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(a).

1000 (v) A business entity that leases a commercial energy system is eligible to use the tax
1001 credit under this Subsection (2)(a) for a period no greater than seven years from the initiation of
1002 the lease.

1003 (b) (i) For taxable years beginning on or after January 1, 2008, a business entity that
1004 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
1005 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
1006 entitled to a refundable tax credit as provided in this section if:

1007 (A) the commercial energy system supplies all or part of the energy required by
1008 commercial units owned or used by the business entity; or

1009 (B) the business entity sells all or part of the energy produced by the commercial
1010 energy system as a commercial enterprise.

1011 (ii) A business entity is entitled to a tax credit under this Subsection (2)(b) equal to the
1012 product of:

1013 (A) 0.35 cents; and

1014 (B) the kilowatt hours of electricity produced and either used or sold during the taxable
1015 year.

1016 (iii) The credit allowed by this Subsection (2)(b):

1017 (A) may be claimed for production occurring during a period of 48 months beginning

1018 with the month in which the commercial energy system is placed in service; and

1019 (B) may not be carried forward or back.

1020 (iv) A business entity that leases a commercial energy system installed on a
1021 commercial unit is eligible for the tax credit under this section if the lessee can confirm that the
1022 lessor irrevocably elects not to claim the credit.

1023 (3) The tax credits provided for under this section are in addition to any tax credits
1024 provided under the laws or rules and regulations of the United States.

1025 (4) (a) The Utah Geological Survey may set standards for commercial energy systems
1026 claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency,
1027 leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax
1028 credit use the state's renewable and nonrenewable energy resources in an appropriate and
1029 economic manner.

1030 (b) A tax credit may not be taken under this section until the Utah Geological Survey
1031 has certified that the commercial energy system has been completely installed and is a viable
1032 system for saving or production of energy from renewable resources.

1033 (5) The Utah Geological Survey and the commission may make rules in accordance
1034 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
1035 implement this section.

1036 (6) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
1037 Review Commission shall review the tax credit provided by this section and make
1038 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1039 credit should be continued, modified, or repealed.

1040 (b) The Utah Tax Review Commission's report under Subsection (6)(a) shall include
1041 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
1042 the state's benefit from the credit.

1043 Section 10. Section **59-10-1202** is amended to read:

1044 **59-10-1202. Definitions.**

1045 As used in this part:

1046 (1) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

1047 (2) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

1048 (3) "State income tax percentage for a nonresident individual" means a percentage

1049 equal to a nonresident individual's adjusted gross income for the taxable year received from
 1050 Utah sources, as determined under Section 59-10-117, divided by the difference between:

- 1051 (a) the nonresident individual's total adjusted gross income for that taxable year; and
 1052 (b) if the nonresident individual described in Subsection (3)(a) is a servicemember, the
 1053 compensation the servicemember receives for military service if the servicemember is serving
 1054 in compliance with military orders.

1055 (4) "State income tax percentage for a part-year resident individual" means, for a
 1056 taxable year, a fraction:

1057 (a) the numerator of which is the sum of:

1058 (i) for the time period during the taxable year that the part-year resident individual is a
 1059 resident, the part-year resident individual's total adjusted gross income for that time period; and

1060 (ii) for the time period during the taxable year that the part-year resident individual is a
 1061 nonresident, the part-year resident individual's adjusted gross income for that time period
 1062 received from Utah sources, as determined under Section 59-10-117; and

1063 (b) the denominator of which is the difference between:

1064 (i) the part-year resident individual's total adjusted gross income for that taxable year;

1065 and

1066 (ii) if the part-year resident individual is a servicemember, any compensation the
 1067 servicemember receives for military service during the portion of the taxable year that the
 1068 servicemember is a nonresident if the servicemember is serving in compliance with military
 1069 orders.

1070 [~~4~~] (5) "State taxable income" means a resident or nonresident individual's adjusted
 1071 gross income after making the:

1072 (a) additions and subtractions required by Section 59-10-1204; and

1073 (b) adjustments required by Section 59-10-1205.

1074 [~~5~~] (6) "Unapportioned state tax" means the product of the:

1075 (a) difference between:

1076 (i) a nonresident individual's state taxable income; and

1077 (ii) if the nonresident individual described in Subsection [~~5~~] (6)(a)(i) is a
 1078 servicemember, compensation the servicemember receives for military service if the
 1079 servicemember is serving in compliance with military orders; and

1080 (b) percentage listed in Subsection 59-10-1203(2)(a)(i)(B).

1081 Section 11. Section **59-10-1203** is amended to read:

1082 **59-10-1203. Single rate tax for resident or nonresident individual -- Tax rate --**

1083 **Contributions -- Exemption -- Amended returns.**

1084 (1) [~~For taxable years beginning on or after January 1, 2007, a~~] A resident or
1085 nonresident individual may calculate and pay a tax under this section as provided in this part.

1086 (2) (a) A resident individual that calculates and pays a tax under this section:

1087 (i) shall pay for a taxable year an amount equal to the product of:

1088 (A) the resident individual's state taxable income for that taxable year; and

1089 (B) [~~5.35%~~] 5%; and

1090 (ii) is exempt from paying the tax imposed by Section 59-10-104.

1091 (b) A nonresident individual that calculates and pays a tax under this section:

1092 (i) shall pay for a taxable year an amount equal to the product of the nonresident
1093 individual's:

1094 (A) unapportioned state tax; and

1095 (B) state income tax percentage for the nonresident individual; and

1096 (ii) is exempt from paying the tax imposed by Section 59-10-116.

1097 (3) Except as required by Section 59-10-1204 or 59-10-1205, a resident or nonresident
1098 individual that calculates and pays a tax under this section may not make any addition or
1099 adjustment to or subtraction from adjusted gross income.

1100 (4) A resident or nonresident individual that calculates and pays a tax under this
1101 section may designate on the resident or nonresident individual's individual income tax return
1102 for a taxable year a contribution allowed by:

1103 (a) Section 59-10-530;

1104 (b) Section 59-10-530.5;

1105 (c) Section 59-10-547;

1106 (d) Section 59-10-549;

1107 (e) Section 59-10-550;

1108 (f) Section 59-10-550.1; or

1109 (g) Section 59-10-550.2.

1110 (5) This section does not apply to a resident or nonresident individual exempt from

1111 taxation under Section 59-10-104.1.

1112 (6) (a) A resident or nonresident individual may determine for each taxable year for
1113 which the resident or nonresident individual files an individual income tax return under this
1114 chapter whether to calculate and pay a tax under this section as provided in this part.

1115 (b) If a resident or nonresident individual files an amended return for a taxable year
1116 beginning on or after January 1, 2007, the resident or nonresident individual may determine
1117 whether to calculate and pay a tax under this section as provided in this part for that taxable
1118 year.

1119 Section 12. Section **59-10-1206.1** is enacted to read:

1120 **59-10-1206.1. Definitions -- Nonrefundable taxpayer tax credits.**

1121 (1) As used in this section:

1122 (a) "Claimant" means a resident or nonresident individual that has state taxable income
1123 under this part.

1124 (b) "Head of household filing status" means a head of household, as defined in Section
1125 2(b), Internal Revenue Code, who files a single return.

1126 (c) "Joint filing status" means:

1127 (i) a husband and wife who file a single return jointly; or

1128 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
1129 single return.

1130 (d) "Single filing status" means:

1131 (i) a single individual who files a single return; or

1132 (ii) a married individual who:

1133 (A) does not file a single return jointly with that individual's spouse; and

1134 (B) files a single return.

1135 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) through
1136 (5), for taxable years beginning on or after January 1, 2008, a claimant may claim a
1137 nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

1138 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1139 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1140 allowed as the standard deduction on the claimant's federal individual income tax return for
1141 that taxable year; or

1142 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1143 tax return for the taxable year, the product of:

1144 (A) the difference between:

1145 (I) the amount the claimant deducts as allowed as an itemized deduction on the
1146 claimant's federal individual income tax return for that taxable year; and

1147 (II) any amount of state or local income taxes the claimant deducts as allowed as an
1148 itemized deduction on the claimant's federal individual income tax return for that taxable year;
1149 and

1150 (B) 6%; and

1151 (b) 6% of the total amount the claimant would have been allowed to claim as a
1152 personal exemption deduction on the claimant's state individual income tax return had the
1153 claimant filed an individual income tax return under Part 1, Determination and Reporting of
1154 Tax Liability and Information, for the taxable year.

1155 (3) A claimant may not carry forward or carry back a tax credit under this section.

1156 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.014 for each dollar
1157 by which a claimant's state taxable income exceeds:

1158 (a) for a claimant who has a single filing status, \$14,000;

1159 (b) for a claimant who has a head of household filing status, \$21,000; or

1160 (c) for a claimant who has a joint filing status, \$28,000.

1161 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall
1162 increase or decrease the following dollar amounts by a percentage equal to the percentage
1163 difference between the consumer price index for the preceding calendar year and the consumer
1164 price index for calendar year 2007:

1165 (i) the dollar amount listed in Subsection (4)(a); and

1166 (ii) the dollar amount listed in Subsection (4)(b).

1167 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1168 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1169 nearest whole dollar.

1170 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1171 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1172 the dollar amount listed in Subsection (4)(c) is equal to the product of:

- 1173 (i) the dollar amount listed in Subsection (4)(a); and
1174 (ii) two.
1175 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1176 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
1177 Section 13. Section **59-10-1206.2** is enacted to read:
1178 **59-10-1206.2. Definitions -- Nonrefundable retirement credit.**
1179 (1) As used in this section:
1180 (a) "Eligible retiree" means a resident or nonresident individual, regardless of whether
1181 that individual is retired, who:
1182 (i) is 65 years of age or older;
1183 (ii) was born on or before December 31, 1952; and
1184 (iii) has state taxable income under this part.
1185 (b) "Head of household filing status" is as defined in Section 59-10-1206.1.
1186 (c) "Joint filing status" is as defined in Section 59-10-1206.1.
1187 (d) "Married filing separately status" means a married individual who:
1188 (i) does not file a single return jointly with that individual's spouse; and
1189 (ii) files a single return.
1190 (e) "Modified adjusted gross income" means the sum of an eligible retiree's:
1191 (i) adjusted gross income for the taxable year for which the eligible retiree claims a tax
1192 credit under this section; and
1193 (ii) any interest income that is not included in adjusted gross income for the taxable
1194 year described in Subsection (1)(e)(i).
1195 (f) "Single filing status" means a single individual who files a single return.
1196 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) and (4),
1197 for taxable years beginning on or after January 1, 2008, each eligible retiree may claim a
1198 nonrefundable tax credit of \$600 against taxes otherwise due under this part.
1199 (3) An eligible retiree may not carry forward or carry back a tax credit under this
1200 section.
1201 (4) The sum of the tax credits allowed by Subsection (2) claimed on one return filed
1202 under this part shall be reduced by \$.04 for each dollar by which an eligible retiree's modified
1203 adjusted gross income exceeds:

- 1204 (a) for an eligible retiree who has a married filing separately status, \$16,000;
- 1205 (b) for an eligible retiree who has a single filing status, \$25,000; or
- 1206 (c) for an eligible retiree who has a head of household filing status or a joint filing
- 1207 status, \$32,000.

1208 Section 14. Section **59-10-1206.9** is enacted to read:

1209 **59-10-1206.9. Apportionment of tax credits.**

1210 A nonresident individual or a part-year resident individual that claims a tax credit in
1211 accordance with Section 59-10-1206.1 or 59-10-1206.2 may only claim an apportioned amount
1212 of the tax credit equal to:

1213 (1) for a nonresident individual, the product of:

- 1214 (a) the state income tax percentage for the nonresident individual; and
- 1215 (b) the amount of the tax credit that the nonresident individual would have been
- 1216 allowed to claim but for the apportionment requirements of this section; or

1217 (2) for a part-year resident individual, the product of:

- 1218 (a) the state income tax percentage for the part-year resident individual; and
- 1219 (b) the amount of the tax credit that the part-year resident individual would have been
- 1220 allowed to claim but for the apportionment requirements of this section.

1221 Section 15. Section **59-12-102** is amended to read:

1222 **59-12-102. Definitions.**

1223 As used in this chapter:

- 1224 (1) (a) "Admission or user fees" includes season passes.
- 1225 (b) "Admission or user fees" does not include annual membership dues to private
- 1226 organizations.
- 1227 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
- 1228 Section 59-12-102.1.
- 1229 (3) "Agreement combined tax rate" means the sum of the tax rates:
- 1230 (a) listed under Subsection (4); and
- 1231 (b) that are imposed within a local taxing jurisdiction.
- 1232 (4) "Agreement sales and use tax" means a tax imposed under:
- 1233 (a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);
- 1234 (b) Section 59-12-204;

- 1235 (c) Section 59-12-401;
- 1236 (d) Section 59-12-402;
- 1237 (e) Section 59-12-501;
- 1238 (f) Section 59-12-502;
- 1239 (g) Section 59-12-703;
- 1240 (h) Section 59-12-802;
- 1241 (i) Section 59-12-804;
- 1242 (j) Section 59-12-1001;
- 1243 (k) Section 59-12-1102;
- 1244 (l) Section 59-12-1302;
- 1245 (m) Section 59-12-1402; [~~or~~]
- 1246 (n) Section 59-12-1503[~~;~~]; or
- 1247 (o) Section 59-12-1703.
- 1248 (5) "Aircraft" is as defined in Section 72-10-102.
- 1249 (6) "Alcoholic beverage" means a beverage that:
 - 1250 (a) is suitable for human consumption; and
 - 1251 (b) contains .5% or more alcohol by volume.
- 1252 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 1253 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 1254 device that is started and stopped by an individual:
 - 1255 (a) who is not the purchaser or renter of the right to use or operate the amusement
 - 1256 device, skill device, or ride device; and
 - 1257 (b) at the direction of the seller of the right to use the amusement device, skill device,
 - 1258 or ride device.
- 1259 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 1260 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 1261 by an individual:
 - 1262 (a) who is not the purchaser of the cleaning or washing of the tangible personal
 - 1263 property; and
 - 1264 (b) at the direction of the seller of the cleaning or washing of the tangible personal
 - 1265 property.

1266 (10) "Authorized carrier" means:
1267 (a) in the case of vehicles operated over public highways, the holder of credentials
1268 indicating that the vehicle is or will be operated pursuant to both the International Registration
1269 Plan and the International Fuel Tax Agreement;

1270 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1271 certificate or air carrier's operating certificate; or

1272 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1273 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1274 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
1275 following that is used as the primary source of energy to produce fuel or electricity:

1276 (i) material from a plant or tree; or

1277 (ii) other organic matter that is available on a renewable basis, including:

1278 (A) slash and brush from forests and woodlands;

1279 (B) animal waste;

1280 (C) methane produced:

1281 (I) at landfills; or

1282 (II) as a byproduct of the treatment of wastewater residuals;

1283 (D) aquatic plants; and

1284 (E) agricultural products.

1285 (b) "Biomass energy" does not include:

1286 (i) black liquor;

1287 (ii) treated woods; or

1288 (iii) biomass from municipal solid waste other than methane produced:

1289 (A) at landfills; or

1290 (B) as a byproduct of the treatment of wastewater residuals.

1291 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
1292 property if:

1293 (i) one or more of the items of tangible personal property is food and food ingredients;

1294 and

1295 (ii) the items of tangible personal property are:

1296 (A) distinct and identifiable; and

1297 (B) sold for one price that is not itemized.

1298 (b) "Bundled transaction" does not include the sale of tangible personal property if the
1299 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
1300 tangible personal property included in the transaction.

1301 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
1302 and identifiable does not include:

1303 (i) packaging that:

1304 (A) accompanies the sale of the tangible personal property; and

1305 (B) is incidental or immaterial to the sale of the tangible personal property;

1306 (ii) tangible personal property provided free of charge with the purchase of another
1307 item of tangible personal property; or

1308 (iii) an item of tangible personal property included in the definition of "purchase
1309 price."

1310 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
1311 provided free of charge with the purchase of another item of tangible personal property if the
1312 sales price of the purchased item of tangible personal property does not vary depending on the
1313 inclusion of the tangible personal property provided free of charge.

1314 (13) "Certified automated system" means software certified by the governing board of
1315 the agreement in accordance with Section 59-12-102.1 that:

1316 (a) calculates the agreement sales and use tax imposed within a local taxing
1317 jurisdiction:

1318 (i) on a transaction; and

1319 (ii) in the states that are members of the agreement;

1320 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1321 member of the agreement; and

1322 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

1323 (14) "Certified service provider" means an agent certified:

1324 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
1325 and

1326 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1327 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's

1328 own purchases.

1329 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
1330 suitable for general use.

1331 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1332 commission shall make rules:

1333 (i) listing the items that constitute "clothing"; and

1334 (ii) that are consistent with the list of items that constitute "clothing" under the
1335 agreement.

1336 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1337 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1338 fuels that does not constitute industrial use under Subsection [~~39~~] (40) or residential use
1339 under Subsection [~~76~~] (77).

1340 (18) (a) "Common carrier" means a person engaged in or transacting the business of
1341 transporting passengers, freight, merchandise, or other property for hire within this state.

1342 (b) (i) "Common carrier" does not include a person who, at the time the person is
1343 traveling to or from that person's place of employment, transports a passenger to or from the
1344 passenger's place of employment.

1345 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
1346 Utah Administrative Rulemaking Act, the commission may make rules defining what
1347 constitutes a person's place of employment.

1348 (19) "Component part" includes:

1349 (a) poultry, dairy, and other livestock feed, and their components;

1350 (b) baling ties and twine used in the baling of hay and straw;

1351 (c) fuel used for providing temperature control of orchards and commercial
1352 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1353 off-highway type farm machinery; and

1354 (d) feed, seeds, and seedlings.

1355 (20) "Computer" means an electronic device that accepts information:

1356 (a) (i) in digital form; or

1357 (ii) in a form similar to digital form; and

1358 (b) manipulates that information for a result based on a sequence of instructions.

- 1359 (21) "Computer software" means a set of coded instructions designed to cause:
1360 (a) a computer to perform a task; or
1361 (b) automatic data processing equipment to perform a task.
- 1362 (22) "Construction materials" means any tangible personal property that will be
1363 converted into real property.
- 1364 (23) "Delivered electronically" means delivered to a purchaser by means other than
1365 tangible storage media.
- 1366 (24) (a) "Delivery charge" means a charge:
1367 (i) by a seller of:
1368 (A) tangible personal property; or
1369 (B) services; and
1370 (ii) for preparation and delivery of the tangible personal property or services described
1371 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 1372 (b) "Delivery charge" includes a charge for the following:
1373 (i) transportation;
1374 (ii) shipping;
1375 (iii) postage;
1376 (iv) handling;
1377 (v) crating; or
1378 (vi) packing.
- 1379 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
1380 (i) a bridge;
1381 (ii) a crown if that crown covers at least 75% of a tooth structure;
1382 (iii) a denture;
1383 (iv) an implant;
1384 (v) an orthodontic device designed to:
1385 (A) retain the position or spacing of teeth; and
1386 (B) replace a missing tooth;
1387 (vi) a partial denture; or
1388 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 1389 (b) "Dental prosthesis" does not include an appliance or device, other than a device

1390 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
1391 apply force to the teeth and their supporting structures to:
1392 (i) produce changes in their relationship to each other; and
1393 (ii) control their growth and development.
1394 [~~25~~] (26) "Dietary supplement" means a product, other than tobacco, that:
1395 (a) is intended to supplement the diet;
1396 (b) contains one or more of the following dietary ingredients:
1397 (i) a vitamin;
1398 (ii) a mineral;
1399 (iii) an herb or other botanical;
1400 (iv) an amino acid;
1401 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1402 dietary intake; or
1403 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1404 described in Subsections [~~25~~] (26)(b)(i) through (v);
1405 (c) (i) except as provided in Subsection [~~25~~] (26)(c)(ii), is intended for ingestion in:
1406 (A) tablet form;
1407 (B) capsule form;
1408 (C) powder form;
1409 (D) softgel form;
1410 (E) gelcap form; or
1411 (F) liquid form; or
1412 (ii) notwithstanding Subsection [~~25~~] (26)(c)(i), if the product is not intended for
1413 ingestion in a form described in Subsections [~~25~~] (26)(c)(i)(A) through (F), is not
1414 represented:
1415 (A) as conventional food; and
1416 (B) for use as a sole item of:
1417 (I) a meal; or
1418 (II) the diet; and
1419 (d) is required to be labeled as a dietary supplement:
1420 (i) identifiable by the "Supplemental Facts" box found on the label; and

- 1421 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1422 [~~(26)~~] (27) (a) "Direct mail" means printed material delivered or distributed by United
- 1423 States mail or other delivery service:
- 1424 (i) to:
- 1425 (A) a mass audience; or
- 1426 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 1427 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1428 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1429 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1430 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1431 single address.
- 1432 [~~(27)~~] (28) (a) "Drug" means a compound, substance, or preparation, or a component of
- 1433 a compound, substance, or preparation that is:
- 1434 (i) recognized in:
- 1435 (A) the official United States Pharmacopoeia;
- 1436 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1437 (C) the official National Formulary; or
- 1438 (D) a supplement to a publication listed in Subsections [~~(27)~~] (28)(a)(i)(A) through
- 1439 (C);
- 1440 (ii) intended for use in the:
- 1441 (A) diagnosis of disease;
- 1442 (B) cure of disease;
- 1443 (C) mitigation of disease;
- 1444 (D) treatment of disease; or
- 1445 (E) prevention of disease; or
- 1446 (iii) intended to affect:
- 1447 (A) the structure of the body; or
- 1448 (B) any function of the body.
- 1449 (b) "Drug" does not include:
- 1450 (i) food and food ingredients;
- 1451 (ii) a dietary supplement;

- 1452 (iii) an alcoholic beverage; or
1453 (iv) a prosthetic device.
1454 [~~28~~] (29) (a) Except as provided in Subsection [~~28~~] (29)(c), "durable medical
1455 equipment" means equipment that:
1456 (i) can withstand repeated use;
1457 (ii) is primarily and customarily used to serve a medical purpose;
1458 (iii) generally is not useful to a person in the absence of illness or injury; and
1459 (iv) is not worn in or on the body.
1460 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1461 equipment described in Subsection [~~28~~] (29)(a).
1462 (c) Notwithstanding Subsection [~~28~~] (29)(a), "durable medical equipment" does not
1463 include mobility enhancing equipment.
1464 [~~29~~] (30) "Electronic" means:
1465 (a) relating to technology; and
1466 (b) having:
1467 (i) electrical capabilities;
1468 (ii) digital capabilities;
1469 (iii) magnetic capabilities;
1470 (iv) wireless capabilities;
1471 (v) optical capabilities;
1472 (vi) electromagnetic capabilities; or
1473 (vii) capabilities similar to Subsections [~~29~~] (30)(b)(i) through (vi).
1474 [~~30~~] (31) "Employee" is as defined in Section 59-10-401.
1475 [~~31~~] (32) "Fixed guideway" means a public transit facility that uses and occupies:
1476 (a) rail for the use of public transit; or
1477 (b) a separate right-of-way for the use of public transit.
1478 [~~32~~] (33) (a) "Food and food ingredients" means substances:
1479 (i) regardless of whether the substances are in:
1480 (A) liquid form;
1481 (B) concentrated form;
1482 (C) solid form;

- 1483 (D) frozen form;
- 1484 (E) dried form; or
- 1485 (F) dehydrated form; and
- 1486 (ii) that are:
- 1487 (A) sold for:
- 1488 (I) ingestion by humans; or
- 1489 (II) chewing by humans; and
- 1490 (B) consumed for the substance's:
- 1491 (I) taste; or
- 1492 (II) nutritional value.
- 1493 (b) "Food and food ingredients" includes an item described in Subsection [~~(63)~~]
- 1494 (64)(b)(iii).
- 1495 (c) "Food and food ingredients" does not include:
- 1496 (i) an alcoholic beverage;
- 1497 (ii) tobacco; or
- 1498 (iii) prepared food.
- 1499 [~~(33)~~] (34) (a) "Fundraising sales" means sales:
- 1500 (i) (A) made by a school; or
- 1501 (B) made by a school student;
- 1502 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1503 materials, or provide transportation; and
- 1504 (iii) that are part of an officially sanctioned school activity.
- 1505 (b) For purposes of Subsection [~~(33)~~] (34)(a)(iii), "officially sanctioned school activity"
- 1506 means a school activity:
- 1507 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1508 district governing the authorization and supervision of fundraising activities;
- 1509 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1510 educational personnel by direct payment, commissions, or payment in kind; and
- 1511 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1512 controlled by the school or school district.
- 1513 [~~(34)~~] (35) "Geothermal energy" means energy contained in heat that continuously

1514 flows outward from the earth that is used as the sole source of energy to produce electricity.

