

**Senator Wayne L. Niederhauser** proposes the following substitute bill:

**SALES AND USE TAX AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: Wayne L. Niederhauser

---

**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act and related provisions pertaining to local option sales and use taxes.

**Highlighted Provisions:**

This bill:

requires property tax certified tax rate adjustments relating to the imposition of a sales and use tax under the Highways or Public Transit System Tax part;

modifies the definition of "agreement sales and use tax";

modifies provisions relating to the sales and use tax under the County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities part, including:

- repealing voter approval requirements;
- repealing a provision relating to the length of time the tax may be levied;
- repealing provisions relating to the reauthorization of the tax;
- modifying the purposes for which revenues collected from the tax may be expended;
- modifying the distribution of the tax revenues; and
- under certain circumstances, requiring a county legislative body to transfer



- 26 certain revenues collected from the tax to a city or town under an interlocal agreement;
- 27       ▶ modifies provisions relating to the sales and use tax under the Highways or Public
- 28 Transit System Tax part, including:
- 29       • providing that a county may impose the tax;
- 30       • repealing voter approval requirements;
- 31       • limiting the time period for imposing the tax; and
- 32       • modifying the purposes for which revenues collected from the tax may be
- 33 expended;
- 34       ▶ repeals the City or Town Option Funding for Botanical, Cultural, Recreational, and
- 35 Zoological Organizations or Facilities part; and
- 36       ▶ makes technical changes.

37 **Monies Appropriated in this Bill:**

38       None

39 **Other Special Clauses:**

40       This bill provides an effective date.

41       This bill provides revisor instructions.

42       This bill coordinates with H.B. 77, Personal Property Tax Amendments, to make

43 substantive and technical amendments.

44 **Utah Code Sections Affected:**

45 **AMENDS:**

46       **59-2-924**, as last amended by Laws of Utah 2007, Chapters 107 and 329

47       **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

48       **59-12-703**, as last amended by Laws of Utah 2007, Chapter 288

49       **59-12-704**, as last amended by Laws of Utah 2003, Chapter 296

50       **59-12-1001**, as last amended by Laws of Utah 2007, Chapters 288 and 329

51       **59-12-1002**, as last amended by Laws of Utah 2006, Chapter 253

52 **REPEALS:**

53       **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317

54       **59-12-1402**, as last amended by Laws of Utah 2007, Chapter 288

55       **59-12-1403**, as enacted by Laws of Utah 2001, Chapter 192

56 

---

---

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

58 Section 1. Section **59-2-924** is amended to read:

59 **59-2-924. Report of valuation of property to county auditor and commission --**

60 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**  
61 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**

62 (1) (a) Before June 1 of each year, the county assessor of each county shall deliver to  
63 the county auditor and the commission the following statements:

64 (i) a statement containing the aggregate valuation of all taxable property in each taxing  
65 entity; and

66 (ii) a statement containing the taxable value of any additional personal property  
67 estimated by the county assessor to be subject to taxation in the current year.

68 (b) The county auditor shall, on or before June 8, transmit to the governing body of  
69 each taxing entity:

70 (i) the statements described in Subsections (1)(a)(i) and (ii);

71 (ii) an estimate of the revenue from personal property;

72 (iii) the certified tax rate; and

73 (iv) all forms necessary to submit a tax levy request.

74 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad  
75 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the  
76 prior year.

77 (ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not  
78 include:

79 (A) collections from redemptions;

80 (B) interest;

81 (C) penalties; and

82 (D) revenue received by a taxing entity from personal property that is:

83 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

84 (II) semiconductor manufacturing equipment.

85 (iii) (A) Except as otherwise provided in this section, the certified tax rate shall be  
86 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the  
87 taxing entity by the amount calculated under Subsection (2)(a)(iii)(B).

88 (B) For purposes of Subsection (2)(a)(iii)(A), the legislative body of a taxing entity  
89 shall calculate an amount as follows:

90 (I) calculate for the taxing entity the difference between:

91 (Aa) the aggregate taxable value of all property taxed; and

92 (Bb) any redevelopment adjustments for the current calendar year;

93 (II) after making the calculation required by Subsection (2)(a)(iii)(B)(I), calculate an  
94 amount determined by increasing or decreasing the amount calculated under Subsection  
95 (2)(a)(iii)(B)(I) by the average of the percentage net change in the value of taxable property for  
96 the equalization period for the three calendar