1515 [~~(35)~~] (36) "Governing board of the agreement" means the governing board of the

1516 agreement that is:

1517 (a) authorized to administer the agreement; and

1518 (b) established in accordance with the agreement.

1519 [~~(36)~~] (37) (a) "Hearing aid" means:

1520 (i) an instrument or device having an electronic component that is designed to:

1521 (A) (I) improve impaired human hearing; or

1522 (II) correct impaired human hearing; and

1523 (B) (I) be worn in the human ear; or

1524 (II) affixed behind the human ear;

1525 (ii) an instrument or device that is surgically implanted into the cochlea; or

1526 (iii) a telephone amplifying device.

1527 (b) "Hearing aid" does not include:

1528 (i) except as provided in Subsection [~~(36)~~] (37)(a)(i)(B) or [~~(36)~~] (37)(a)(ii), an

1529 instrument or device having an electronic component that is designed to be worn on the body;

1530 (ii) except as provided in Subsection [~~(36)~~] (37)(a)(iii), an assistive listening device or

1531 system designed to be used by one individual, including:

1532 (A) a personal amplifying system;

1533 (B) a personal FM system;

1534 (C) a television listening system; or

1535 (D) a device or system similar to a device or system described in Subsections [~~(36)~~]

1536 (37)(b)(ii)(A) through (C); or

1537 (iii) an assistive listening device or system designed to be used by more than one

1538 individual, including:

1539 (A) a device or system installed in:

1540 (I) an auditorium;

1541 (II) a church;

1542 (III) a conference room;

1543 (IV) a synagogue; or

1544 (V) a theater; or

1545 (B) a device or system similar to a device or system described in Subsections [(36)]
1546 (37)(b)(iii)(A)(I) through (V).

1547 [(37)] (38) (a) "Hearing aid accessory" means a hearing aid:

1548 (i) component;

1549 (ii) attachment; or

1550 (iii) accessory.

1551 (b) "Hearing aid accessory" includes:

1552 (i) a hearing aid neck loop;

1553 (ii) a hearing aid cord;

1554 (iii) a hearing aid ear mold;

1555 (iv) hearing aid tubing;

1556 (v) a hearing aid ear hook; or

1557 (vi) a hearing aid remote control.

1558 (c) "Hearing aid accessory" does not include:

1559 (i) a component, attachment, or accessory designed to be used only with an:

1560 (A) instrument or device described in Subsection [(36)] (37)(b)(i); or

1561 (B) assistive listening device or system described in Subsection [(36)] (37)(b)(ii) or
1562 (iii); or

1563 (ii) a hearing aid battery.

1564 [(38)] (39) "Hydroelectric energy" means water used as the sole source of energy to
1565 produce electricity.

1566 [(39)] (40) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
1567 or other fuels:

1568 (a) in mining or extraction of minerals;

1569 (b) in agricultural operations to produce an agricultural product up to the time of
1570 harvest or placing the agricultural product into a storage facility, including:

1571 (i) commercial greenhouses;

1572 (ii) irrigation pumps;

1573 (iii) farm machinery;

1574 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1575 registered under Title 41, Chapter 1a, Part 2, Registration; and

- 1576 (v) other farming activities;
- 1577 (c) in manufacturing tangible personal property at an establishment described in SIC
- 1578 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 1579 Executive Office of the President, Office of Management and Budget;
- 1580 (d) by a scrap recycler if:
- 1581 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1582 one or more of the following items into prepared grades of processed materials for use in new
- 1583 products:
- 1584 (A) iron;
- 1585 (B) steel;
- 1586 (C) nonferrous metal;
- 1587 (D) paper;
- 1588 (E) glass;
- 1589 (F) plastic;
- 1590 (G) textile; or
- 1591 (H) rubber; and
- 1592 (ii) the new products under Subsection [~~(39)~~ (40)(d)(i) would otherwise be made with
- 1593 nonrecycled materials; or
- 1594 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 1595 cogeneration facility as defined in Section 54-2-1.
- 1596 [~~(40)~~ (41) (a) Except as provided in Subsection [~~(40)~~ (41)(b), "installation charge"
- 1597 means a charge for installing tangible personal property.
- 1598 (b) Notwithstanding Subsection [~~(40)~~ (41)(a), "installation charge" does not include a
- 1599 charge for repairs or renovations of tangible personal property.
- 1600 [~~(41)~~ (42) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1601 personal property for:
- 1602 (i) (A) a fixed term; or
- 1603 (B) an indeterminate term; and
- 1604 (ii) consideration.
- 1605 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1606 amount of consideration may be increased or decreased by reference to the amount realized

1607 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1608 Code.

1609 (c) "Lease" or "rental" does not include:

1610 (i) a transfer of possession or control of property under a security agreement or
1611 deferred payment plan that requires the transfer of title upon completion of the required
1612 payments;

1613 (ii) a transfer of possession or control of property under an agreement that requires the
1614 transfer of title:

1615 (A) upon completion of required payments; and

1616 (B) if the payment of an option price does not exceed the greater of:

1617 (I) \$100; or

1618 (II) 1% of the total required payments; or

1619 (iii) providing tangible personal property along with an operator for a fixed period of
1620 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1621 designed.

1622 (d) For purposes of Subsection [~~(41)~~] (42)(c)(iii), an operator is necessary for
1623 equipment to perform as designed if the operator's duties exceed the:

1624 (i) set-up of tangible personal property;

1625 (ii) maintenance of tangible personal property; or

1626 (iii) inspection of tangible personal property.

1627 [~~(42)~~] (43) "Load and leave" means delivery to a purchaser by use of a tangible storage
1628 media if the tangible storage media is not physically transferred to the purchaser.

1629 [~~(43)~~] (44) "Local taxing jurisdiction" means a:

1630 (a) county that is authorized to impose an agreement sales and use tax;

1631 (b) city that is authorized to impose an agreement sales and use tax; or

1632 (c) town that is authorized to impose an agreement sales and use tax.

1633 [~~(44)~~] (45) "Manufactured home" is as defined in Section 58-56-3.

1634 [~~(45)~~] (46) For purposes of Section 59-12-104, "manufacturing facility" means:

1635 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

1636 Industrial Classification Manual of the federal Executive Office of the President, Office of

1637 Management and Budget;

- 1638 (b) a scrap recycler if:
- 1639 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1640 one or more of the following items into prepared grades of processed materials for use in new
- 1641 products:
- 1642 (A) iron;
 - 1643 (B) steel;
 - 1644 (C) nonferrous metal;
 - 1645 (D) paper;
 - 1646 (E) glass;
 - 1647 (F) plastic;
 - 1648 (G) textile; or
 - 1649 (H) rubber; and
- 1650 (ii) the new products under Subsection [~~45~~] 46(b)(i) would otherwise be made with
- 1651 nonrecycled materials; or
- 1652 (c) a cogeneration facility as defined in Section 54-2-1.
- 1653 [~~46~~] 47 "Member of the immediate family of the producer" means a person who is
- 1654 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 1655 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 1656 (i) an adopted child or adopted stepchild; or
 - 1657 (ii) a foster child or foster stepchild;
 - 1658 (b) grandchild or stepgrandchild;
 - 1659 (c) grandparent or stepgrandparent;
 - 1660 (d) nephew or stepnephew;
 - 1661 (e) niece or stepniece;
 - 1662 (f) parent or stepparent;
 - 1663 (g) sibling or stepsibling;
 - 1664 (h) spouse;
 - 1665 (i) person who is the spouse of a person described in Subsections [~~46~~] 47(a) through
 - 1666 (g); or
 - 1667 (j) person similar to a person described in Subsections [~~46~~] 47(a) through (i) as
 - 1668 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

1669 Administrative Rulemaking Act.

1670 [~~(47)~~] (48) "Mobile home" is as defined in Section 58-56-3.

1671 [~~(48)~~] (49) "Mobile telecommunications service" is as defined in the Mobile

1672 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1673 [~~(49)~~] (50) (a) Except as provided in Subsection [~~(49)~~] (50)(c), "mobility enhancing
1674 equipment" means equipment that is:

1675 (i) primarily and customarily used to provide or increase the ability to move from one
1676 place to another;

1677 (ii) appropriate for use in a:

1678 (A) home; or

1679 (B) motor vehicle; and

1680 (iii) not generally used by persons with normal mobility.

1681 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1682 the equipment described in Subsection [~~(49)~~] (50)(a).

1683 (c) Notwithstanding Subsection [~~(49)~~] (50)(a), "mobility enhancing equipment" does
1684 not include:

1685 (i) a motor vehicle;

1686 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1687 vehicle manufacturer;

1688 (iii) durable medical equipment; or

1689 (iv) a prosthetic device.

1690 [~~(50)~~] (51) "Model 1 seller" means a seller that has selected a certified service provider
1691 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
1692 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1693 seller's own purchases.

1694 [~~(51)~~] (52) "Model 2 seller" means a seller that:

1695 (a) except as provided in Subsection [~~(51)~~] (52)(b), has selected a certified automated
1696 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1697 (b) notwithstanding Subsection [~~(51)~~] (52)(a), retains responsibility for remitting all of
1698 the sales tax:

1699 (i) collected by the seller; and

1700 (ii) to the appropriate local taxing jurisdiction.

1701 [~~52~~] 53 (a) Subject to Subsection [~~52~~] 53(b), "model 3 seller" means a seller that

1702 has:

1703 (i) sales in at least five states that are members of the agreement;

1704 (ii) total annual sales revenues of at least \$500,000,000;

1705 (iii) a proprietary system that calculates the amount of tax:

1706 (A) for an agreement sales and use tax; and

1707 (B) due to each local taxing jurisdiction; and

1708 (iv) entered into a performance agreement with the governing board of the agreement.

1709 (b) For purposes of Subsection [~~52~~] 53(a), "model 3 seller" includes an affiliated

1710 group of sellers using the same proprietary system.

1711 [~~53~~] 54 "Modular home" means a modular unit as defined in Section 58-56-3.

1712 [~~54~~] 55 "Motor vehicle" is as defined in Section 41-1a-102.

1713 [~~55~~] 56 "Oil shale" means a group of fine black to dark brown shales containing

1714 bituminous material that yields petroleum upon distillation.

1715 [~~56~~] 57 (a) "Other fuels" means products that burn independently to produce heat or

1716 energy.

1717 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible

1718 personal property.

1719 [~~57~~] 58 "Pawnbroker" is as defined in Section 13-32a-102.

1720 [~~58~~] 59 "Pawn transaction" is as defined in Section 13-32a-102.

1721 [~~59~~] 60 (a) "Permanently attached to real property" means that for tangible personal

1722 property attached to real property:

1723 (i) the attachment of the tangible personal property to the real property:

1724 (A) is essential to the use of the tangible personal property; and

1725 (B) suggests that the tangible personal property will remain attached to the real

1726 property in the same place over the useful life of the tangible personal property; or

1727 (ii) if the tangible personal property is detached from the real property, the detachment

1728 would:

1729 (A) cause substantial damage to the tangible personal property; or

1730 (B) require substantial alteration or repair of the real property to which the tangible

1731 personal property is attached.

1732 (b) "Permanently attached to real property" includes:

1733 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1734 (A) essential to the operation of the tangible personal property; and

1735 (B) attached only to facilitate the operation of the tangible personal property;

1736 (ii) a temporary detachment of tangible personal property from real property for a

1737 repair or renovation if the repair or renovation is performed where the tangible personal

1738 property and real property are located; or

1739 (iii) an attachment of the following tangible personal property to real property,

1740 regardless of whether the attachment to real property is only through a line that supplies water,

1741 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by

1742 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1743 (A) property attached to oil, gas, or water pipelines, other than the property listed in

1744 Subsection [~~(59)~~] (60)(c)(iii);

1745 (B) a hot water heater;

1746 (C) a water softener system; or

1747 (D) a water filtration system, other than a water filtration system manufactured as part

1748 of a refrigerator.

1749 (c) "Permanently attached to real property" does not include:

1750 (i) the attachment of portable or movable tangible personal property to real property if

1751 that portable or movable tangible personal property is attached to real property only for:

1752 (A) convenience;

1753 (B) stability; or

1754 (C) for an obvious temporary purpose;

1755 (ii) the detachment of tangible personal property from real property other than the

1756 detachment described in Subsection [~~(59)~~] (60)(b)(ii); or

1757 (iii) an attachment of the following tangible personal property to real property if the

1758 attachment to real property is only through a line that supplies water, electricity, gas, telephone,

1759 cable, or supplies a similar item as determined by the commission by rule made in accordance

1760 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1761 (A) a refrigerator;

1762 (B) a washer;
1763 (C) a dryer;
1764 (D) a stove;
1765 (E) a television;
1766 (F) a computer;
1767 (G) a telephone; or
1768 (H) tangible personal property similar to Subsections [~~(59)~~] (60)(c)(iii)(A) through (G)
1769 as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1770 Administrative Rulemaking Act.

1771 [~~(60)~~] (61) "Person" includes any individual, firm, partnership, joint venture,
1772 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1773 city, municipality, district, or other local governmental entity of the state, or any group or
1774 combination acting as a unit.

1775 [~~(61)~~] (62) "Place of primary use":

1776 (a) for telephone service other than mobile telecommunications service, means the
1777 street address representative of where the purchaser's use of the telephone service primarily
1778 occurs, which shall be:

- 1779 (i) the residential street address of the purchaser; or
1780 (ii) the primary business street address of the purchaser; or
1781 (b) for mobile telecommunications service, is as defined in the Mobile
1782 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1783 [~~(62)~~] (63) "Postproduction" means an activity related to the finishing or duplication of
1784 a medium described in Subsection 59-12-104(56)(a).

1785 [~~(63)~~] (64) (a) "Prepared food" means:

- 1786 (i) food:
1787 (A) sold in a heated state; or
1788 (B) heated by a seller;
1789 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1790 item; or
1791 (iii) except as provided in Subsection [~~(63)~~] (64)(c), food sold with an eating utensil
1792 provided by the seller, including a:

- 1793 (A) plate;
- 1794 (B) knife;
- 1795 (C) fork;
- 1796 (D) spoon;
- 1797 (E) glass;
- 1798 (F) cup;
- 1799 (G) napkin; or
- 1800 (H) straw.
- 1801 (b) "Prepared food" does not include:
- 1802 (i) food that a seller only:
- 1803 (A) cuts;
- 1804 (B) repackages; or
- 1805 (C) pasteurizes; or
- 1806 (ii) (A) the following:
- 1807 (I) raw egg;
- 1808 (II) raw fish;
- 1809 (III) raw meat;
- 1810 (IV) raw poultry; or
- 1811 (V) a food containing an item described in Subsections [~~(63)~~] (64)(b)(ii)(A)(I) through
- 1812 (IV); and
- 1813 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1814 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1815 Subsection [~~(63)~~] (64)(b)(ii)(A) to prevent food borne illness; or
- 1816 (iii) the following if sold without eating utensils provided by the seller:
- 1817 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1818 classification under the 2002 North American Industry Classification System of the federal
- 1819 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1820 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1821 Manufacturing;
- 1822 (B) food and food ingredients sold in an unheated state:
- 1823 (I) by weight or volume; and

- 1824 (II) as a single item; or
- 1825 (C) a bakery item, including:
- 1826 (I) a bagel;
- 1827 (II) a bar;
- 1828 (III) a biscuit;
- 1829 (IV) bread;
- 1830 (V) a bun;
- 1831 (VI) a cake;
- 1832 (VII) a cookie;
- 1833 (VIII) a croissant;
- 1834 (IX) a danish;
- 1835 (X) a donut;
- 1836 (XI) a muffin;
- 1837 (XII) a pastry;
- 1838 (XIII) a pie;
- 1839 (XIV) a roll;
- 1840 (XV) a tart;
- 1841 (XVI) a torte; or
- 1842 (XVII) a tortilla.
- 1843 (c) Notwithstanding Subsection [~~(63)~~] (64)(a)(iii), an eating utensil provided by the
- 1844 seller does not include the following used to transport the food:
- 1845 (i) a container; or
- 1846 (ii) packaging.
- 1847 [~~(64)~~] (65) "Prescription" means an order, formula, or recipe that is issued:
- 1848 (a) (i) orally;
- 1849 (ii) in writing;
- 1850 (iii) electronically; or
- 1851 (iv) by any other manner of transmission; and
- 1852 (b) by a licensed practitioner authorized by the laws of a state.
- 1853 [~~(65)~~] (66) (a) Except as provided in Subsection [~~(65)~~] (66)(b)(ii) or (iii), "prewritten
- 1854 computer software" means computer software that is not designed and developed:

- 1855 (i) by the author or other creator of the computer software; and
1856 (ii) to the specifications of a specific purchaser.
- 1857 (b) "Prewritten computer software" includes:
1858 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1859 software is not designed and developed:
1860 (A) by the author or other creator of the computer software; and
1861 (B) to the specifications of a specific purchaser;
1862 (ii) notwithstanding Subsection [~~(65)~~] (66)(a), computer software designed and
1863 developed by the author or other creator of the computer software to the specifications of a
1864 specific purchaser if the computer software is sold to a person other than the purchaser; or
1865 (iii) notwithstanding Subsection [~~(65)~~] (66)(a) and except as provided in Subsection
1866 [~~(65)~~] (66)(c), prewritten computer software or a prewritten portion of prewritten computer
1867 software:
1868 (A) that is modified or enhanced to any degree; and
1869 (B) if the modification or enhancement described in Subsection [~~(65)~~] (66)(b)(iii)(A) is
1870 designed and developed to the specifications of a specific purchaser.
1871 (c) Notwithstanding Subsection [~~(65)~~] (66)(b)(iii), "prewritten computer software"
1872 does not include a modification or enhancement described in Subsection [~~(65)~~] (66)(b)(iii) if
1873 the charges for the modification or enhancement are:
1874 (i) reasonable; and
1875 (ii) separately stated on the invoice or other statement of price provided to the
1876 purchaser.
- 1877 [~~(66)~~] (67) (a) "Prosthetic device" means a device that is worn on or in the body to:
1878 (i) artificially replace a missing portion of the body;
1879 (ii) prevent or correct a physical deformity or physical malfunction; or
1880 (iii) support a weak or deformed portion of the body.
1881 (b) "Prosthetic device" includes:
1882 (i) parts used in the repairs or renovation of a prosthetic device; ~~or~~
1883 (ii) replacement parts for a prosthetic device~~[-];~~ or
1884 (iii) a dental prosthesis.
1885 (c) "Prosthetic device" does not include:

- 1886 (i) corrective eyeglasses;
- 1887 (ii) contact lenses; or
- 1888 (iii) hearing aids[~~;~~or].
- 1889 [~~(iv) dental prostheses.~~]
- 1890 [~~(67)~~ (68) (a) "Protective equipment" means an item:
- 1891 (i) for human wear; and
- 1892 (ii) that is:
- 1893 (A) designed as protection:
- 1894 (I) to the wearer against injury or disease; or
- 1895 (II) against damage or injury of other persons or property; and
- 1896 (B) not suitable for general use.
- 1897 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1898 commission shall make rules:
- 1899 (i) listing the items that constitute "protective equipment"; and
- 1900 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1901 under the agreement.
- 1902 [~~(68)~~ (69) (a) "Purchase price" and "sales price" mean the total amount of
- 1903 consideration:
- 1904 (i) valued in money; and
- 1905 (ii) for which tangible personal property or services are:
- 1906 (A) sold;
- 1907 (B) leased; or
- 1908 (C) rented.
- 1909 (b) "Purchase price" and "sales price" include:
- 1910 (i) the seller's cost of the tangible personal property or services sold;
- 1911 (ii) expenses of the seller, including:
- 1912 (A) the cost of materials used;
- 1913 (B) a labor cost;
- 1914 (C) a service cost;
- 1915 (D) interest;
- 1916 (E) a loss;

- 1917 (F) the cost of transportation to the seller; or
- 1918 (G) a tax imposed on the seller; or
- 1919 (iii) a charge by the seller for any service necessary to complete the sale.
- 1920 (c) "Purchase price" and "sales price" do not include:
- 1921 (i) a discount:
- 1922 (A) in a form including:
- 1923 (I) cash;
- 1924 (II) term; or
- 1925 (III) coupon;
- 1926 (B) that is allowed by a seller;
- 1927 (C) taken by a purchaser on a sale; and
- 1928 (D) that is not reimbursed by a third party; or
- 1929 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1930 provided to the purchaser:
- 1931 (A) the amount of a trade-in;
- 1932 (B) the following from credit extended on the sale of tangible personal property or
- 1933 services:
- 1934 (I) interest charges;
- 1935 (II) financing charges; or
- 1936 (III) carrying charges;
- 1937 (C) a tax or fee legally imposed directly on the consumer;
- 1938 (D) a delivery charge; or
- 1939 (E) an installation charge.
- 1940 [~~(69)~~] (70) "Purchaser" means a person to whom:
- 1941 (a) a sale of tangible personal property is made; or
- 1942 (b) a service is furnished.
- 1943 [~~(70)~~] (71) "Regularly rented" means:
- 1944 (a) rented to a guest for value three or more times during a calendar year; or
- 1945 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1946 value.
- 1947 [~~(71)~~] (72) "Renewable energy" means:

- 1948 (a) biomass energy;
- 1949 (b) hydroelectric energy;
- 1950 (c) geothermal energy;
- 1951 (d) solar energy; or
- 1952 (e) wind energy.
- 1953 [~~72~~] (73) (a) "Renewable energy production facility" means a facility that:
- 1954 (i) uses renewable energy to produce electricity; and
- 1955 (ii) has a production capacity of 20 kilowatts or greater.
- 1956 (b) A facility is a renewable energy production facility regardless of whether the
- 1957 facility is:
- 1958 (i) connected to an electric grid; or
- 1959 (ii) located on the premises of an electricity consumer.
- 1960 [~~73~~] (74) "Rental" is as defined in Subsection [~~41~~] (42).
- 1961 [~~74~~] (75) "Repairs or renovations of tangible personal property" means:
- 1962 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1963 to real property; or
- 1964 (b) attaching tangible personal property to other tangible personal property if the other
- 1965 tangible personal property to which the tangible personal property is attached is not
- 1966 permanently attached to real property.
- 1967 [~~75~~] (76) "Research and development" means the process of inquiry or
- 1968 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
- 1969 process of preparing those devices, technologies, or applications for marketing.
- 1970 [~~76~~] (77) "Residential use" means the use in or around a home, apartment building,
- 1971 sleeping quarters, and similar facilities or accommodations.
- 1972 [~~77~~] (78) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
- 1973 other than:
- 1974 (a) resale;
- 1975 (b) sublease; or
- 1976 (c) subrent.
- 1977 [~~78~~] (79) (a) "Retailer" means any person engaged in a regularly organized business
- 1978 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),

1979 and who is selling to the user or consumer and not for resale.

1980 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1981 engaged in the business of selling to users or consumers within the state.

1982 [~~79~~] (80) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1983 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1984 Subsection 59-12-103(1), for consideration.

1985 (b) "Sale" includes:

1986 (i) installment and credit sales;

1987 (ii) any closed transaction constituting a sale;

1988 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1989 chapter;

1990 (iv) any transaction if the possession of property is transferred but the seller retains the
1991 title as security for the payment of the price; and

1992 (v) any transaction under which right to possession, operation, or use of any article of
1993 tangible personal property is granted under a lease or contract and the transfer of possession
1994 would be taxable if an outright sale were made.

1995 [~~80~~] (81) "Sale at retail" is as defined in Subsection [~~77~~] (78).

1996 [~~81~~] (82) "Sale-leaseback transaction" means a transaction by which title to tangible
1997 personal property that is subject to a tax under this chapter is transferred:

1998 (a) by a purchaser-lessee;

1999 (b) to a lessor;

2000 (c) for consideration; and

2001 (d) if:

2002 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2003 of the tangible personal property;

2004 (ii) the sale of the tangible personal property to the lessor is intended as a form of
2005 financing:

2006 (A) for the property; and

2007 (B) to the purchaser-lessee; and

2008 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2009 is required to:

- 2010 (A) capitalize the property for financial reporting purposes; and
- 2011 (B) account for the lease payments as payments made under a financing arrangement.
- 2012 [~~(82)~~] (83) "Sales price" is as defined in Subsection [~~(68)~~] (69).
- 2013 [~~(83)~~] (84) (a) "Sales relating to schools" means the following sales by, amounts paid
- 2014 to, or amounts charged by a school:
- 2015 (i) sales that are directly related to the school's educational functions or activities
- 2016 including:
- 2017 (A) the sale of:
- 2018 (I) textbooks;
- 2019 (II) textbook fees;
- 2020 (III) laboratory fees;
- 2021 (IV) laboratory supplies; or
- 2022 (V) safety equipment;
- 2023 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 2024 that:
- 2025 (I) a student is specifically required to wear as a condition of participation in a
- 2026 school-related event or school-related activity; and
- 2027 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 2028 place of ordinary clothing;
- 2029 (C) sales of the following if the net or gross revenues generated by the sales are
- 2030 deposited into a school district fund or school fund dedicated to school meals:
- 2031 (I) food and food ingredients; or
- 2032 (II) prepared food; or
- 2033 (D) transportation charges for official school activities; or
- 2034 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 2035 event or school-related activity.
- 2036 (b) "Sales relating to schools" does not include:
- 2037 (i) bookstore sales of items that are not educational materials or supplies;
- 2038 (ii) except as provided in Subsection [~~(83)~~] (84)(a)(i)(B):
- 2039 (A) clothing;
- 2040 (B) clothing accessories or equipment;

- 2041 (C) protective equipment; or
- 2042 (D) sports or recreational equipment; or
- 2043 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2044 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2045 (A) other than a:
- 2046 (I) school;
- 2047 (II) nonprofit organization authorized by a school board or a governing body of a
- 2048 private school to organize and direct a competitive secondary school activity; or
- 2049 (III) nonprofit association authorized by a school board or a governing body of a
- 2050 private school to organize and direct a competitive secondary school activity; and
- 2051 (B) that is required to collect sales and use taxes under this chapter.
- 2052 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 2053 commission may make rules defining the term "passed through."
- 2054 [~~84~~] (85) For purposes of this section and Section 59-12-104, "school" means:
- 2055 (a) an elementary school or a secondary school that:
- 2056 (i) is a:
- 2057 (A) public school; or
- 2058 (B) private school; and
- 2059 (ii) provides instruction for one or more grades kindergarten through 12; or
- 2060 (b) a public school district.
- 2061 [~~85~~] (86) "Seller" means a person that makes a sale, lease, or rental of:
- 2062 (a) tangible personal property; or
- 2063 (b) a service.
- 2064 [~~86~~] (87) (a) "Semiconductor fabricating, processing, research, or development
- 2065 materials" means tangible personal property:
- 2066 (i) used primarily in the process of:
- 2067 (A) (I) manufacturing a semiconductor;
- 2068 (II) fabricating a semiconductor; or
- 2069 (III) research or development of a:
- 2070 (Aa) semiconductor; or
- 2071 (Bb) semiconductor manufacturing process; or

- 2072 (B) maintaining an environment suitable for a semiconductor; or
- 2073 (ii) consumed primarily in the process of:
- 2074 (A) (I) manufacturing a semiconductor;
- 2075 (II) fabricating a semiconductor; or
- 2076 (III) research or development of a:
- 2077 (Aa) semiconductor; or
- 2078 (Bb) semiconductor manufacturing process; or
- 2079 (B) maintaining an environment suitable for a semiconductor.
- 2080 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2081 includes:
- 2082 (i) parts used in the repairs or renovations of tangible personal property described in
- 2083 Subsection [~~(86)~~] (87)(a); or
- 2084 (ii) a chemical, catalyst, or other material used to:
- 2085 (A) produce or induce in a semiconductor a:
- 2086 (I) chemical change; or
- 2087 (II) physical change;
- 2088 (B) remove impurities from a semiconductor; or
- 2089 (C) improve the marketable condition of a semiconductor.
- 2090 [~~(87)~~] (88) "Senior citizen center" means a facility having the primary purpose of
- 2091 providing services to the aged as defined in Section 62A-3-101.
- 2092 [~~(88)~~] (89) "Simplified electronic return" means the electronic return:
- 2093 (a) described in Section 318(C) of the agreement; and
- 2094 (b) approved by the governing board of the agreement.
- 2095 [~~(89)~~] (90) "Solar energy" means the sun used as the sole source of energy for
- 2096 producing electricity.
- 2097 [~~(90)~~] (91) (a) "Sports or recreational equipment" means an item:
- 2098 (i) designed for human use; and
- 2099 (ii) that is:
- 2100 (A) worn in conjunction with:
- 2101 (I) an athletic activity; or
- 2102 (II) a recreational activity; and

2103 (B) not suitable for general use.

2104 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2105 commission shall make rules:

2106 (i) listing the items that constitute "sports or recreational equipment"; and

2107 (ii) that are consistent with the list of items that constitute "sports or recreational
2108 equipment" under the agreement.

2109 [~~91~~] (92) "State" means the state of Utah, its departments, and agencies.

2110 [~~92~~] (93) "Storage" means any keeping or retention of tangible personal property or
2111 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2112 except sale in the regular course of business.

2113 [~~93~~] (94) (a) "Tangible personal property" means personal property that:

2114 (i) may be:

2115 (A) seen;

2116 (B) weighed;

2117 (C) measured;

2118 (D) felt; or

2119 (E) touched; or

2120 (ii) is in any manner perceptible to the senses.

2121 (b) "Tangible personal property" includes:

2122 (i) electricity;

2123 (ii) water;

2124 (iii) gas;

2125 (iv) steam; or

2126 (v) prewritten computer software.

2127 [~~94~~] (95) "Tar sands" means impregnated sands that yield mixtures of liquid
2128 hydrocarbon and require further processing other than mechanical blending before becoming
2129 finished petroleum products.

2130 [~~95~~] (96) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2131 software" means an item listed in Subsection [~~95~~] (96)(b) if that item is purchased or leased
2132 primarily to enable or facilitate one or more of the following to function:

2133 (i) telecommunications switching or routing equipment, machinery, or software; or

2134 (ii) telecommunications transmission equipment, machinery, or software.

2135 (b) The following apply to Subsection [~~(95)~~] (96)(a):

2136 (i) a pole;

2137 (ii) software;

2138 (iii) a supplementary power supply;

2139 (iv) temperature or environmental equipment or machinery;

2140 (v) test equipment;

2141 (vi) a tower; or

2142 (vii) equipment, machinery, or software that functions similarly to an item listed in

2143 Subsections [~~(95)~~] (96)(b)(i) through (vi) as determined by the commission by rule made in

2144 accordance with Subsection [~~(95)~~] (96)(c).

2145 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2146 commission may by rule define what constitutes equipment, machinery, or software that

2147 functions similarly to an item listed in Subsections [~~(95)~~] (96)(b)(i) through (vi).

2148 [~~(96)~~] (97) "Telecommunications equipment, machinery, or software required for 911

2149 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

2150 Sec. 20.18.

2151 [~~(97)~~] (98) "Telecommunications maintenance or repair equipment, machinery, or

2152 software" means equipment, machinery, or software purchased or leased primarily to maintain

2153 or repair one or more of the following, regardless of whether the equipment, machinery, or

2154 software is purchased or leased as a spare part or as an upgrade or modification to one or more

2155 of the following:

2156 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2157 (b) telecommunications switching or routing equipment, machinery, or software; or

2158 (c) telecommunications transmission equipment, machinery, or software.

2159 [~~(98)~~] (99) (a) "Telecommunications switching or routing equipment, machinery, or

2160 software" means an item listed in Subsection [~~(98)~~] (99)(b) if that item is purchased or leased

2161 primarily for switching or routing:

2162 (i) voice communications;

2163 (ii) data communications; or

2164 (iii) telephone service.

2165 (b) The following apply to Subsection [~~98~~] (99)(a):

2166 (i) a bridge;

2167 (ii) a computer;

2168 (iii) a cross connect;

2169 (iv) a modem;

2170 (v) a multiplexer;

2171 (vi) plug in circuitry;

2172 (vii) a router;

2173 (viii) software;

2174 (ix) a switch; or

2175 (x) equipment, machinery, or software that functions similarly to an item listed in

2176 Subsections [~~98~~] (99)(b)(i) through (ix) as determined by the commission by rule made in

2177 accordance with Subsection [~~98~~] (99)(c).

2178 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2179 commission may by rule define what constitutes equipment, machinery, or software that

2180 functions similarly to an item listed in Subsections [~~98~~] (99)(b)(i) through (ix).

2181 [~~99~~] (100) (a) "Telecommunications transmission equipment, machinery, or

2182 software" means an item listed in Subsection [~~99~~] (100)(b) if that item is purchased or leased

2183 primarily for sending, receiving, or transporting:

2184 (i) voice communications;

2185 (ii) data communications; or

2186 (iii) telephone service.

2187 (b) The following apply to Subsection [~~99~~] (100)(a):

2188 (i) an amplifier;

2189 (ii) a cable;

2190 (iii) a closure;

2191 (iv) a conduit;

2192 (v) a controller;

2193 (vi) a duplexer;

2194 (vii) a filter;

2195 (viii) an input device;

- 2196 (ix) an input/output device;
- 2197 (x) an insulator;
- 2198 (xi) microwave machinery or equipment;
- 2199 (xii) an oscillator;
- 2200 (xiii) an output device;
- 2201 (xiv) a pedestal;
- 2202 (xv) a power converter;
- 2203 (xvi) a power supply;
- 2204 (xvii) a radio channel;
- 2205 (xviii) a radio receiver;
- 2206 (xix) a radio transmitter;
- 2207 (xx) a repeater;
- 2208 (xxi) software;
- 2209 (xxii) a terminal;
- 2210 (xxiii) a timing unit;
- 2211 (xxiv) a transformer;
- 2212 (xxv) a wire; or
- 2213 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2214 Subsections [~~99~~] (100)(b)(i) through (xxv) as determined by the commission by rule made in
- 2215 accordance with Subsection [~~99~~] (100)(c).
- 2216 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 2217 commission may by rule define what constitutes equipment, machinery, or software that
- 2218 functions similarly to an item listed in Subsections [~~99~~] (100)(b)(i) through (xxv).
- 2219 [~~100~~] (101) (a) "Telephone service" means a two-way transmission:
- 2220 (i) by:
- 2221 (A) wire;
- 2222 (B) radio;
- 2223 (C) lightwave; or
- 2224 (D) other electromagnetic means; and
- 2225 (ii) of one or more of the following:
- 2226 (A) a sign;

- 2227 (B) a signal;
- 2228 (C) writing;
- 2229 (D) an image;
- 2230 (E) sound;
- 2231 (F) a message;
- 2232 (G) data; or
- 2233 (H) other information of any nature.
- 2234 (b) "Telephone service" includes:
- 2235 (i) mobile telecommunications service;
- 2236 (ii) private communications service; or
- 2237 (iii) automated digital telephone answering service.
- 2238 (c) "Telephone service" does not include a service or a transaction that a state or a
- 2239 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 2240 Tax Freedom Act, Pub. L. No. 105-277.
- 2241 [~~(101)~~] (102) Notwithstanding where a call is billed or paid, "telephone service
- 2242 address" means:
- 2243 (a) if the location described in this Subsection [~~(101)~~] (102)(a) is known, the location
- 2244 of the telephone service equipment:
- 2245 (i) to which a call is charged; and
- 2246 (ii) from which the call originates or terminates;
- 2247 (b) if the location described in Subsection [~~(101)~~] (102)(a) is not known but the
- 2248 location described in this Subsection [~~(101)~~] (102)(b) is known, the location of the origination
- 2249 point of the signal of the telephone service first identified by:
- 2250 (i) the telecommunications system of the seller; or
- 2251 (ii) if the system used to transport the signal is not that of the seller, information
- 2252 received by the seller from its service provider; or
- 2253 (c) if the locations described in Subsection [~~(101)~~] (102)(a) or (b) are not known, the
- 2254 location of a purchaser's primary place of use.
- 2255 [~~(102)~~] (103) (a) "Telephone service provider" means a person that:
- 2256 (i) owns, controls, operates, or manages a telephone service; and
- 2257 (ii) engages in an activity described in Subsection [~~(102)~~] (103)(a)(i) for the shared use

2258 with or resale to any person of the telephone service.

2259 (b) A person described in Subsection [~~(102)~~] (103)(a) is a telephone service provider
2260 whether or not the Public Service Commission of Utah regulates:

2261 (i) that person; or

2262 (ii) the telephone service that the person owns, controls, operates, or manages.

2263 [~~(103)~~] (104) "Tobacco" means:

2264 (a) a cigarette;

2265 (b) a cigar;

2266 (c) chewing tobacco;

2267 (d) pipe tobacco; or

2268 (e) any other item that contains tobacco.

2269 [~~(104)~~] (105) "Unassisted amusement device" means an amusement device, skill
2270 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2271 operate the amusement device, skill device, or ride device.

2272 [~~(105)~~] (106) (a) "Use" means the exercise of any right or power over tangible personal
2273 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
2274 property, item, or service.

2275 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
2276 the regular course of business and held for resale.

2277 [~~(106)~~] (107) (a) Subject to Subsection [~~(106)~~] (107)(b), "vehicle" means the following
2278 that are required to be titled, registered, or titled and registered:

2279 (i) an aircraft as defined in Section 72-10-102;

2280 (ii) a vehicle as defined in Section 41-1a-102;

2281 (iii) an off-highway vehicle as defined in Section 41-22-2; or

2282 (iv) a vessel as defined in Section 41-1a-102.

2283 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2284 (i) a vehicle described in Subsection [~~(106)~~] (107)(a); or

2285 (ii) (A) a locomotive;

2286 (B) a freight car;

2287 (C) railroad work equipment; or

2288 (D) other railroad rolling stock.

2289 [~~(107)~~] (108) "Vehicle dealer" means a person engaged in the business of buying,
2290 selling, or exchanging a vehicle as defined in Subsection [~~(106)~~] (107).

2291 [~~(108)~~] (109) (a) Except as provided in Subsection [~~(108)~~] (109)(b), "waste energy
2292 facility" means a facility that generates electricity:

2293 (i) using as the primary source of energy waste materials that would be placed in a
2294 landfill or refuse pit if it were not used to generate electricity, including:

2295 (A) tires;

2296 (B) waste coal; or

2297 (C) oil shale; and

2298 (ii) in amounts greater than actually required for the operation of the facility.

2299 (b) "Waste energy facility" does not include a facility that incinerates:

2300 (i) municipal solid waste;

2301 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

2302 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2303 [~~(109)~~] (110) "Watercraft" means a vessel as defined in Section 73-18-2.

2304 [~~(110)~~] (111) "Wind energy" means wind used as the sole source of energy to produce
2305 electricity.

2306 [~~(111)~~] (112) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2307 geographic location by the United States Postal Service.

2308 Section 16. Section **59-12-103** is amended to read:

2309 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2310 **tax revenues.**

2311 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2312 charged for the following transactions:

2313 (a) retail sales of tangible personal property made within the state;

2314 (b) amounts paid:

2315 (i) (A) to a common carrier; or

2316 (B) whether the following are municipally or privately owned, to a:

2317 (I) telephone service provider; or

2318 (II) telegraph corporation as defined in Section 54-2-1; and

2319 (ii) for:

- 2320 (A) telephone service, other than mobile telecommunications service, that originates
2321 and terminates within the boundaries of this state;
- 2322 (B) mobile telecommunications service that originates and terminates within the
2323 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2324 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 2325 (C) telegraph service;
- 2326 (c) sales of the following for commercial use:
- 2327 (i) gas;
- 2328 (ii) electricity;
- 2329 (iii) heat;
- 2330 (iv) coal;
- 2331 (v) fuel oil; or
- 2332 (vi) other fuels;
- 2333 (d) sales of the following for residential use:
- 2334 (i) gas;
- 2335 (ii) electricity;
- 2336 (iii) heat;
- 2337 (iv) coal;
- 2338 (v) fuel oil; or
- 2339 (vi) other fuels;
- 2340 (e) sales of prepared food;
- 2341 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2342 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2343 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
2344 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2345 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2346 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2347 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2348 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2349 exhibition, cultural, or athletic activity;
- 2350 (g) amounts paid or charged for services for repairs or renovations of tangible personal

2351 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
2352 (i) the tangible personal property; and
2353 (ii) parts used in the repairs or renovations of the tangible personal property described
2354 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
2355 of that tangible personal property;
2356 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2357 assisted cleaning or washing of tangible personal property;
2358 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2359 accommodations and services that are regularly rented for less than 30 consecutive days;
2360 (j) amounts paid or charged for laundry or dry cleaning services;
2361 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2362 this state the tangible personal property is:
2363 (i) stored;
2364 (ii) used; or
2365 (iii) otherwise consumed;
2366 (l) amounts paid or charged for tangible personal property if within this state the
2367 tangible personal property is:
2368 (i) stored;
2369 (ii) used; or
2370 (iii) consumed; and
2371 (m) amounts paid or charged for prepaid telephone calling cards.
2372 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is
2373 imposed on a transaction described in Subsection (1) equal to the sum of:
2374 (i) a state tax imposed on the transaction at a rate of [~~4.75%~~] 4.65%; and
2375 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2376 transaction under this chapter other than this part.
2377 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection
2378 (1)(d) equal to the sum of:
2379 (A) a state tax imposed on the transaction at a rate of 2%; and
2380 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2381 transaction under this chapter other than this part; or

2382 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
2383 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
2384 equal to the sum of:

2385 (A) a state tax imposed on the transaction at a rate of:

2386 (I) [~~4.75%~~] 4.65% for a transaction other than a transaction described in Subsection
2387 (1)(d); or

2388 (II) 2% for a transaction described in Subsection (1)(d); and

2389 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
2390 rates:

2391 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
2392 and towns in the state impose the tax under Section 59-12-204; and

2393 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
2394 state impose the tax under Section 59-12-1102.

2395 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax
2396 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to
2397 the sum of:

2398 (A) a state tax imposed on the amounts paid or charged for food and food ingredients
2399 at a rate of [~~2.75%~~] 1.75% and

2400 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2401 amounts paid or charged for food and food ingredients under this chapter other than this part.

2402 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
2403 rate imposed under the following shall take effect on the first day of a calendar quarter:

2404 (i) Subsection (2)(a)(i);

2405 (ii) Subsection (2)(b)(i)(A);

2406 (iii) Subsection (2)(b)(ii)(A); or

2407 (iv) Subsection (2)(b)(iii)(A).

2408 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
2409 effect on the first day of the first billing period:

2410 (A) that begins after the effective date of the tax rate increase; and

2411 (B) if the billing period for the transaction begins before the effective date of a tax rate
2412 increase imposed under:

- 2413 (I) Subsection (2)(a)(i);
- 2414 (II) Subsection (2)(b)(i)(A); or
- 2415 (III) Subsection (2)(b)(ii)(A).
- 2416 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
- 2417 decrease shall take effect on the first day of the last billing period:
- 2418 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 2419 and
- 2420 (B) if the billing period for the transaction begins before the effective date of the repeal
- 2421 of the tax or the tax rate decrease imposed under:
- 2422 (I) Subsection (2)(a)(i);
- 2423 (II) Subsection (2)(b)(i)(A); or
- 2424 (III) Subsection (2)(b)(ii)(A).
- 2425 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
- 2426 (A) Subsection (1)(b);
- 2427 (B) Subsection (1)(c);
- 2428 (C) Subsection (1)(d);
- 2429 (D) Subsection (1)(e);
- 2430 (E) Subsection (1)(f);
- 2431 (F) Subsection (1)(g);
- 2432 (G) Subsection (1)(h);
- 2433 (H) Subsection (1)(i);
- 2434 (I) Subsection (1)(j); or
- 2435 (J) Subsection (1)(k).
- 2436 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
- 2437 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 2438 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:
- 2439 (A) on the first day of a calendar quarter; and
- 2440 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
- 2441 under Subsection (2)(a)(i) or (2)(b)(ii)(A).
- 2442 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 2443 the commission may by rule define the term "catalogue sale."

2444 (f) If the price of a bundled transaction is attributable to food and food ingredients and
2445 tangible personal property other than food and food ingredients, the tax imposed on the entire
2446 bundled transaction is the sum of the tax rates described in Subsection (2)(a).

2447 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes
2448 shall be deposited into the General Fund:

- 2449 (i) the tax imposed by Subsection (2)(a)(i);
- 2450 (ii) the tax imposed by Subsection (2)(b)(i)(A);
- 2451 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or
- 2452 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

2453 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)
2454 shall be distributed to a county, city, or town as provided in this chapter.

2455 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
2456 state shall receive the county's, city's, or town's proportionate share of the revenues generated
2457 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

2458 (ii) The commission shall determine a county's, city's, or town's proportionate share of
2459 the revenues under Subsection (3)(c)(i) by:

2460 (A) calculating an amount equal to the population of the unincorporated area of the
2461 county, city, or town divided by the total population of the state; and

2462 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
2463 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,
2464 cities, and towns.

2465 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
2466 purposes of this section shall be derived from the most recent official census or census estimate
2467 of the United States Census Bureau.

2468 (B) If a needed population estimate is not available from the United States Census
2469 Bureau, population figures shall be derived from the estimate from the Utah Population
2470 Estimates Committee created by executive order of the governor.

2471 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2472 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
2473 through (g):

2474 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2475 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
2476 (B) for the fiscal year; or
2477 (ii) \$17,500,000.

2478 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2479 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2480 Department of Natural Resources to:

2481 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
2482 protect sensitive plant and animal species; or

2483 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2484 act, to political subdivisions of the state to implement the measures described in Subsections
2485 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

2486 (ii) Money transferred to the Department of Natural Resources under Subsection
2487 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2488 person to list or attempt to have listed a species as threatened or endangered under the
2489 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2490 (iii) At the end of each fiscal year:

2491 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2492 Conservation and Development Fund created in Section 73-10-24;

2493 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2494 Program Subaccount created in Section 73-10c-5; and

2495 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2496 Program Subaccount created in Section 73-10c-5.

2497 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2498 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2499 created in Section 4-18-6.

2500 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2501 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2502 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2503 water rights.

2504 (ii) At the end of each fiscal year:

2505 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

2506 Conservation and Development Fund created in Section 73-10-24;

2507 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

2508 Program Subaccount created in Section 73-10c-5; and

2509 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

2510 Program Subaccount created in Section 73-10c-5.

2511 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

2512 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development

2513 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2514 (ii) In addition to the uses allowed of the Water Resources Conservation and

2515 Development Fund under Section 73-10-24, the Water Resources Conservation and

2516 Development Fund may also be used to:

2517 (A) conduct hydrologic and geotechnical investigations by the Division of Water

2518 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

2519 quantifying surface and ground water resources and describing the hydrologic systems of an

2520 area in sufficient detail so as to enable local and state resource managers to plan for and

2521 accommodate growth in water use without jeopardizing the resource;

2522 (B) fund state required dam safety improvements; and

2523 (C) protect the state's interest in interstate water compact allocations, including the

2524 hiring of technical and legal staff.

2525 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

2526 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount

2527 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2528 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

2529 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount

2530 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2531 (i) provide for the installation and repair of collection, treatment, storage, and

2532 distribution facilities for any public water system, as defined in Section 19-4-102;

2533 (ii) develop underground sources of water, including springs and wells; and

2534 (iii) develop surface water sources.

2535 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2536 2006, the difference between the following amounts shall be expended as provided in this

2537 Subsection (5), if that difference is greater than \$1:

2538 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2539 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2540 (ii) \$17,500,000.

2541 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2542 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2543 credits; and

2544 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2545 restoration.

2546 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2547 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2548 created in Section 73-10-24.

2549 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2550 remaining difference described in Subsection (5)(a) shall be:

2551 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2552 credits; and

2553 (B) expended by the Division of Water Resources for cloud-seeding projects
2554 authorized by Title 73, Chapter 15, Modification of Weather.

2555 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2556 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2557 created in Section 73-10-24.

2558 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2559 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2560 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2561 Division of Water Resources for:

2562 (i) preconstruction costs:

2563 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2564 26, Bear River Development Act; and

2565 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2566 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2567 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

2568 Chapter 26, Bear River Development Act;

2569 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2570 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2571 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2572 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2573 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2574 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2575 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2576 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2577 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2578 incurred for employing additional technical staff for the administration of water rights.

2579 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2580 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2581 Fund created in Section 73-10-24.

2582 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2583 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)
2584 through (d):

2585 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2586 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2587 (B) for the fiscal year; or

2588 (ii) \$18,743,000.

2589 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
2590 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation
2591 Revolving Loan Fund created in Section 72-2-117.

2592 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
2593 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made
2594 by the Department of Transportation at the request of local governments.

2595 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2596 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
2597 Department of Transportation for the State Park Access Highways Improvement Program
2598 created in Section 72-3-207.

2599 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
2600 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as
2601 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
2602 roads.

2603 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
2604 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
2605 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
2606 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
2607 transactions under Subsection (1).

2608 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
2609 have been paid off and the highway projects completed that are intended to be paid from
2610 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
2611 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
2612 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2613 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2614 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2615 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
2616 year 2004-05, the commission shall each year on or before the September 30 immediately
2617 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
2618 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
2619 greater than \$0.

2620 (b) The difference described in Subsection (8)(a) is equal to the difference between:

2621 (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)
2622 the commission received from sellers collecting a tax in accordance with Subsection
2623 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in
2624 Subsection (8)(a); and

2625 (ii) \$7,279,673.

2626 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
2627 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
2628 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund
2629 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection

2630 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),
2631 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales
2632 and use tax revenues generated annually by the sales and use tax on vehicles and
2633 vehicle-related products.

2634 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
2635 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
2636 highway projects completed that are intended to be paid from revenues deposited in the
2637 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
2638 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
2639 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
2640 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described
2641 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the
2642 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2643 on vehicles and vehicle-related products.

2644 Section 17. Section **59-12-104** is amended to read:

2645 **59-12-104. Exemptions.**

2646 The following sales and uses are exempt from the taxes imposed by this chapter:

2647 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2648 under Chapter 13, Motor and Special Fuel Tax Act;

2649 (2) sales to the state, its institutions, and its political subdivisions; however, this
2650 exemption does not apply to sales of:

2651 (a) construction materials except:

2652 (i) construction materials purchased by or on behalf of institutions of the public
2653 education system as defined in Utah Constitution Article X, Section 2, provided the
2654 construction materials are clearly identified and segregated and installed or converted to real
2655 property which is owned by institutions of the public education system; and

2656 (ii) construction materials purchased by the state, its institutions, or its political
2657 subdivisions which are installed or converted to real property by employees of the state, its
2658 institutions, or its political subdivisions; or

2659 (b) tangible personal property in connection with the construction, operation,
2660 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

2661 providing additional project capacity, as defined in Section 11-13-103;

2662 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2663 (i) the proceeds of each sale do not exceed \$1; and

2664 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

2665 the cost of the item described in Subsection (3)(b) as goods consumed; and

2666 (b) Subsection (3)(a) applies to:

2667 (i) food and food ingredients; or

2668 (ii) prepared food;

2669 (4) sales of the following to a commercial airline carrier for in-flight consumption:

2670 (a) food and food ingredients;

2671 (b) prepared food; or

2672 (c) services related to Subsection (4)(a) or (b);

2673 (5) sales of parts and equipment for installation in aircraft operated by common carriers

2674 in interstate or foreign commerce;

2675 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

2676 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

2677 exhibitor, distributor, or commercial television or radio broadcaster;

2678 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal

2679 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

2680 washing of tangible personal property;

2681 (b) if a seller that sells at the same business location assisted cleaning or washing of

2682 tangible personal property and cleaning or washing of tangible personal property that is not

2683 assisted cleaning or washing of tangible personal property, the exemption described in

2684 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

2685 or washing of the tangible personal property; and

2686 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,

2687 Utah Administrative Rulemaking Act, the commission may make rules:

2688 (i) governing the circumstances under which sales are at the same business location;

2689 and

2690 (ii) establishing the procedures and requirements for a seller to separately account for

2691 sales of assisted cleaning or washing of tangible personal property;

2692 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2693 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2694 fulfilled;

2695 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2696 this state if the vehicle is both not:

2697 (a) registered in this state; and

2698 (b) used in this state except as necessary to transport the vehicle to the borders of this
2699 state;

2700 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2701 (i) the item is intended for human use; and

2702 (ii) (A) a prescription was issued for the item; or

2703 (B) the item was purchased by a hospital or other medical facility; and

2704 (b) (i) Subsection (10)(a) applies to:

2705 (A) a drug;

2706 (B) a syringe; or

2707 (C) a stoma supply; and

2708 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2709 commission may by rule define the terms:

2710 (A) "syringe"; or

2711 (B) "stoma supply";

2712 (11) sales or use of property, materials, or services used in the construction of or
2713 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

2714 (12) (a) sales of an item described in Subsection (12)(c) served by:

2715 (i) the following if the item described in Subsection (12)(c) is not available to the
2716 general public:

2717 (A) a church; or

2718 (B) a charitable institution;

2719 (ii) an institution of higher education if:

2720 (A) the item described in Subsection (12)(c) is not available to the general public; or

2721 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2722 offered by the institution of higher education; or

2723 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2724 (i) a medical facility; or
2725 (ii) a nursing facility; and
2726 (c) Subsections (12)(a) and (b) apply to:
2727 (i) food and food ingredients;
2728 (ii) prepared food; or
2729 (iii) alcoholic beverages;
2730 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2731 by a person:
2732 (i) regardless of the number of transactions involving the sale of that tangible personal
2733 property by that person; and
2734 (ii) not regularly engaged in the business of selling that type of tangible personal
2735 property;
2736 (b) this Subsection (13) does not apply if:
2737 (i) the sale is one of a series of sales of a character to indicate that the person is
2738 regularly engaged in the business of selling that type of tangible personal property;
2739 (ii) the person holds that person out as regularly engaged in the business of selling that
2740 type of tangible personal property;
2741 (iii) the person sells an item of tangible personal property that the person purchased as
2742 a sale that is exempt under Subsection (25); or
2743 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2744 this state in which case the tax is based upon:
2745 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2746 sold; or
2747 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2748 value of the vehicle or vessel being sold at the time of the sale as determined by the
2749 commission; and
2750 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2751 commission shall make rules establishing the circumstances under which:
2752 (i) a person is regularly engaged in the business of selling a type of tangible personal
2753 property;

2754 (ii) a sale of tangible personal property is one of a series of sales of a character to
2755 indicate that a person is regularly engaged in the business of selling that type of tangible
2756 personal property; or

2757 (iii) a person holds that person out as regularly engaged in the business of selling a type
2758 of tangible personal property;

2759 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2760 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2761 facility, for the following:

2762 (i) machinery and equipment that:

2763 (A) is used:

2764 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
2765 recycler described in Subsection 59-12-102[~~(45)~~](46)(b):

2766 (Aa) in the manufacturing process; and

2767 (Bb) to manufacture an item sold as tangible personal property; or

2768 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2769 59-12-102[~~(45)~~](46)(b), to process an item sold as tangible personal property; and

2770 (B) has an economic life of three or more years; and

2771 (ii) normal operating repair or replacement parts that:

2772 (A) have an economic life of three or more years; and

2773 (B) are used:

2774 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
2775 scrap recycler described in Subsection 59-12-102[~~(45)~~](46)(b), in the manufacturing process;
2776 or

2777 (II) for a manufacturing facility in the state that is a scrap recycler described in
2778 Subsection 59-12-102[~~(45)~~](46)(b), to process an item sold as tangible personal property;

2779 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2780 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2781 for the following:

2782 (A) machinery and equipment that:

2783 (I) is used:

2784 (Aa) in the manufacturing process; and

2785 (Bb) to manufacture an item sold as tangible personal property; and
 2786 (II) has an economic life of three or more years; and
 2787 (B) normal operating repair or replacement parts that:
 2788 (I) are used in the manufacturing process in a manufacturing facility in the state; and
 2789 (II) have an economic life of three or more years; and
 2790 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
 2791 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
 2792 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
 2793 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
 2794 and
 2795 (B) in accordance with Section 59-12-110;
 2796 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
 2797 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
 2798 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
 2799 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
 2800 of the 2002 North American Industry Classification System of the federal Executive Office of
 2801 the President, Office of Management and Budget:
 2802 (i) machinery and equipment that:
 2803 (A) are used in:
 2804 (I) the production process, other than the production of real property; or
 2805 (II) research and development; and
 2806 (B) have an economic life of three or more years; and
 2807 (ii) normal operating repair or replacement parts that:
 2808 (A) have an economic life of three or more years; and
 2809 (B) are used in:
 2810 (I) the production process, other than the production of real property, in an
 2811 establishment described in this Subsection (14)(c) in the state; or
 2812 (II) research and development in an establishment described in this Subsection (14)(c)
 2813 in the state;
 2814 [~~e~~] (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter
 2815 46a, Utah Administrative Rulemaking Act, the commission:

2816 (i) shall by rule define the term "establishment"; and
2817 (ii) may by rule define what constitutes;
2818 (A) processing an item sold as tangible personal property;
2819 (B) the production process, other than the production of real property; or
2820 (C) research and development; and
2821 [~~†~~] (e) on or before October 1, [~~1991~~] 2011, and every five years after October 1,
2822 [~~1991~~] 2011, the commission shall:
2823 (i) review the exemptions described in this Subsection (14) and make
2824 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2825 exemptions should be continued, modified, or repealed; and
2826 (ii) include in its report:
2827 (A) the cost of the exemptions;
2828 (B) the purpose and effectiveness of the exemptions; and
2829 (C) the benefits of the exemptions to the state;
2830 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2831 (i) tooling;
2832 (ii) special tooling;
2833 (iii) support equipment;
2834 (iv) special test equipment; or
2835 (v) parts used in the repairs or renovations of tooling or equipment described in
2836 Subsections (15)(a)(i) through (iv); and
2837 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2838 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2839 performance of any aerospace or electronics industry contract with the United States
2840 government or any subcontract under that contract; and
2841 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2842 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2843 by:
2844 (A) a government identification tag placed on the tooling, equipment, or parts; or
2845 (B) listing on a government-approved property record if placing a government
2846 identification tag on the tooling, equipment, or parts is impractical;

2847 (16) sales of newspapers or newspaper subscriptions;

2848 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
2849 as full or part payment of the purchase price, except that for purposes of calculating sales or use
2850 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
2851 the tax is based upon:

2852 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2853 vehicle being traded in; or

2854 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2855 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2856 commission; and

2857 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2858 following items of tangible personal property traded in as full or part payment of the purchase
2859 price:

2860 (i) money;

2861 (ii) electricity;

2862 (iii) water;

2863 (iv) gas; or

2864 (v) steam;

2865 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2866 used or consumed primarily and directly in farming operations, regardless of whether the
2867 tangible personal property:

2868 (A) becomes part of real estate; or

2869 (B) is installed by a:

2870 (I) farmer;

2871 (II) contractor; or

2872 (III) subcontractor; or

2873 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
2874 tangible personal property is exempt under Subsection (18)(a)(i); and

2875 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
2876 tangible personal property are subject to the taxes imposed by this chapter:

2877 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if

2878 the tangible personal property is used in a manner that is incidental to farming:

2879 (I) machinery;

2880 (II) equipment;

2881 (III) materials; or

2882 (IV) supplies; and

2883 (B) tangible personal property that is considered to be used in a manner that is

2884 incidental to farming includes:

2885 (I) hand tools; or

2886 (II) maintenance and janitorial equipment and supplies;

2887 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible

2888 personal property is used in an activity other than farming; and

2889 (B) tangible personal property that is considered to be used in an activity other than

2890 farming includes:

2891 (I) office equipment and supplies; or

2892 (II) equipment and supplies used in:

2893 (Aa) the sale or distribution of farm products;

2894 (Bb) research; or

2895 (Cc) transportation; or

2896 (iii) a vehicle required to be registered by the laws of this state during the period ending

2897 two years after the date of the vehicle's purchase;

2898 (19) sales of hay;

2899 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

2900 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

2901 garden, farm, or other agricultural produce is sold by:

2902 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2903 agricultural produce;

2904 (b) an employee of the producer described in Subsection (20)(a); or

2905 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2906 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2907 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2908 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2909 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2910 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2911 manufacturer, processor, wholesaler, or retailer;

2912 (23) property stored in the state for resale;

2913 (24) property brought into the state by a nonresident for his or her own personal use or
2914 enjoyment while within the state, except property purchased for use in Utah by a nonresident
2915 living and working in Utah at the time of purchase;

2916 (25) property purchased for resale in this state, in the regular course of business, either
2917 in its original form or as an ingredient or component part of a manufactured or compounded
2918 product;

2919 (26) property upon which a sales or use tax was paid to some other state, or one of its
2920 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2921 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2922 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2923 Act;

2924 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2925 person for use in compounding a service taxable under the subsections;

2926 (28) purchases made in accordance with the special supplemental nutrition program for
2927 women, infants, and children established in 42 U.S.C. Sec. 1786;

2928 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2929 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
2930 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2931 Manual of the federal Executive Office of the President, Office of Management and Budget;

2932 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2933 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both
2934 not:

2935 (a) registered in this state; and

2936 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard
2937 motor to the borders of this state;

2938 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
2939 where a sales or use tax is not imposed, even if the title is passed in Utah;

- 2940 (32) amounts paid for the purchase of telephone service for purposes of providing
2941 telephone service;
- 2942 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 2943 (34) (a) 45% of the sales price of any new manufactured home; and
2944 (b) 100% of the sales price of any used manufactured home;
- 2945 (35) sales relating to schools and fundraising sales;
- 2946 (36) sales or rentals of durable medical equipment if:
2947 (a) a person presents a prescription for the durable medical equipment; and
2948 (b) the durable medical equipment is used for home use only;
- 2949 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2950 Section 72-11-102; and
2951 (b) the commission shall by rule determine the method for calculating sales exempt
2952 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2953 (38) sales to a ski resort of:
2954 (a) snowmaking equipment;
2955 (b) ski slope grooming equipment;
2956 (c) passenger ropeways as defined in Section 72-11-102; or
2957 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2958 described in Subsections (38)(a) through (c);
- 2959 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2960 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2961 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2962 59-12-102;
2963 (b) if a seller that sells or rents at the same business location the right to use or operate
2964 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2965 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2966 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2967 amusement, entertainment, or recreation for the assisted amusement devices; and
2968 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
2969 Utah Administrative Rulemaking Act, the commission may make rules:
2970 (i) governing the circumstances under which sales are at the same business location;

2971 and
2972 (ii) establishing the procedures and requirements for a seller to separately account for
2973 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2974 assisted amusement devices;
2975 (41) sales by the state or a political subdivision of the state, except state institutions of
2976 higher education as defined in Section 53B-3-102, of:
2977 (a) photocopies; or
2978 (b) other copies of records held or maintained by the state or a political subdivision of
2979 the state;
2980 (42) amounts paid for admission to an athletic event at an institution of higher
2981 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2982 20 U.S.C. Sec. 1681 et seq.;
2983 (43) sales of telephone service charged to a prepaid telephone calling card;
2984 (44) (a) sales of:
2985 (i) hearing aids;
2986 (ii) hearing aid accessories; or
2987 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
2988 of hearing aids or hearing aid accessories; and
2989 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
2990 "parts" does not include batteries;
2991 (45) (a) sales made to or by:
2992 (i) an area agency on aging; or
2993 (ii) a senior citizen center owned by a county, city, or town; or
2994 (b) sales made by a senior citizen center that contracts with an area agency on aging;
2995 (46) sales or leases of semiconductor fabricating, processing, research, or development
2996 materials regardless of whether the semiconductor fabricating, processing, research, or
2997 development materials:
2998 (a) actually come into contact with a semiconductor; or
2999 (b) ultimately become incorporated into real property;
3000 (47) an amount paid by or charged to a purchaser for accommodations and services
3001 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

3002 59-12-104.2;

3003 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

3004 sports event registration certificate in accordance with Section 41-3-306 for the event period

3005 specified on the temporary sports event registration certificate;

3006 (49) sales or uses of electricity, if the sales or uses are:

3007 (a) made under a tariff adopted by the Public Service Commission of Utah only for

3008 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

3009 source, as designated in the tariff by the Public Service Commission of Utah; and

3010 (b) for an amount of electricity that is:

3011 (i) unrelated to the amount of electricity used by the person purchasing the electricity

3012 under the tariff described in Subsection (49)(a); and

3013 (ii) equivalent to the number of kilowatthours specified in the tariff described in

3014 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);

3015 (50) sales or rentals of mobility enhancing equipment if a person presents a

3016 prescription for the mobility enhancing equipment;

3017 (51) sales of water in a:

3018 (a) pipe;

3019 (b) conduit;

3020 (c) ditch; or

3021 (d) reservoir;

3022 (52) sales of currency or coinage that constitute legal tender of the United States or of a

3023 foreign nation;

3024 (53) (a) sales of an item described in Subsection (53)(b) if the item:

3025 (i) does not constitute legal tender of any nation; and

3026 (ii) has a gold, silver, or platinum content of 80% or more; and

3027 (b) Subsection (53)(a) applies to a gold, silver, or platinum:

3028 (i) ingot;

3029 (ii) bar;

3030 (iii) medallion; or

3031 (iv) decorative coin;

3032 (54) amounts paid on a sale-leaseback transaction;

3033 (55) sales of a prosthetic device:
3034 (a) for use on or in a human;
3035 (b) for which a prescription is issued; and
3036 (c) to a person that presents a prescription for the prosthetic device;
3037 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
3038 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
3039 or equipment is primarily used in the production or postproduction of the following media for
3040 commercial distribution:
3041 (i) a motion picture;
3042 (ii) a television program;
3043 (iii) a movie made for television;
3044 (iv) a music video;
3045 (v) a commercial;
3046 (vi) a documentary; or
3047 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
3048 commission by administrative rule made in accordance with Subsection (56)(d); or
3049 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
3050 equipment by an establishment described in Subsection (56)(c) that is used for the production
3051 or postproduction of the following are subject to the taxes imposed by this chapter:
3052 (i) a live musical performance;
3053 (ii) a live news program; or
3054 (iii) a live sporting event;
3055 (c) the following establishments listed in the 1997 North American Industry
3056 Classification System of the federal Executive Office of the President, Office of Management
3057 and Budget, apply to Subsections (56)(a) and (b):
3058 (i) NAICS Code 512110; or
3059 (ii) NAICS Code 51219; and
3060 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3061 commission may by rule:
3062 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
3063 or

- 3064 (ii) define:
- 3065 (A) "commercial distribution";
- 3066 (B) "live musical performance";
- 3067 (C) "live news program"; or
- 3068 (D) "live sporting event";
- 3069 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 3070 or before June 30, 2009, of machinery or equipment that:
- 3071 (i) is leased or purchased for or by a facility that:
- 3072 (A) is a renewable energy production facility;
- 3073 (B) is located in the state; and
- 3074 (C) (I) becomes operational on or after July 1, 2004; or
- 3075 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 3076 2004 as a result of the use of the machinery or equipment;
- 3077 (ii) has an economic life of five or more years; and
- 3078 (iii) is used to make the facility or the increase in capacity of the facility described in
- 3079 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
- 3080 transmission grid including:
- 3081 (A) a wind turbine;
- 3082 (B) generating equipment;
- 3083 (C) a control and monitoring system;
- 3084 (D) a power line;
- 3085 (E) substation equipment;
- 3086 (F) lighting;
- 3087 (G) fencing;
- 3088 (H) pipes; or
- 3089 (I) other equipment used for locating a power line or pole; and
- 3090 (b) this Subsection (57) does not apply to:
- 3091 (i) machinery or equipment used in construction of:
- 3092 (A) a new renewable energy production facility; or
- 3093 (B) the increase in the capacity of a renewable energy production facility;
- 3094 (ii) contracted services required for construction and routine maintenance activities;

3095 and

3096 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3097 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
3098 acquired after:

3099 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
3100 operational as described in Subsection (57)(a)(iii); or

3101 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
3102 in Subsection (57)(a)(iii);

3103 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
3104 or before June 30, 2009, of machinery or equipment that:

3105 (i) is leased or purchased for or by a facility that:

3106 (A) is a waste energy production facility;

3107 (B) is located in the state; and

3108 (C) (I) becomes operational on or after July 1, 2004; or

3109 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3110 2004 as a result of the use of the machinery or equipment;

3111 (ii) has an economic life of five or more years; and

3112 (iii) is used to make the facility or the increase in capacity of the facility described in
3113 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
3114 transmission grid including:

3115 (A) generating equipment;

3116 (B) a control and monitoring system;

3117 (C) a power line;

3118 (D) substation equipment;

3119 (E) lighting;

3120 (F) fencing;

3121 (G) pipes; or

3122 (H) other equipment used for locating a power line or pole; and

3123 (b) this Subsection (58) does not apply to:

3124 (i) machinery or equipment used in construction of:

3125 (A) a new waste energy facility; or

3126 (B) the increase in the capacity of a waste energy facility;
3127 (ii) contracted services required for construction and routine maintenance activities;
3128 and
3129 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3130 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
3131 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
3132 described in Subsection (58)(a)(iii); or
3133 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
3134 in Subsection (58)(a)(iii);
3135 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
3136 or before June 30, 2009, of machinery or equipment that:
3137 (i) is leased or purchased for or by a facility that:
3138 (A) is located in the state;
3139 (B) produces fuel from biomass energy including:
3140 (I) methanol; or
3141 (II) ethanol; and
3142 (C) (I) becomes operational on or after July 1, 2004; or
3143 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
3144 a result of the installation of the machinery or equipment;
3145 (ii) has an economic life of five or more years; and
3146 (iii) is installed on the facility described in Subsection (59)(a)(i);
3147 (b) this Subsection (59) does not apply to:
3148 (i) machinery or equipment used in construction of:
3149 (A) a new facility described in Subsection (59)(a)(i); or
3150 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
3151 (ii) contracted services required for construction and routine maintenance activities;
3152 and
3153 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
3154 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
3155 (A) the facility described in Subsection (59)(a)(i) is operational; or
3156 (B) the increased capacity described in Subsection (59)(a)(i) is operational;

3157 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
3158 for purchasing the new vehicle;

3159 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
3160 within this state that is subsequently shipped outside the state and incorporated pursuant to
3161 contract into and becomes a part of real property located outside of this state, except to the
3162 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
3163 transaction excise tax on it against which the other state or political entity allows a credit for
3164 taxes imposed by this chapter; and

3165 (b) the exemption provided for in Subsection (61)(a):

3166 (i) is allowed only if the exemption is applied:

3167 (A) in calculating the purchase price of the tangible personal property; and

3168 (B) to a written contract that is in effect on July 1, 2004; and

3169 (ii) (A) does not apply beginning on the day on which the contract described in
3170 Subsection (61)(b)(i):

3171 (I) is substantially modified; or

3172 (II) terminates; and

3173 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3174 the commission may by rule prescribe the circumstances under which a contract is substantially
3175 modified;

3176 (62) purchases:

3177 (a) of one or more of the following items in printed or electronic format:

3178 (i) a list containing information that includes one or more:

3179 (A) names; or

3180 (B) addresses; or

3181 (ii) a database containing information that includes one or more:

3182 (A) names; or

3183 (B) addresses; and

3184 (b) used to send direct mail;

3185 (63) redemptions or repurchases of property by a person if that property was:

3186 (a) delivered to a pawnbroker as part of a pawn transaction; and

3187 (b) redeemed or repurchased within the time period established in a written agreement

3188 between the person and the pawnbroker for redeeming or repurchasing the property;

3189 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:

3190 (i) is purchased or leased by, or on behalf of, a telephone service provider; and

3191 (ii) has a useful economic life of one or more years; and

3192 (b) the following apply to Subsection (64)(a):

3193 (i) telecommunications enabling or facilitating equipment, machinery, or software;

3194 (ii) telecommunications equipment, machinery, or software required for 911 service;

3195 (iii) telecommunications maintenance or repair equipment, machinery, or software;

3196 (iv) telecommunications switching or routing equipment, machinery, or software; or

3197 (v) telecommunications transmission equipment, machinery, or software; and

3198 (65) (a) beginning on July 1, 2006 and ending on June 30, 2016, purchases of tangible

3199 personal property used in the research and development of coal-to-liquids, oil shale, or tar

3200 sands technology; and

3201 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3202 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes

3203 tangible personal property used in the research and development of coal-to-liquids, oil shale,

3204 and tar sands technology.

3205 Section 18. Section **59-12-401** is amended to read:

3206 **59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.**

3207 (1) (a) In addition to other sales and use taxes, a city or town in which the transient

3208 room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the

3209 municipality's permanent census population may impose a sales and use tax of up to [~~1%~~] 1.1%

3210 on the transactions described in Subsection 59-12-103(1) located within the city or town.

3211 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this

3212 section on:

3213 (i) the sale of:

3214 (A) a motor vehicle;

3215 (B) an aircraft;

3216 (C) a watercraft;

3217 (D) a modular home;

3218 (E) a manufactured home; or

3219 (F) a mobile home;
3220 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3221 are exempt from taxation under Section 59-12-104; ~~and~~

3222 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3223 59-12-107(1)(b)~~[-]; and~~

3224 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and
3225 food ingredients.

3226 (c) For purposes of this Subsection (1), the location of a transaction shall be
3227 determined in accordance with Section 59-12-207.

3228 (d) A city or town imposing a tax under this section shall impose the tax on amounts
3229 paid or charged for food and food ingredients if:

3230 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3231 food and food ingredients and tangible personal property other than food and food ingredients;
3232 and

3233 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3234 accordance with Subsection 59-12-107(1)(b).

3235 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3236 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3237 the state from its collection fees received in connection with the implementation of Subsection
3238 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3239 provided for in Subsection (1).

3240 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3241 those cities and towns according to the amount of revenue the respective cities and towns
3242 generate in that year through imposition of that tax.

3243 Section 19. Section **59-12-402** is amended to read:

3244 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
3245 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
3246 **Notice requirements -- Ordinance requirements.**

3247 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
3248 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
3249 66% of the municipality's permanent census population may, in addition to the sales tax

3250 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
3251 amount that is less than or equal to .5% on the transactions described in Subsection
3252 59-12-103(1) located within the municipality.

3253 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
3254 impose a tax under this section on:

3255 (i) the sale of:

3256 (A) a motor vehicle;

3257 (B) an aircraft;

3258 (C) a watercraft;

3259 (D) a modular home;

3260 (E) a manufactured home; or

3261 (F) a mobile home;

3262 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3263 are exempt from taxation under Section 59-12-104; ~~and~~

3264 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3265 59-12-107(1)(b)~~[-]; and~~

3266 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and
3267 food ingredients.

3268 (c) For purposes of this Subsection (1), the location of a transaction shall be
3269 determined in accordance with Section 59-12-207.

3270 (d) A municipality imposing a tax under this section shall impose the tax on amounts
3271 paid or charged for food and food ingredients if:

3272 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3273 food and food ingredients and tangible personal property other than food and food ingredients;
3274 and

3275 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3276 accordance with Subsection 59-12-107(1)(b).

3277 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3278 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3279 the state from its collection fees received in connection with the implementation of Subsection
3280 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax

3281 provided for in Subsection (1).

3282 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
3283 those cities and towns according to the amount of revenue the respective cities and towns
3284 generate in that year through imposition of that tax.

3285 (3) To impose an additional resort communities sales tax under this section, the
3286 governing body of the municipality shall:

3287 (a) pass a resolution approving the tax; and

3288 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
3289 in Subsection (4).

3290 (4) To obtain voter approval for an additional resort communities sales tax under
3291 Subsection (3)(b), a municipality shall:

3292 (a) hold the additional resort communities sales tax election during:

3293 (i) a regular general election; or

3294 (ii) a municipal general election; and

3295 (b) publish notice of the election:

3296 (i) 15 days or more before the day on which the election is held; and

3297 (ii) in a newspaper of general circulation in the municipality.

3298 (5) An ordinance approving an additional resort communities sales tax under this
3299 section shall provide an effective date for the tax as provided in Section 59-12-403.

3300 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
3301 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
3302 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
3303 Section 10-1-203.

3304 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
3305 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
3306 one class of businesses based on gross receipts pursuant to Section 10-1-203.

3307 Section 20. Section **59-12-403** is amended to read:

3308 **59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**

3309 **Notice requirements -- Administration, collection, and enforcement of tax.**

3310 (1) For purposes of this section:

3311 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part

3312 4, Annexation.

3313 (b) "Annexing area" means an area that is annexed into a city or town.

3314 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after [~~July~~] April 1,
3315 [~~2004~~] 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part,
3316 the enactment, repeal, or change shall take effect:

3317 (i) on the first day of a calendar quarter; and

3318 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3319 the requirements of Subsection (2)(b) from the city or town.

3320 (b) The notice described in Subsection (2)(a)(ii) shall state:

3321 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
3322 part;

3323 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3324 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3325 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3326 Subsection (2)(b)(i), the rate of the tax.

3327 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3328 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3329 first billing period:

3330 (A) that begins after the effective date of the enactment of the tax or the tax rate
3331 increase; and

3332 (B) if the billing period for the transaction begins before the effective date of the
3333 enactment of the tax or the tax rate increase imposed under:

3334 (I) Section 59-12-401; or

3335 (II) Section 59-12-402.

3336 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3337 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3338 billing period:

3339 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3340 and

3341 (B) if the billing period for the transaction begins before the effective date of the repeal
3342 of the tax or the tax rate decrease imposed under:

- 3343 (I) Section 59-12-401; or
- 3344 (II) Section 59-12-402.
- 3345 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3346 (A) Subsection 59-12-103(1)(b);
- 3347 (B) Subsection 59-12-103(1)(c);
- 3348 (C) Subsection 59-12-103(1)(d);
- 3349 (D) Subsection 59-12-103(1)(e);
- 3350 (E) Subsection 59-12-103(1)(f);
- 3351 (F) Subsection 59-12-103(1)(g);
- 3352 (G) Subsection 59-12-103(1)(h);
- 3353 (H) Subsection 59-12-103(1)(i);
- 3354 (I) Subsection 59-12-103(1)(j); or
- 3355 (J) Subsection 59-12-103(1)(k).
- 3356 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 3357 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3358 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
- 3359 (A) on the first day of a calendar quarter; and
- 3360 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
- 3361 rate of the tax under Subsection (2)(a).
- 3362 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 3363 the commission may by rule define the term "catalogue sale."
- 3364 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 3365 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
- 3366 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
- 3367 effect:
- 3368 (i) on the first day of a calendar quarter; and
- 3369 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 3370 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.
- 3371 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 3372 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
- 3373 repeal, or change in the rate of a tax under this part for the annexing area;

- 3374 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 3375 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 3376 (iv) if the city or town enacts the tax or changes the rate of the tax described in
- 3377 Subsection (3)(b)(i), the rate of the tax.
- 3378 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 3379 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
- 3380 first billing period:
 - 3381 (A) that begins after the effective date of the enactment of the tax or the tax rate
 - 3382 increase; and
 - 3383 (B) if the billing period for the transaction begins before the effective date of the
 - 3384 enactment of the tax or the tax rate increase imposed under:
 - 3385 (I) Section 59-12-401; or
 - 3386 (II) Section 59-12-402.
- 3387 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 3388 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 3389 billing period:
 - 3390 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
 - 3391 and
 - 3392 (B) if the billing period for the transaction begins before the effective date of the repeal
 - 3393 of the tax or the tax rate decrease imposed under:
 - 3394 (I) Section 59-12-401; or
 - 3395 (II) Section 59-12-402.
- 3396 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
 - 3397 (A) Subsection 59-12-103(1)(b);
 - 3398 (B) Subsection 59-12-103(1)(c);
 - 3399 (C) Subsection 59-12-103(1)(d);
 - 3400 (D) Subsection 59-12-103(1)(e);
 - 3401 (E) Subsection 59-12-103(1)(f);
 - 3402 (F) Subsection 59-12-103(1)(g);
 - 3403 (G) Subsection 59-12-103(1)(h);
 - 3404 (H) Subsection 59-12-103(1)(i);

3405 (I) Subsection 59-12-103(1)(j); or

3406 (J) Subsection 59-12-103(1)(k).

3407 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
3408 sale is computed on the basis of sales and use tax rates published in the catalogue, an
3409 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

3410 (A) on the first day of a calendar quarter; and

3411 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3412 rate of the tax under Subsection (3)(a).

3413 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3414 the commission may by rule define the term "catalogue sale."

3415 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
3416 administered, collected, and enforced in accordance with:

3417 (i) the same procedures used to administer, collect, and enforce the tax under:

3418 (A) Part 1, Tax Collection; or

3419 (B) Part 2, Local Sales and Use Tax Act; and

3420 (ii) Chapter 1, General Taxation Policies.

3421 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
3422 Subsections 59-12-205(2) through (7).

3423 Section 21. Section **59-12-501** is amended to read:

3424 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

3425 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town within a
3426 transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,
3427 may impose a sales and use tax of up to:

3428 (A) beginning on January 1, 1988, and ending on December 31, 2007, .25% on the
3429 transactions described in Subsection 59-12-103(1) located within the county, city, or town, to
3430 fund a public transportation system; or

3431 (B) beginning on January 1, 2008, .30% on the transactions described in Subsection
3432 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

3433 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
3434 under this section on:

3435 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses

3436 are exempt from taxation under Section 59-12-104; [~~and~~]

3437 (B) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
3438 59-12-107(1)(b)[~~;~~]; and

3439 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3440 ingredients.

3441 (b) For purposes of this Subsection (1), the location of a transaction shall be
3442 determined in accordance with Section 59-12-207.

3443 (c) A county, city, or town imposing a tax under this section shall impose the tax on
3444 amounts paid or charged for food and food ingredients if:

3445 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3446 food and food ingredients and tangible personal property other than food and food ingredients;
3447 and

3448 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3449 accordance with Subsection 59-12-107(1)(b).

3450 [~~(c)~~] (d) (i) [~~A~~] Except as provided in Subsection (3) or (4), a county, city, or town may
3451 impose a tax under this section only if the governing body of the county, city, or town, by
3452 resolution, submits the proposal to all the qualified voters within the county, city, or town for
3453 approval at a general or special election conducted in the manner provided by statute.

3454 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an
3455 area to a public transit district or local district and approving for that annexed area the sales and
3456 use tax authorized by this section satisfies the election requirement of Subsection (1)[~~(c)~~] (d)(i)
3457 for the area to be annexed to the public transit district or local district.

3458 (2) (a) If only a portion of a county is included within a public transit district, the
3459 proposal may be submitted only to the qualified voters residing within the boundaries of the
3460 proposed or existing public transit district.

3461 (b) Notice of any such election shall be given by the county, city, or town governing
3462 body 15 days in advance in the manner prescribed by statute.

3463 (c) If a majority of the voters voting in such election approve the proposal, it shall
3464 become effective on the date provided by the county, city, or town governing body.

3465 (3) This section may not be construed to require an election in jurisdictions where
3466 voters have previously approved a public transit sales or use tax.

3467 (4) A county, city, or town is not subject to the voter approval requirements of this
3468 section if:

3469 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
3470 section; and

3471 (b) on or after January 1, 2008, the county, city, or town increases the tax rate under
3472 this section to up to .30%.

3473 Section 22. Section **59-12-502** is amended to read:

3474 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
3475 **and interstate improvements -- Base -- Rate -- Voter approval.**

3476 (1) (a) (i) In addition to other sales and use taxes, including the public transit district tax
3477 authorized by Section 59-12-501, a county, city, or town within a transit district organized
3478 under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and
3479 use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the
3480 county, city, or town, to fund a fixed guideway and expanded public transportation system.

3481 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
3482 under this section on:

3483 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3484 are exempt from taxation under Section 59-12-104; [~~and~~]

3485 (B) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
3486 59-12-107(1)(b)[~~;~~]; and

3487 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3488 ingredients.

3489 (b) For purposes of this Subsection (1), the location of a transaction shall be
3490 determined in accordance with Section 59-12-207.

3491 (c) A county, city, or town imposing a tax under this section shall impose the tax on
3492 amounts paid or charged for food and food ingredients if:

3493 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3494 food and food ingredients and tangible personal property other than food and food ingredients;

3495 and

3496 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3497 accordance with Subsection 59-12-107(1)(b).

3498 ~~(c)~~ (d) (i) A county, city, or town may impose the tax under this section only if the
3499 governing body of the county, city, or town submits, by resolution, the proposal to all the
3500 qualified voters within the county, city, or town for approval at a general or special election
3501 conducted in the manner provided by statute.

3502 (ii) Notice of the election under Subsection (1)~~(c)~~(d)(i) shall be given by the county,
3503 city, or town governing body 15 days in advance in the manner prescribed by statute.

3504 (2) If the majority of the voters voting in this election approve the proposal, it shall
3505 become effective on the date provided by the county, city, or town governing body.

3506 (3) (a) This section may not be construed to require an election in jurisdictions where
3507 voters have previously approved a public transit sales or use tax.

3508 (b) This section shall be construed to require an election to impose the sales and use
3509 tax authorized by this section, including jurisdictions where the voters have previously
3510 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
3511 construed to affect the sales and use tax authorized by Section 59-12-501.

3512 (4) No public funds shall be spent to promote the required election.

3513 (5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the
3514 revenues generated by the tax imposed under this section by any county of the first class:

3515 (i) 75% shall be allocated to fund a fixed guideway and expanded public transportation
3516 system; and

3517 (ii) except as provided in Subsection (5)(b), 25% shall be allocated to fund new
3518 construction, major renovations, and improvements to Interstate 15 and state highways within
3519 the county and to pay any debt service and bond issuance costs related to those projects.

3520 (b) Notwithstanding the designated use of revenues in Subsection (1), beginning on
3521 July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not
3522 to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to
3523 reconfiguring railroad curves within that county to reduce rail congestion.

3524 (6) A county of the first class may, through an interlocal agreement, authorize the
3525 deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public
3526 Transportation System Tax Highway Fund created in Section 72-2-121.

3527 Section 23. Section **59-12-504** is amended to read:

3528 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**

3529 **Administration, collection, and enforcement of tax.**

3530 (1) For purposes of this section:

3531 (a) "Annexation" means an annexation to:

3532 (i) a county under Title 17, Chapter 2, Annexation to County; or

3533 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3534 (b) "Annexing area" means an area that is annexed into a county, city, or town.

3535 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after ~~[July]~~ April 1,

3536 ~~[2004]~~ 2008, a county, city, or town enacts or repeals a tax under this part, the enactment or

3537 repeal shall take effect:

3538 (i) on the first day of a calendar quarter; and

3539 (ii) after a 90-day period beginning on the date the commission receives notice meeting

3540 the requirements of Subsection (2)(b) from the county, city, or town.

3541 (b) The notice described in Subsection (2)(a)(ii) shall state:

3542 (i) that the county, city, or town will enact or repeal a tax under this part;

3543 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3544 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3545 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate

3546 of the tax.

3547 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

3548 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3549 (A) that begins after the effective date of the enactment of the tax; and

3550 (B) if the billing period for the transaction begins before the effective date of the

3551 enactment of the tax under:

3552 (I) Section 59-12-501; or

3553 (II) Section 59-12-502.

3554 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection

3555 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3556 (A) that began before the effective date of the repeal of the tax; and

3557 (B) if the billing period for the transaction begins before the effective date of the repeal

3558 of the tax imposed under:

3559 (I) Section 59-12-501; or

- 3560 (II) Section 59-12-502.
- 3561 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3562 (A) Subsection 59-12-103(1)(b);
- 3563 (B) Subsection 59-12-103(1)(c);
- 3564 (C) Subsection 59-12-103(1)(d);
- 3565 (D) Subsection 59-12-103(1)(e);
- 3566 (E) Subsection 59-12-103(1)(f);
- 3567 (F) Subsection 59-12-103(1)(g);
- 3568 (G) Subsection 59-12-103(1)(h);
- 3569 (H) Subsection 59-12-103(1)(i);
- 3570 (I) Subsection 59-12-103(1)(j); or
- 3571 (J) Subsection 59-12-103(1)(k).
- 3572 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 3573 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3574 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 3575 (A) on the first day of a calendar quarter; and
- 3576 (B) beginning 60 days after the effective date of the enactment or repeal under
- 3577 Subsection (2)(a).
- 3578 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 3579 the commission may by rule define the term "catalogue sale."
- 3580 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 3581 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 3582 part for an annexing area, the enactment or repeal shall take effect:
- 3583 (i) on the first day of a calendar quarter; and
- 3584 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 3585 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
- 3586 area.
- 3587 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 3588 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 3589 repeal of a tax under this part for the annexing area;
- 3590 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

- 3591 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 3592 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 3593 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 3594 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3595 (A) that begins after the effective date of the enactment of the tax; and
- 3596 (B) if the billing period for the transaction begins before the effective date of the
- 3597 enactment of the tax under:
- 3598 (I) Section 59-12-501; or
- 3599 (II) Section 59-12-502.
- 3600 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 3601 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3602 (A) that began before the effective date of the repeal of the tax; and
- 3603 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3604 of the tax imposed under:
- 3605 (I) Section 59-12-501; or
- 3606 (II) Section 59-12-502.
- 3607 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3608 (A) Subsection 59-12-103(1)(b);
- 3609 (B) Subsection 59-12-103(1)(c);
- 3610 (C) Subsection 59-12-103(1)(d);
- 3611 (D) Subsection 59-12-103(1)(e);
- 3612 (E) Subsection 59-12-103(1)(f);
- 3613 (F) Subsection 59-12-103(1)(g);
- 3614 (G) Subsection 59-12-103(1)(h);
- 3615 (H) Subsection 59-12-103(1)(i);
- 3616 (I) Subsection 59-12-103(1)(j); or
- 3617 (J) Subsection 59-12-103(1)(k).
- 3618 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
- 3619 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3620 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
- 3621 (A) on the first day of a calendar quarter; and

3622 (B) beginning 60 days after the effective date of the enactment or repeal under
3623 Subsection (3)(a).

3624 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3625 the commission may by rule define the term "catalogue sale."

3626 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
3627 administered, collected, and enforced in accordance with:

3628 (i) the same procedures used to administer, collect, and enforce the tax under:

3629 (A) Part 1, Tax Collection; or

3630 (B) Part 2, Local Sales and Use Tax Act; and

3631 (ii) Chapter 1, General Taxation Policies.

3632 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
3633 Subsections 59-12-205(2) through (7).

3634 Section 24. Section **59-12-703** is amended to read:

3635 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
3636 **tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3637 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
3638 that county, by majority vote of all members of the legislative body, so that each resident of the
3639 county, except residents in municipalities that have already imposed a sales and use tax under
3640 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3641 Organizations or Facilities, has an opportunity to express the resident's opinion on the
3642 imposition of a local sales and use tax of .1% on the transactions described in Subsection
3643 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
3644 cultural, and zoological organizations, and rural radio stations, in that county.

3645 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3646 tax under this section on:

3647 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3648 are exempt from taxation under Section 59-12-104;

3649 (B) sales and uses within municipalities that have already imposed a sales and use tax
3650 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
3651 Zoological Organizations or Facilities; ~~and~~

3652 (C) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection

3653 59-12-107(1)(b)~~[-]; and~~

3654 (D) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3655 ingredients.

3656 (b) For purposes of this Subsection (1), the location of a transaction shall be
3657 determined in accordance with Section 59-12-207.

3658 (c) A county legislative body imposing a tax under this section shall impose the tax on
3659 amounts paid or charged for food and food ingredients if:

3660 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3661 food and food ingredients and tangible personal property other than food and food ingredients;
3662 and

3663 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3664 accordance with Subsection 59-12-107(1)(b).

3665 ~~[(c)]~~ (d) The election shall follow the procedures outlined in Title 11, Chapter 14,
3666 Local Government Bonding Act.

3667 (2) (a) If the county legislative body determines that a majority of the county's
3668 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3669 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
3670 majority vote of all members of the legislative body on the transactions:

3671 (i) described in Subsection (1); and

3672 (ii) within the county, including the cities and towns located in the county, except those
3673 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3674 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
3675 Facilities.

3676 (b) A county legislative body may revise county ordinances to reflect statutory changes
3677 to the distribution formula or eligible recipients of revenues generated from a tax imposed
3678 under Subsection (2)(a):

3679 (i) after the county legislative body submits an opinion question to residents of the
3680 county in accordance with Subsection (1) giving them the opportunity to express their opinion
3681 on the proposed revisions to county ordinances; and

3682 (ii) if the county legislative body determines that a majority of those voting on the
3683 opinion question have voted in favor of the revisions.

3684 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
3685 funding:

3686 (a) recreational and zoological facilities located within the county or a city or town
3687 located in the county, except a city or town that has already imposed a sales and use tax under
3688 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3689 Organizations or Facilities; and

3690 (b) ongoing operating expenses of:

3691 (i) recreational facilities described in Subsection (3)(a);

3692 (ii) botanical, cultural, and zoological organizations within the county; and

3693 (iii) rural radio stations within the county.

3694 (4) (a) A tax authorized under this part shall be:

3695 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3696 accordance with:

3697 (A) the same procedures used to administer, collect, and enforce the tax under:

3698 (I) Part 1, Tax Collection; or

3699 (II) Part 2, Local Sales and Use Tax Act; and

3700 (B) Chapter 1, General Taxation Policies; and

3701 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3702 period in accordance with this section.

3703 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3704 Subsections 59-12-205(2) through (7).

3705 (5) (a) For purposes of this Subsection (5):

3706 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3707 Annexation to County.

3708 (ii) "Annexing area" means an area that is annexed into a county.

3709 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3710 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3711 (A) on the first day of a calendar quarter; and

3712 (B) after a 90-day period beginning on the date the commission receives notice meeting
3713 the requirements of Subsection (5)(b)(ii) from the county.

3714 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

- 3715 (A) that the county will enact or repeal a tax under this part;
- 3716 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 3717 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 3718 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
- 3719 tax.
- 3720 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3721 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 3722 (A) that begins after the effective date of the enactment of the tax; and
- 3723 (B) if the billing period for the transaction begins before the effective date of the
- 3724 enactment of the tax under this section.
- 3725 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 3726 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 3727 (A) that began before the effective date of the repeal of the tax; and
- 3728 (B) if the billing period for the transaction begins before the effective date of the repeal
- 3729 of the tax imposed under this section.
- 3730 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 3731 (A) Subsection 59-12-103(1)(b);
- 3732 (B) Subsection 59-12-103(1)(c);
- 3733 (C) Subsection 59-12-103(1)(d);
- 3734 (D) Subsection 59-12-103(1)(e);
- 3735 (E) Subsection 59-12-103(1)(f);
- 3736 (F) Subsection 59-12-103(1)(g);
- 3737 (G) Subsection 59-12-103(1)(h);
- 3738 (H) Subsection 59-12-103(1)(i);
- 3739 (I) Subsection 59-12-103(1)(j); or
- 3740 (J) Subsection 59-12-103(1)(k).
- 3741 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
- 3742 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 3743 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
- 3744 (A) on the first day of a calendar quarter; and
- 3745 (B) beginning 60 days after the effective date of the enactment or repeal under

3746 Subsection (5)(b)(i).

3747 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3748 the commission may by rule define the term "catalogue sale."

3749 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3750 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3751 part for an annexing area, the enactment or repeal shall take effect:

3752 (A) on the first day of a calendar quarter; and

3753 (B) after a 90-day period beginning on the date the commission receives notice meeting
3754 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3755 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3756 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3757 repeal of a tax under this part for the annexing area;

3758 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3759 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3760 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3761 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3762 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3763 (A) that begins after the effective date of the enactment of the tax; and

3764 (B) if the billing period for the transaction begins before the effective date of the
3765 enactment of the tax under this section.

3766 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3767 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3768 (A) that began before the effective date of the repeal of the tax; and

3769 (B) if the billing period for the transaction begins before the effective date of the repeal
3770 of the tax imposed under this section.

3771 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3772 (A) Subsection 59-12-103(1)(b);

3773 (B) Subsection 59-12-103(1)(c);

3774 (C) Subsection 59-12-103(1)(d);

3775 (D) Subsection 59-12-103(1)(e);

3776 (E) Subsection 59-12-103(1)(f);

3777 (F) Subsection 59-12-103(1)(g);

3778 (G) Subsection 59-12-103(1)(h);

3779 (H) Subsection 59-12-103(1)(i);

3780 (I) Subsection 59-12-103(1)(j); or

3781 (J) Subsection 59-12-103(1)(k).

3782 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
3783 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3784 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

3785 (A) on the first day of a calendar quarter; and

3786 (B) beginning 60 days after the effective date of the enactment or repeal under
3787 Subsection (5)(e)(i).

3788 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
3789 the commission may by rule define the term "catalogue sale."

3790 Section 25. Section **59-12-802** is amended to read:

3791 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
3792 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

3793 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
3794 may impose a sales and use tax of up to 1%:

3795 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
3796 and

3797 (ii) subject to Subsection (3), to fund:

3798 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
3799 that county; or

3800 (B) for a county of the sixth class:

3801 (I) emergency medical services in that county;

3802 (II) federally qualified health centers in that county;

3803 (III) freestanding urgent care centers in that county;

3804 (IV) rural county health care facilities in that county;

3805 (V) rural health clinics in that county; or

3806 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

3807 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a

3808 tax under this section on:

3809 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3810 are exempt from taxation under Section 59-12-104;

3811 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
3812 a city that imposes a tax under Section 59-12-804; ~~and~~

3813 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3814 59-12-107(1)(b)~~;~~ and

3815 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and
3816 food ingredients.

3817 (c) For purposes of this Subsection (1), the location of a transaction shall be
3818 determined in accordance with Section 59-12-207.

3819 (d) A county legislative body imposing a tax under this section shall impose the tax on
3820 amounts paid or charged for food and food ingredients if:

3821 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3822 food and food ingredients and tangible personal property other than food and food ingredients;
3823 and

3824 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3825 accordance with Subsection 59-12-107(1)(b).

3826 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
3827 obtain approval to impose the tax from a majority of the:

3828 (i) members of the county's legislative body; and

3829 (ii) county's registered voters voting on the imposition of the tax.

3830 (b) The county legislative body shall conduct the election according to the procedures
3831 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3832 (3) (a) The monies generated by a tax imposed under Subsection (1) by a county
3833 legislative body of a county of the third, fourth, or fifth class may only be used for the
3834 financing of:

3835 (i) ongoing operating expenses of a rural county health care facility within that county;

3836 (ii) the acquisition of land for a rural county health care facility within that county; or

3837 (iii) the design, construction, equipping, or furnishing of a rural county health care
3838 facility within that county.

3839 (b) The monies generated by a tax imposed under Subsection (1) by a county of the
3840 sixth class may only be used for the financing of:

3841 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3842 (1)(a)(ii)(B) within that county;

3843 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3844 (1)(a)(ii)(B) within that county;

3845 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3846 described in Subsection (1)(a)(ii)(B) within that county; or

3847 (iv) the provision of rural emergency medical services within that county.

3848 (4) (a) A tax under this section shall be:

3849 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3850 accordance with:

3851 (A) the same procedures used to administer, collect, and enforce the tax under:

3852 (I) Part 1, Tax Collection; or

3853 (II) Part 2, Local Sales and Use Tax Act; and

3854 (B) Chapter 1, General Taxation Policies; and

3855 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3856 period by the county legislative body as provided in Subsection (1).

3857 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3858 Subsections 59-12-205(2) through (7).

3859 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3860 under this section for the cost of administering this tax.

3861 Section 26. Section **59-12-804** is amended to read:

3862 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
3863 **collection, and enforcement of tax.**

3864 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

3865 (i) on the transactions described in Subsection 59-12-103(1) located within the city;
3866 and

3867 (ii) to fund rural city hospitals in that city.

3868 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
3869 under this section on:

3870 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3871 are exempt from taxation under Section 59-12-104; ~~and~~

3872 (ii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3873 59-12-107(1)(b)~~;~~ and

3874 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
3875 food ingredients.

3876 (c) For purposes of this Subsection (1), the location of a transaction shall be
3877 determined in accordance with Section 59-12-207.

3878 (d) A city legislative body imposing a tax under this section shall impose the tax on
3879 amounts paid or charged for food and food ingredients if:

3880 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3881 food and food ingredients and tangible personal property other than food and food ingredients;
3882 and

3883 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3884 accordance with Subsection 59-12-107(1)(b).

3885 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
3886 obtain approval to impose the tax from a majority of the:

3887 (i) members of the city legislative body; and

3888 (ii) city's registered voters voting on the imposition of the tax.

3889 (b) The city legislative body shall conduct the election according to the procedures and
3890 requirements of Title 11, Chapter 14, Local Government Bonding Act.

3891 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
3892 the financing of:

3893 (a) ongoing operating expenses of a rural city hospital;

3894 (b) the acquisition of land for a rural city hospital; or

3895 (c) the design, construction, equipping, or furnishing of a rural city hospital.

3896 (4) (a) A tax under this section shall be:

3897 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3898 accordance with:

3899 (A) the same procedures used to administer, collect, and enforce the tax under:

3900 (I) Part 1, Tax Collection; or

3901 (II) Part 2, Local Sales and Use Tax Act; and
3902 (B) Chapter 1, General Taxation Policies; and
3903 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3904 period by the city legislative body as provided in Subsection (1).

3905 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3906 Subsections 59-12-205(2) through (7).

3907 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3908 under this section for the cost of administering the tax.

3909 Section 27. Section **59-12-1001** is amended to read:

3910 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
3911 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**
3912 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
3913 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

3914 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
3915 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part
3916 impose a sales and use tax of:

3917 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the
3918 transactions described in Subsection 59-12-103(1) located within the city or town; or

3919 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection
3920 59-12-103(1) located within the city or town.

3921 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
3922 section on:

3923 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3924 are exempt from taxation under Section 59-12-104; [~~and~~]

3925 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
3926 59-12-107(1)(b)[~~;~~]; and

3927 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
3928 food ingredients.

3929 (c) For purposes of this Subsection (1), the location of a transaction shall be
3930 determined in accordance with Section 59-12-207.

3931 (d) A city or town imposing a tax under this section shall impose the tax on amounts

3932 paid or charged for food and food ingredients if:

3933 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3934 food and food ingredients and tangible personal property other than food and food ingredients;

3935 and

3936 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3937 accordance with Subsection 59-12-107(1)(b).

3938 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
3939 the tax:

3940 (i) for the construction and maintenance of highways under the jurisdiction of the city
3941 or town imposing the tax;

3942 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

3943 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

3944 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
3945 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

3946 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
3947 guideway system.

3948 (3) To impose a tax under this part, the governing body of the city or town shall:

3949 (a) pass an ordinance approving the tax; and

3950 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as
3951 provided in Subsection (4).

3952 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

3953 (a) hold an election during:

3954 (i) a regular general election; or

3955 (ii) a municipal general election; and

3956 (b) publish notice of the election:

3957 (i) 15 days or more before the day on which the election is held; and

3958 (ii) in a newspaper of general circulation in the city or town.

3959 (5) An ordinance approving a tax under this part shall provide an effective date for the
3960 tax as provided in Subsection (6).

3961 (6) (a) For purposes of this Subsection (6):

3962 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part

3963 4, Annexation.

3964 (ii) "Annexing area" means an area that is annexed into a city or town.

3965 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after ~~[July]~~ April 1,

3966 ~~[2004]~~ 2008, a city or town enacts or repeals a tax under this part, the enactment or repeal shall
3967 take effect:

3968 (A) on the first day of a calendar quarter; and

3969 (B) after a 90-day period beginning on the date the commission receives notice meeting
3970 the requirements of Subsection (6)(b)(ii) from the city or town.

3971 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

3972 (A) that the city or town will enact or repeal a tax under this part;

3973 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

3974 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

3975 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
3976 the tax.

3977 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
3978 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3979 (A) that begins after the effective date of the enactment of the tax; and

3980 (B) if the billing period for the transaction begins before the effective date of the
3981 enactment of the tax under Subsection (1).

3982 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
3983 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3984 (A) that began before the effective date of the repeal of the tax; and

3985 (B) if the billing period for the transaction begins before the effective date of the repeal
3986 of the tax imposed under Subsection (1).

3987 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:

3988 (A) Subsection 59-12-103(1)(b);

3989 (B) Subsection 59-12-103(1)(c);

3990 (C) Subsection 59-12-103(1)(d);

3991 (D) Subsection 59-12-103(1)(e);

3992 (E) Subsection 59-12-103(1)(f);

3993 (F) Subsection 59-12-103(1)(g);

3994 (G) Subsection 59-12-103(1)(h);

3995 (H) Subsection 59-12-103(1)(i);

3996 (I) Subsection 59-12-103(1)(j); or

3997 (J) Subsection 59-12-103(1)(k).

3998 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
3999 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4000 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

4001 (A) on the first day of a calendar quarter; and

4002 (B) beginning 60 days after the effective date of the enactment or repeal under
4003 Subsection (6)(b)(i).

4004 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4005 the commission may by rule define the term "catalogue sale."

4006 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
4007 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4008 part for an annexing area, the enactment or repeal shall take effect:

4009 (A) on the first day of a calendar quarter; and

4010 (B) after a 90-day period beginning on the date the commission receives notice meeting
4011 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

4012 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

4013 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
4014 repeal of a tax under this part for the annexing area;

4015 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

4016 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

4017 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

4018 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4019 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4020 (A) that begins after the effective date of the enactment of the tax; and

4021 (B) if the billing period for the transaction begins before the effective date of the
4022 enactment of the tax under Subsection (1).

4023 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4024 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

- 4025 (A) that began before the effective date of the repeal of the tax; and
- 4026 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4027 of the tax imposed under Subsection (1).
- 4028 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
- 4029 (A) Subsection 59-12-103(1)(b);
- 4030 (B) Subsection 59-12-103(1)(c);
- 4031 (C) Subsection 59-12-103(1)(d);
- 4032 (D) Subsection 59-12-103(1)(e);
- 4033 (E) Subsection 59-12-103(1)(f);
- 4034 (F) Subsection 59-12-103(1)(g);
- 4035 (G) Subsection 59-12-103(1)(h);
- 4036 (H) Subsection 59-12-103(1)(i);
- 4037 (I) Subsection 59-12-103(1)(j); or
- 4038 (J) Subsection 59-12-103(1)(k).
- 4039 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
- 4040 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4041 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
- 4042 (A) on the first day of a calendar quarter; and
- 4043 (B) beginning 60 days after the effective date of the enactment or repeal under
- 4044 Subsection (6)(e)(i).
- 4045 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 4046 the commission may by rule define the term "catalogue sale."
- 4047 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
- 4048 voter approval requirements of Subsection (3)(b) if:
- 4049 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
- 4050 businesses based on gross receipts pursuant to Section 10-1-203; or
- 4051 (ii) the city or town:
- 4052 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
- 4053 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
- 4054 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
- 4055 purpose described in Subsection (2)(a).

4056 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
4057 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
4058 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
4059 pursuant to Section 10-1-203.

4060 (8) A city or town is not subject to the voter approval requirements of Subsection
4061 (3)(b) if:

4062 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;
4063 and

4064 (b) on or after January 1, 2008, the city or town increases the tax rate under this section
4065 to .30%.

4066 Section 28. Section **59-12-1302** is amended to read:

4067 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
4068 **rate change -- Effective date -- Notice requirements.**

4069 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
4070 tax as provided in this part in an amount that does not exceed 1%.

4071 (2) A town may impose a tax as provided in this part if the town imposed a license fee
4072 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
4073 1996.

4074 (3) A town imposing a tax under this section shall:

4075 (a) except as provided in Subsection (4), impose the tax on the transactions described
4076 in Subsection 59-12-103(1) located within the town; and

4077 (b) provide an effective date for the tax as provided in Subsection (5).

4078 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
4079 section on:

4080 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4081 are exempt from taxation under Section 59-12-104; [~~and~~]

4082 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
4083 59-12-107(1)(b)[-]; and

4084 (iii) except as provided in Subsection (4)(c), amounts paid or charged for food and
4085 food ingredients.

4086 (b) For purposes of this Subsection (4), the location of a transaction shall be

4087 determined in accordance with Section 59-12-207.

4088 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
4089 charged for food and food ingredients if:

4090 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4091 food and food ingredients and tangible personal property other than food and food ingredients;
4092 and

4093 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4094 accordance with Subsection 59-12-107(1)(b).

4095 (5) (a) For purposes of this Subsection (5):

4096 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
4097 Annexation.

4098 (ii) "Annexing area" means an area that is annexed into a town.

4099 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4100 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4101 or change shall take effect:

4102 (A) on the first day of a calendar quarter; and

4103 (B) after a 90-day period beginning on the date the commission receives notice meeting
4104 the requirements of Subsection (5)(b)(ii) from the town.

4105 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4106 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

4107 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4108 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4109 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
4110 (5)(b)(ii)(A), the rate of the tax.

4111 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4112 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4113 first billing period:

4114 (A) that begins after the effective date of the enactment of the tax or the tax rate
4115 increase; and

4116 (B) if the billing period for the transaction begins before the effective date of the
4117 enactment of the tax or the tax rate increase imposed under Subsection (1).

4118 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4119 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4120 billing period:

4121 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4122 and

4123 (B) if the billing period for the transaction begins before the effective date of the repeal
4124 of the tax or the tax rate decrease imposed under Subsection (1).

4125 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4126 (A) Subsection 59-12-103(1)(b);

4127 (B) Subsection 59-12-103(1)(c);

4128 (C) Subsection 59-12-103(1)(d);

4129 (D) Subsection 59-12-103(1)(e);

4130 (E) Subsection 59-12-103(1)(f);

4131 (F) Subsection 59-12-103(1)(g);

4132 (G) Subsection 59-12-103(1)(h);

4133 (H) Subsection 59-12-103(1)(i);

4134 (I) Subsection 59-12-103(1)(j); or

4135 (J) Subsection 59-12-103(1)(k).

4136 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4137 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4138 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

4139 (A) on the first day of a calendar quarter; and

4140 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4141 rate of the tax under Subsection (5)(b)(i).

4142 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4143 the commission may by rule define the term "catalogue sale."

4144 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4145 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
4146 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
4147 effect:

4148 (A) on the first day of a calendar quarter; and

4149 (B) after a 90-day period beginning on the date the commission receives notice meeting
4150 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

4151 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4152 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
4153 repeal, or change in the rate of a tax under this part for the annexing area;

4154 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4155 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4156 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
4157 (5)(e)(ii)(A), the rate of the tax.

4158 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4159 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4160 first billing period:

4161 (A) that begins after the effective date of the enactment of the tax or the tax rate
4162 increase; and

4163 (B) if the billing period for the transaction begins before the effective date of the
4164 enactment of the tax or the tax rate increase imposed under Subsection (1).

4165 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4166 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4167 billing period:

4168 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4169 and

4170 (B) if the billing period for the transaction begins before the effective date of the repeal
4171 of the tax or the tax rate decrease imposed under Subsection (1).

4172 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4173 (A) Subsection 59-12-103(1)(b);

4174 (B) Subsection 59-12-103(1)(c);

4175 (C) Subsection 59-12-103(1)(d);

4176 (D) Subsection 59-12-103(1)(e);

4177 (E) Subsection 59-12-103(1)(f);

4178 (F) Subsection 59-12-103(1)(g);

4179 (G) Subsection 59-12-103(1)(h);

4180 (H) Subsection 59-12-103(1)(i);
4181 (I) Subsection 59-12-103(1)(j); or
4182 (J) Subsection 59-12-103(1)(k).
4183 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
4184 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4185 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:
4186 (A) on the first day of a calendar quarter; and
4187 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4188 rate of the tax under Subsection (5)(e)(i).
4189 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4190 the commission may by rule define the term "catalogue sale."
4191 (6) The commission shall:
4192 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
4193 under this section to the town imposing the tax;
4194 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
4195 authorized under this section in accordance with:
4196 (i) the same procedures used to administer, collect, and enforce the tax under:
4197 (A) Part 1, Tax Collection; or
4198 (B) Part 2, Local Sales and Use Tax Act; and
4199 (ii) Chapter 1, General Taxation Policies; and
4200 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
4201 collecting the tax as provided in Section 59-12-206.
4202 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
4203 Subsections 59-12-205(2) through (7).
4204 Section 29. Section **59-12-1402** is amended to read:
4205 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
4206 **of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
4207 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
4208 legislative body subject to this part may submit an opinion question to the residents of that city
4209 or town, by majority vote of all members of the legislative body, so that each resident of the
4210 city or town has an opportunity to express the resident's opinion on the imposition of a local

4211 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
4212 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
4213 and zoological organizations in that city or town.

4214 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
4215 impose a tax under this section:

4216 (A) if the county in which the city or town is located imposes a tax under Part 7,
4217 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
4218 Facilities;

4219 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
4220 uses are exempt from taxation under Section 59-12-104; ~~and~~

4221 (C) on ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
4222 59-12-107(1)(b)~~[-]; and~~

4223 (D) except as provided in Subsection (1)(c), on amounts paid or charged for food and
4224 food ingredients.

4225 (b) For purposes of this Subsection (1), the location of a transaction shall be
4226 determined in accordance with Section 59-12-207.

4227 (c) A city or town legislative body imposing a tax under this section shall impose the
4228 tax on amounts paid or charged for food and food ingredients if:

4229 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4230 food and food ingredients and tangible personal property other than food and food ingredients;
4231 and

4232 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4233 accordance with Subsection 59-12-107(1)(b).

4234 ~~(c)~~ (d) The election shall be held at a regular general election or a municipal general
4235 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
4236 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
4237 Subsection (6).

4238 (2) If the city or town legislative body determines that a majority of the city's or town's
4239 registered voters voting on the imposition of the tax have voted in favor of the imposition of
4240 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
4241 by a majority vote of all members of the legislative body.

4242 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
4243 financing:

4244 (a) recreational and zoological facilities within the city or town or within the
4245 geographic area of entities that are parties to an interlocal agreement, to which the city or town
4246 is a party, providing for recreational or zoological facilities; and

4247 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
4248 within the city or town or within the geographic area of entities that are parties to an interlocal
4249 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
4250 or zoological organizations.

4251 (4) (a) A tax authorized under this part shall be:

4252 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
4253 accordance with:

4254 (A) the same procedures used to administer, collect, and enforce the tax under:

4255 (I) Part 1, Tax Collection; or

4256 (II) Part 2, Local Sales and Use Tax Act; and

4257 (B) Chapter 1, General Taxation Policies; and

4258 (ii) (A) levied for a period of eight years; and

4259 (B) may be reauthorized at the end of the eight-year period in accordance with this
4260 section.

4261 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
4262 Subsections 59-12-205(2) through (7).

4263 (5) (a) For purposes of this Subsection (5):

4264 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4265 4, Annexation.

4266 (ii) "Annexing area" means an area that is annexed into a city or town.

4267 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
4268 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

4269 (A) on the first day of a calendar quarter; and

4270 (B) after a 90-day period beginning on the date the commission receives notice meeting
4271 the requirements of Subsection (5)(b)(ii) from the city or town.

4272 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

- 4273 (A) that the city or town will enact or repeal a tax under this part;
- 4274 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 4275 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 4276 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
- 4277 the tax.
- 4278 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 4279 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4280 (A) that begins after the effective date of the enactment of the tax; and
- 4281 (B) if the billing period for the transaction begins before the effective date of the
- 4282 enactment of the tax under this section.
- 4283 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 4284 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4285 (A) that began before the effective date of the repeal of the tax; and
- 4286 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4287 of the tax imposed under this section.
- 4288 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 4289 (A) Subsection 59-12-103(1)(b);
- 4290 (B) Subsection 59-12-103(1)(c);
- 4291 (C) Subsection 59-12-103(1)(d);
- 4292 (D) Subsection 59-12-103(1)(e);
- 4293 (E) Subsection 59-12-103(1)(f);
- 4294 (F) Subsection 59-12-103(1)(g);
- 4295 (G) Subsection 59-12-103(1)(h);
- 4296 (H) Subsection 59-12-103(1)(i);
- 4297 (I) Subsection 59-12-103(1)(j); or
- 4298 (J) Subsection 59-12-103(1)(k).
- 4299 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
- 4300 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 4301 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
- 4302 (A) on the first day of a calendar quarter; and
- 4303 (B) beginning 60 days after the effective date of the enactment or repeal under

4304 Subsection (5)(b)(i).

4305 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4306 the commission may by rule define the term "catalogue sale."

4307 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4308 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4309 part for an annexing area, the enactment or repeal shall take effect:

4310 (A) on the first day of a calendar quarter; and

4311 (B) after a 90-day period beginning on the date the commission receives notice meeting
4312 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

4313 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4314 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4315 repeal a tax under this part for the annexing area;

4316 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4317 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4318 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4319 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4320 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4321 (A) that begins after the effective date of the enactment of the tax; and

4322 (B) if the billing period for the transaction begins before the effective date of the
4323 enactment of the tax under this section.

4324 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4325 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4326 (A) that began before the effective date of the repeal of the tax; and

4327 (B) if the billing period for the transaction begins before the effective date of the repeal
4328 of the tax imposed under this section.

4329 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4330 (A) Subsection 59-12-103(1)(b);

4331 (B) Subsection 59-12-103(1)(c);

4332 (C) Subsection 59-12-103(1)(d);

4333 (D) Subsection 59-12-103(1)(e);

4334 (E) Subsection 59-12-103(1)(f);

4335 (F) Subsection 59-12-103(1)(g);

4336 (G) Subsection 59-12-103(1)(h);

4337 (H) Subsection 59-12-103(1)(i);

4338 (I) Subsection 59-12-103(1)(j); or

4339 (J) Subsection 59-12-103(1)(k).

4340 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
4341 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4342 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

4343 (A) on the first day of a calendar quarter; and

4344 (B) beginning 60 days after the effective date of the enactment or repeal under
4345 Subsection (5)(e)(i).

4346 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4347 the commission may by rule define the term "catalogue sale."

4348 (6) (a) Before a city or town legislative body submits an opinion question to the
4349 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

4350 (i) submit to the county legislative body in which the city or town is located a written
4351 notice of the intent to submit the opinion question to the residents of the city or town; and

4352 (ii) receive from the county legislative body:

4353 (A) a written resolution passed by the county legislative body stating that the county
4354 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
4355 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

4356 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
4357 opinion question submitted to the residents of the county under Part 7, County Option Funding
4358 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
4359 or town legislative body to submit the opinion question to the residents of the city or town in
4360 accordance with this part.

4361 (b) (i) Within 60 days after the day the county legislative body receives from a city or
4362 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
4363 opinion question to the residents of the city or town, the county legislative body shall provide
4364 the city or town legislative body:

4365 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

4366 (B) written notice that the county legislative body will submit an opinion question to
4367 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
4368 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
4369 that part.

4370 (ii) If the county legislative body provides the city or town legislative body the written
4371 notice that the county legislative body will submit an opinion question as provided in
4372 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
4373 later than, from the date the county legislative body sends the written notice, the later of:

4374 (A) a 12-month period;

4375 (B) the next regular primary election; or

4376 (C) the next regular general election.

4377 (iii) Within 30 days of the date of the canvass of the election at which the opinion
4378 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
4379 city or town legislative body described in Subsection (6)(a) written results of the opinion
4380 question submitted by the county legislative body under Part 7, County Option Funding for
4381 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

4382 (A) (I) the city or town legislative body may not impose a tax under this part because a
4383 majority of the county's registered voters voted in favor of the county imposing the tax and the
4384 county legislative body by a majority vote approved the imposition of the tax; or

4385 (II) for at least 12 months from the date the written results are submitted to the city or
4386 town legislative body, the city or town legislative body may not submit to the county legislative
4387 body a written notice of the intent to submit an opinion question under this part because a
4388 majority of the county's registered voters voted against the county imposing the tax and the
4389 majority of the registered voters who are residents of the city or town described in Subsection
4390 (6)(a) voted against the imposition of the county tax; or

4391 (B) the city or town legislative body may submit the opinion question to the residents
4392 of the city or town in accordance with this part because although a majority of the county's
4393 registered voters voted against the county imposing the tax, the majority of the registered voters
4394 who are residents of the city or town voted for the imposition of the county tax.

4395 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
4396 provide a city or town legislative body described in Subsection (6)(a) a written resolution

4397 passed by the county legislative body stating that the county legislative body is not seeking to
4398 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
4399 Zoological Organizations or Facilities, which permits the city or town legislative body to
4400 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

4401 Section 30. Section **59-12-1503** is amended to read:

4402 **59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**
4403 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
4404 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4405 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this
4406 part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

4407 (i) on the transactions:

4408 (A) described in Subsection 59-12-103(1); and

4409 (B) within the county, including the cities and towns within the county;

4410 (ii) for the purposes determined by the county legislative body in accordance with
4411 Subsection (2); and

4412 (iii) in addition to any other sales and use tax authorized under this chapter.

4413 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4414 tax under this section on:

4415 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
4416 are exempt from taxation under Section 59-12-104; [~~or~~]

4417 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
4418 59-12-107(1)(b)[~~;~~]; and

4419 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
4420 food ingredients.

4421 (c) For purposes of this Subsection (1), the location of a transaction shall be
4422 determined in accordance with Section 59-12-207.

4423 (d) A county legislative body imposing a tax under this section shall impose the tax on
4424 amounts paid or charged for food and food ingredients if:

4425 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4426 food and food ingredients and tangible personal property other than food and food ingredients;

4427 and

4428 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4429 accordance with Subsection 59-12-107(1)(b).

4430 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
4431 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
4432 revenues the county will receive from the tax under this part that will be allocated to fund one
4433 or more of the following:

4434 (i) a project or service relating to a fixed guideway system:

4435 (A) for the portion of the project or service that is performed within the county; and

4436 (B) if the fixed guideway system is owned and operated by a public transit district
4437 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

4438 (ii) a project or service relating to a system for public transit:

4439 (A) for the portion of the project or service that is performed within the county; and

4440 (B) if the system for public transit is owned and operated by a public transit district
4441 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or

4442 (iii) the following relating to a state highway within the county:

4443 (A) a project beginning on or after the day on which a county legislative body imposes
4444 a tax under this part only within the county involving:

4445 (I) new construction;

4446 (II) a renovation;

4447 (III) an improvement; or

4448 (IV) an environmental study;

4449 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

4450 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
4451 through (IV).

4452 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
4453 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
4454 tax under this part.

4455 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
4456 tax under this part do not include amounts retained by the commission in accordance with
4457 Subsection (8).

4458 (3) (a) Before imposing a tax under this part, a county legislative body shall:

4459 (i) obtain approval from a majority of the members of the county legislative body to:

4460 (A) impose the tax; and

4461 (B) allocate the revenues the county will receive from the tax in accordance with the
4462 resolution adopted in accordance with Subsection (2); and

4463 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
4464 voters voting on the imposition of the tax so that each registered voter has the opportunity to
4465 express the registered voter's opinion on whether a tax should be imposed under this part.

4466 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
4467 specified in the resolution:

4468 (i) adopted in accordance with Subsection (2); and

4469 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

4470 (c) The election required by this Subsection (3) shall be held:

4471 (i) (A) at a regular general election; and

4472 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
4473 governing regular general elections; or

4474 (ii) (A) at a special election called by the county legislative body;

4475 (B) only on the date of a municipal general election provided in Subsection
4476 20A-1-202(1); and

4477 (C) in accordance with the procedures and requirements of Section 20A-1-203.

4478 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
4479 of the county's registered voters voting on the imposition of the tax have voted in favor of the
4480 imposition of the tax in accordance with Subsection (3), the county legislative body may
4481 impose the tax by a majority vote of all of the members of the county legislative body.

4482 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
4483 generated by the tax shall be:

4484 (i) allocated in accordance with the allocations specified in the resolution under
4485 Subsection (2); and

4486 (ii) expended as provided in this part.

4487 (5) If a county legislative body allocates revenues generated by the tax for a project
4488 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
4489 shall:

4490 (a) obtain approval from the Transportation Commission to complete the project; and

4491 (b) enter into an interlocal agreement:

4492 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

4493 (ii) with the Department of Transportation; and

4494 (iii) to complete the project.

4495 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county

4496 legislative body seeks to change the allocation of the tax specified in the resolution under

4497 Subsection (2), the county legislative body may change the allocation of the tax by:

4498 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of

4499 revenues the county will receive from the tax under this part that will be allocated to fund one

4500 or more of the systems or projects described in Subsection (2);

4501 (ii) obtaining approval to change the allocation of the tax from a majority of the

4502 members of the county legislative body; and

4503 (iii) (A) submitting an opinion question to the county's registered voters voting on

4504 changing the allocation of the tax so that each registered voter has the opportunity to express

4505 the registered voter's opinion on whether the allocation of the tax should be changed; and

4506 (B) obtaining approval to change the allocation of the tax from a majority of the

4507 county's registered voters voting on changing the allocation of the tax.

4508 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations

4509 specified in the resolution:

4510 (A) adopted in accordance with Subsection (6)(a)(i); and

4511 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

4512 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and

4513 requirements of Title 11, Chapter 14, Local Government Bonding Act.

4514 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax

4515 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be

4516 transmitted:

4517 (A) by the commission;

4518 (B) to the county;

4519 (C) monthly; and

4520 (D) by electronic funds transfer.

- 4521 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
4522 transfer the revenues described in Subsection (7)(a)(i):
- 4523 (A) directly to a public transit district:
- 4524 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
4525 (II) designated by the county; and
- 4526 (B) by providing written notice to the commission:
- 4527 (I) requesting the revenues to be transferred directly to a public transit district as
4528 provided in Subsection (7)(a)(ii)(A); and
- 4529 (II) designating the public transit district to which the revenues are requested to be
4530 transferred.
- 4531 (b) Revenues generated by a tax under this part that are allocated for a purpose
4532 described in Subsection (2)(a)(iii) shall be:
- 4533 (i) deposited into the State Highway Projects Within Counties Fund created by Section
4534 72-2-121.1; and
- 4535 (ii) expended as provided in Section 72-2-121.1.
- 4536 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
4537 shall be administered, collected, and enforced in accordance with:
- 4538 (A) the same procedures used to administer, collect, and enforce the tax under:
- 4539 (I) Part 1, Tax Collection; or
4540 (II) Part 2, Local Sales and Use Tax Act; and
- 4541 (B) Chapter 1, General Taxation Policies.
- 4542 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
4543 Subsections 59-12-205(2) through (7).
- 4544 (b) (i) The commission may retain an amount of tax collected under this part of not to
4545 exceed the lesser of:
- 4546 (A) 1.5%; or
4547 (B) an amount equal to the cost to the commission of administering this part.
- 4548 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 4549 (A) placed in the Sales and Use Tax Administrative Fees Account; and
4550 (B) used as provided in Subsection 59-12-206(2).
- 4551 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a

4552 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

4553 (A) on the first day of a calendar quarter; and

4554 (B) after a 90-day period beginning on the date the commission receives notice meeting

4555 the requirements of Subsection (9)(a)(ii) from the county.

4556 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

4557 (A) that the county will enact or repeal a tax under this part;

4558 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

4559 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

4560 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

4561 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection

4562 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4563 (A) that begins after the effective date of the enactment of the tax; and

4564 (B) if the billing period for the transaction begins before the effective date of the

4565 enactment of the tax under Subsection (1).

4566 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection

4567 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4568 (A) that began before the effective date of the repeal of the tax; and

4569 (B) if the billing period for the transaction begins before the effective date of the repeal

4570 of the tax imposed under Subsection (1).

4571 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

4572 (A) Subsection 59-12-103(1)(b);

4573 (B) Subsection 59-12-103(1)(c);

4574 (C) Subsection 59-12-103(1)(d);

4575 (D) Subsection 59-12-103(1)(e);

4576 (E) Subsection 59-12-103(1)(f);

4577 (F) Subsection 59-12-103(1)(g);

4578 (G) Subsection 59-12-103(1)(h);

4579 (H) Subsection 59-12-103(1)(i);

4580 (I) Subsection 59-12-103(1)(j); or

4581 (J) Subsection 59-12-103(1)(k).

4582 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a

4583 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4584 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

4585 (A) on the first day of a calendar quarter; and

4586 (B) beginning 60 days after the effective date of the enactment or repeal under

4587 Subsection (9)(a)(i).

4588 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4589 the commission may by rule define the term "catalogue sale."

4590 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
4591 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4592 part for an annexing area, the enactment or repeal shall take effect:

4593 (A) on the first day of a calendar quarter; and

4594 (B) after a 90-day period beginning on the date the commission receives notice meeting
4595 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

4596 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4597 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
4598 or repeal of a tax under this part for the annexing area;

4599 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4600 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4601 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).

4602 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4603 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4604 (A) that begins after the effective date of the enactment of the tax; and

4605 (B) if the billing period for the transaction begins before the effective date of the
4606 enactment of the tax under Subsection (1).

4607 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4608 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4609 (A) that began before the effective date of the repeal of the tax; and

4610 (B) if the billing period for the transaction begins before the effective date of the repeal
4611 of the tax imposed under Subsection (1).

4612 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4613 (A) Subsection 59-12-103(1)(b);

- 4614 (B) Subsection 59-12-103(1)(c);
- 4615 (C) Subsection 59-12-103(1)(d);
- 4616 (D) Subsection 59-12-103(1)(e);
- 4617 (E) Subsection 59-12-103(1)(f);
- 4618 (F) Subsection 59-12-103(1)(g);
- 4619 (G) Subsection 59-12-103(1)(h);
- 4620 (H) Subsection 59-12-103(1)(i);
- 4621 (I) Subsection 59-12-103(1)(j); or
- 4622 (J) Subsection 59-12-103(1)(k).

4623 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
4624 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4625 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

4626 (A) on the first day of a calendar quarter; and

4627 (B) beginning 60 days after the effective date of the enactment or repeal under
4628 Subsection (9)(d)(i).

4629 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4630 the commission may by rule define the term "catalogue sale."

4631 Section 31. Section **59-12-1703** is amended to read:

4632 **59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**
4633 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
4634 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4635 (1) (a) [~~Beginning on or after April 1, 2007, and subject~~] Subject to the other
4636 provisions of this part, a county legislative body may impose a sales and use tax of up to .25%:

4637 (i) on the transactions:

4638 (A) described in Subsection 59-12-103(1); and

4639 (B) within the county, including the cities and towns within the county;

4640 (ii) for the purposes described in Subsection (4); and

4641 (iii) in addition to any other sales and use tax authorized under this chapter.

4642 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4643 tax under this section on:

4644 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

4645 are exempt from taxation under Section 59-12-104; [or]

4646 (ii) [any] amounts paid or charged by a seller that collects a tax under Subsection
4647 59-12-107(1)(b)[-]; and

4648 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
4649 food ingredients.

4650 (c) For purposes of this Subsection (1), the location of a transaction shall be
4651 determined in accordance with Section 59-12-207.

4652 (d) A county legislative body imposing a tax under this section shall impose the tax on
4653 amounts paid or charged for food and food ingredients if:

4654 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4655 food and food ingredients and tangible personal property other than food and food ingredients;
4656 and

4657 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4658 accordance with Subsection 59-12-107(1)(b).

4659 (2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a
4660 county legislative body shall:

4661 (i) obtain approval from a majority of the members of the county legislative body to
4662 impose the tax; and

4663 (ii) submit an opinion question to the county's registered voters voting on the
4664 imposition of the tax so that each registered voter has the opportunity to express the registered
4665 voter's opinion on whether a tax should be imposed under this part.

4666 (b) (i) In a county of the first or second class, the opinion question required by
4667 Subsection (2)(a)(ii) shall state the following:

4668 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
4669 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
4670 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

4671 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by
4672 Subsection (2)(a)(ii) shall state the following:

4673 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
4674 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
4675 corridor preservation, congestion mitigation, or to expand capacity for regionally significant

4676 transportation facilities?"

4677 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)
4678 shall be held:

4679 (i) at a regular general election conducted in accordance with the procedures and
4680 requirements of Title 20A, Election Code, governing regular elections; or

4681 (ii) at a special election called by the county legislative body that is:

4682 (A) held only on the date of a municipal general election as provided in Subsection
4683 20A-1-202(1); and

4684 (B) authorized in accordance with the procedures and requirements of Section
4685 20A-1-203.

4686 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under
4687 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
4688 body shall:

4689 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of
4690 September 20, 2006;

4691 (ii) direct the county clerk to submit the opinion question required by Subsection
4692 (2)(a)(ii) during the November 7, 2006 general election; and

4693 (iii) hold the election required by this section on November 7, 2006.

4694 (3) If a county legislative body determines that a majority of the county's registered
4695 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
4696 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
4697 with this section.

4698 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
4699 part may only be expended for:

4700 (i) a project or service:

4701 (A) relating to a regionally significant transportation facility;

4702 (B) for the portion of the project or service that is performed within the county;

4703 (C) for new capacity or congestion mitigation if the project or service is performed
4704 within a county:

4705 (I) of the first class;

4706 (II) of the second class; or

- 4707 (III) that is part of an area metropolitan planning organization;
- 4708 (D) (I) if the project or service is a principal arterial highway or a minor arterial
4709 highway in a county of the first or second class, that is part of the county and municipal master
4710 plan and part of:
- 4711 (Aa) the statewide long-range plan; or
- 4712 (Bb) the regional transportation plan of the area metropolitan planning organization if a
4713 metropolitan planning organization exists for the area; or
- 4714 (II) if the project or service is for a fixed guideway or an airport, that is part of the
4715 regional transportation plan of the area metropolitan planning organization if a metropolitan
4716 planning organization exists for the area; and
- 4717 (E) that is on a priority list:
- 4718 (I) created by the county's council of governments in accordance with Subsection (5);
4719 and
- 4720 (II) approved by the county legislative body in accordance with Subsection (6);
- 4721 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in
4722 Subsection (7)(b); or
- 4723 (iii) any debt service and bond issuance costs related to a project described in
4724 Subsection (4)(a)(i) or (ii).
- 4725 (b) In a county of the first or second class, a regionally significant transportation
4726 facility project or service described in Subsection (4)(a)(i)(A) must have a funded year priority
4727 designation on a Statewide Transportation Improvement Program and Transportation
4728 Improvement Program if the project or service described in Subsection (4)(a)(i) is:
- 4729 (i) a principal arterial highway as defined in Section 72-4-102.5;
- 4730 (ii) a minor arterial highway as defined in Section 72-4-102.5; or
- 4731 (iii) a major collector highway:
- 4732 (A) as defined in Section 72-4-102.5; and
- 4733 (B) in a rural area.
- 4734 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the
4735 revenues generated by the tax imposed under this section by any county of the first or second
4736 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).
- 4737 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax

4738 under this part do not include amounts retained by the commission in accordance with
4739 Subsection (8).

4740 (5) (a) The county's council of governments shall create a priority list of regionally
4741 significant transportation facility projects described in Subsection (4)(a) using the process
4742 described in Subsection (5)(b) and present the priority list to the county's legislative body for
4743 approval as described in Subsection (6).

4744 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall
4745 establish a council of governments' endorsement process which includes prioritization and
4746 application procedures for use of the revenues a county will receive from a tax under this part.

4747 (6) (a) The council of governments shall submit the priority list described in
4748 Subsection (5) to the county's legislative body and obtain approval of the list from a majority of
4749 the members of the county legislative body.

4750 (b) A county's council of governments may only submit one priority list per calendar
4751 year.

4752 (c) A county legislative body may only consider and approve one priority list per
4753 calendar year.

4754 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
4755 Subsection (4) shall be transmitted:

- 4756 (A) by the commission;
- 4757 (B) to the county;
- 4758 (C) monthly; and
- 4759 (D) by electronic funds transfer.

4760 (ii) A county may request that the commission transfer a portion of the revenues
4761 described in Subsection (4):

- 4762 (A) directly to a public transit district:
 - 4763 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
 - 4764 (II) designated by the county; and
- 4765 (B) by providing written notice to the commission:
 - 4766 (I) requesting the revenues to be transferred directly to a public transit district as
 - 4767 provided in Subsection (7)(a)(ii)(A); and
 - 4768 (II) designating the public transit district to which the revenues are requested to be

4769 transferred.

4770 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
4771 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

4772 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
4773 created by Section 72-2-117.5; and

4774 (B) expended as provided in Section 72-2-117.5.

4775 (ii) In a county of the first class, revenues generated by a tax under this part that are
4776 allocated for a purpose described in Subsection (4)(a)(ii) shall be:

4777 (A) deposited in or transferred to the Public Transportation System Tax Highway Fund
4778 created by Section 72-2-121; and

4779 (B) expended as provided in Section 72-2-121.

4780 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
4781 shall be administered, collected, and enforced in accordance with:

4782 (A) the same procedures used to administer, collect, and enforce the tax under:

4783 (I) Part 1, Tax Collection; or

4784 (II) Part 2, Local Sales and Use Tax Act; and

4785 (B) Chapter 1, General Taxation Policies.

4786 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

4787 (b) (i) The commission may retain an amount of tax collected under this part of not to
4788 exceed the lesser of:

4789 (A) 1.5%; or

4790 (B) an amount equal to the cost to the commission of administering this part.

4791 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

4792 (A) placed in the Sales and Use Tax Administrative Fees Account; and

4793 (B) used as provided in Subsection 59-12-206(2).

4794 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
4795 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4796 or change shall take effect:

4797 (A) on the first day of a calendar quarter; and

4798 (B) after a 90-day period beginning on the date the commission receives notice meeting
4799 the requirements of Subsection (9)(a)(ii) from the county.

4800 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
4801 (A) that the county will enact, repeal, or change the rate of a tax under this part;
4802 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
4803 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
4804 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4805 (9)(a)(ii)(A), the rate of the tax.

4806 (b) (i) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
4807 transaction begins before the effective date of the enactment of the tax or tax rate increase
4808 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
4809 day of the first billing period that begins after the effective date of the enactment of the tax or
4810 the tax rate increase.

4811 (ii) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
4812 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
4813 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
4814 first day of the last billing period that began before the effective date of the repeal of the tax or
4815 the tax rate decrease.

4816 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

- 4817 (A) Subsection 59-12-103(1)(b);
- 4818 (B) Subsection 59-12-103(1)(c);
- 4819 (C) Subsection 59-12-103(1)(d);
- 4820 (D) Subsection 59-12-103(1)(e);
- 4821 (E) Subsection 59-12-103(1)(f);
- 4822 (F) Subsection 59-12-103(1)(g);
- 4823 (G) Subsection 59-12-103(1)(h);
- 4824 (H) Subsection 59-12-103(1)(i);
- 4825 (I) Subsection 59-12-103(1)(j); or
- 4826 (J) Subsection 59-12-103(1)(k).

4827 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4828 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
4829 a tax described in Subsection (9)(a)(i) takes effect:

- 4830 (A) on the first day of a calendar quarter; and

4831 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4832 rate of the tax under Subsection (9)(a)(i).

4833 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4834 the commission may by rule define the term "catalogue sale."

4835 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
4836 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the
4837 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
4838 effect:

4839 (A) on the first day of a calendar quarter; and

4840 (B) after a 90-day period beginning on the date the commission receives notice meeting
4841 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

4842 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4843 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,
4844 repeal, or change in the rate of a tax under this part for the annexing area;

4845 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4846 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4847 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4848 (9)(d)(ii)(A), the rate of the tax.

4849 (e) (i) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
4850 transaction begins before the effective date of the enactment of the tax or a tax rate increase
4851 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
4852 day of the first billing period that begins after the effective date of the enactment of the tax or
4853 the tax rate increase.

4854 (ii) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
4855 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
4856 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
4857 first day of the last billing period that began before the effective date of the repeal of the tax or
4858 the tax rate decrease.

4859 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4860 (A) Subsection 59-12-103(1)(b);

4861 (B) Subsection 59-12-103(1)(c);

- 4862 (C) Subsection 59-12-103(1)(d);
- 4863 (D) Subsection 59-12-103(1)(e);
- 4864 (E) Subsection 59-12-103(1)(f);
- 4865 (F) Subsection 59-12-103(1)(g);
- 4866 (G) Subsection 59-12-103(1)(h);
- 4867 (H) Subsection 59-12-103(1)(i);
- 4868 (I) Subsection 59-12-103(1)(j); or
- 4869 (J) Subsection 59-12-103(1)(k).

4870 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
 4871 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
 4872 a tax described in Subsection (9)(d)(i) takes effect:

- 4873 (A) on the first day of a calendar quarter; and
- 4874 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
 4875 rate under Subsection (9)(d)(i).

4876 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 4877 the commission may by rule define the term "catalogue sale."

4878 Section 32. Section **59-26-102** is amended to read:

4879 **59-26-102. Definitions.**

4880 As used in this chapter:

4881 (1) "County or municipality franchise fee" means a franchise fee that a county or
 4882 municipality receives from a multi-channel video or audio service provider.

4883 (2) "Franchise fee" is as defined in 47 U.S.C. Sec. 542, except that the term "cable
 4884 operator" or "cable subscriber" shall be interpreted to include a multi-channel video or audio
 4885 service provider.

4886 [~~(1) "multi-channel"~~] (3) (a) "Multi-channel video or audio service provider" means any
 4887 person or group of persons that:

4888 [~~(a)~~] (i) provides multi-channel video or audio service and directly or indirectly owns a
 4889 significant interest in the multi-channel video or audio service; or

4890 [~~(b)~~] (ii) otherwise controls or is responsible through any arrangement, the
 4891 management and operation of the multi-channel video or audio service[~~;~~ and].

4892 [~~(2) "multi-channel"~~] (b) "Multi-channel video or audio service provider" includes the

4893 following except as specifically exempted by state or federal law:

4894 [~~(a)~~] (i) a cable operator;

4895 [~~(b)~~] (ii) a CATV provider;

4896 [~~(c)~~] (iii) a multi-point distribution provider;

4897 [~~(d)~~] (iv) a MMDS provider;

4898 [~~(e)~~] (v) a SMATV operator;

4899 [~~(f)~~] (vi) a direct-to-home satellite service provider; or

4900 [~~(g)~~] (vii) a DBS provider.

4901 (4) "Municipality" means a city or town.

4902 Section 33. Section **59-26-103** is amended to read:

4903 **59-26-103. Imposition of tax -- Rate.**

4904 [~~Beginning on July 1, 2004~~] Subject to Section 59-26-104.5, there is imposed as
4905 provided in this part a tax on the purchaser equal to 6.25% of amounts paid or charged for
4906 multi-channel video or audio service provided by a multi-channel video or audio service
4907 provider:

4908 (1) within the state; and

4909 (2) to the extent permitted by federal law.

4910 Section 34. Section **59-26-104.5** is enacted to read:

4911 **59-26-104.5. Nonrefundable credit against tax -- Amounts passed through to**
4912 **customers within the state -- Tax may not be reduced by amounts passed through to**
4913 **customers within the state.**

4914 (1) Beginning on January 1, 2008, a multi-channel video or audio service provider may
4915 claim a nonrefundable tax credit as provided in this section.

4916 (2) The nonrefundable tax credit described in Subsection (1):

4917 (a) may be claimed against the tax the multi-channel video or audio service provider
4918 would otherwise be required to collect under this chapter from its purchasers within the state;
4919 and

4920 (b) is in an amount equal to 50% of the total amount of county or municipality
4921 franchise fees that the multi-channel video or audio service provider pays:

4922 (i) to all of the counties and municipalities within the state that impose a county or
4923 municipality franchise fee; and

4924 (ii) for the calendar quarter for which the multi-channel video or audio service provider
4925 files a return under this chapter.

4926 (3) The nonrefundable tax credit described in Subsection (1) may not be carried
4927 forward or carried back.

4928 (4) (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service
4929 provider shall pass through to its purchasers within the state an amount equal to the amount of
4930 the nonrefundable tax credit the multi-channel video or audio service provider claims for a
4931 calendar quarter.

4932 (b) The amount that a multi-channel video or audio service provider passes through to
4933 its purchasers within the state under Subsection (4)(a) shall be passed through during the same
4934 calendar quarter as the calendar quarter for which the multi-channel video or audio service
4935 provider claims the nonrefundable tax credit.

4936 (c) A tax under this chapter on amounts paid or charged for multi-channel video or
4937 audio service may not be reduced as a result of the amount a multi-channel video or audio
4938 service provider passes through to its customers within this state under this Subsection (4).

4939 **Section 35. Revenue and Taxation Interim Committee study.**

4940 During the 2007 interim, the Revenue and Taxation Interim Committee shall, with the
4941 assistance of the Utah Tax Review Commission, draft legislation to repeal the state individual
4942 income tax imposed on the basis of graduated brackets and rates.

4943 **Section 36. Appropriations.**

4944 There is appropriated:

4945 (1) for fiscal year 2007-08 only, \$277,500 from the General Fund to the Rural Health
4946 Care Facilities Fund created by Section 26-9-4 to fund the distributions required by Section
4947 26-9-4; and

4948 (2) as an ongoing appropriation subject to future budget constraints, \$555,000 from the
4949 General Fund for fiscal year 2008-09, to the Rural Health Care Facilities Fund created by
4950 Section 26-9-4 to fund the distributions required by Section 26-9-4.

4951 **Section 37. Effective dates.**

4952 (1) Except as provided in Subsections (2) through (7), this bill takes effect on January
4953 1, 2008.

4954 (2) The amendments to Section 59-1-901 take effect on April 30, 2007.

4955 (3) The enactment of uncodified Section 35, Revenue and Taxation Interim Committee
4956 study, takes effect on April 30, 2007.

4957 (4) The enactment of uncodified Section 36, Appropriations, takes effect on July 1,
4958 2007.

4959 (5) The amendments to the following take effect for taxable years beginning on or after
4960 January 1, 2008:

4961 (a) Section 59-7-612;

4962 (b) Section 59-10-104;

4963 (c) Section 59-10-1012;

4964 (d) Section 59-10-1014;

4965 (e) Section 59-10-1202; and

4966 (f) Section 59-10-1203.

4967 (6) The enactments of the following take effect for taxable years beginning on or after
4968 January 1, 2008:

4969 (a) Section 59-10-1106;

4970 (b) Section 59-10-1206.1;

4971 (c) Section 59-10-1206.2; and

4972 (d) Section 59-10-1206.9.

4973 (7) The repeal and reenactment of Section 59-7-614 takes effect for taxable years
4974 beginning on or after January 1, 2008.

4975 Section 38. **Revisor instructions.**

4976 It is the intent of the Legislature that, in preparing the Utah Code database for
4977 publication, the Office of Legislative Research and General Counsel shall replace the reference
4978 in Subsection 26-9-4(5)(a)(i)(A) from "by this bill" to the bill's designated chapter and section
4979 number in the Laws of Utah.

S.B. 223 2nd Sub. (Salmon) - Tax Amendments

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill would result in an Education Fund loss of the following estimated amounts:

	FY 2008	FY 2009
Income Tax Reform provisions	(\$25,633,000)	(\$100,504,000)
Research and Development Tax Credits		(\$ 14,500,000)
Renewable Energy Corporate Credits		(\$ 2,326,700)
 Total Education Fund	 (\$25,633,000)	 (\$117,330,700)

There is also an estimated loss to the General Fund Resulting from the following provisions:

Dental Prosthesis Sales Tax Exemption	(\$ 915,700)	(\$ 1,886,400)
Non-Oil and Gas Mining Exemption	(\$ 2,431,000)	(\$ 5,013,000)
Cable Equalization	(\$ 2,384,000)	(\$ 5,006,500)
State Sales Tax Reduction 4.75% to 4.65%	(\$19,642,800)	(\$40,857,000)
Food Tax Reduction 2.75% to 1.75%	(\$19,427,000)	(\$40,408,200)
 Total General Fund	 (\$45,122,500)	 (\$ 93,815,100)
 Grand Total	 (\$70,755,500)	 (\$211,145,800)

Enactment of the bill will also appropriate \$277,500 General Fund in FY 2008 and \$555,000 General Fund in FY 2009 to the Rural Health Care Facilities Fund, a new General Fund restricted account created in this bill.

	FY 2007	FY 2008	FY 2009	FY 2007	FY 2008	FY 2009
	<u>Approp.</u>	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$0	\$277,500	\$555,000	\$0	(\$45,122,500)	(\$93,815,100)
Uniform School Fund	\$0	\$0	\$0	\$0	(\$25,633,000)	(\$117,330,700)
Total	\$0	\$277,500	\$555,000	\$0	(\$70,755,500)	(\$211,145,800)

S.B. 223 2nd Sub. (Salmon) - Tax Amendments

Fiscal Note

2007 General Session

State of Utah

Individual, Business and/or Local Impact

Enactment of this bill would provide for the removal of the tax on food for the local special option taxes. The bill however authorizes an increase in local transit tax rate which would lead to a net increase in local restricted revenues of \$263,200 in FY 2008 and \$547,500 in FY 2009.

The average benefit from the reduction in the food tax would be \$44 per person and the average impact from the general state sales tax reduction would be approximately \$10. Individuals who purchase renewable energy systems, dental prosthesis, or multi-channel video or audio services will receive additional tax reductions.

Businesses would receive a benefit of approximately \$16,342,800 from the state sales tax reduction. They will also receive a \$14,500,000 benefit from the Research and Development Credit, a \$2,326,700 benefit from the renewable energy credit, and a \$5,013,000 benefit from the mining exemption.

The individual income tax reform provisions of the bill will result in a tax reduction to approximately 89% of the taxpayers and an increase to approximately 11% of the taxpayers based on the provisions of the bill.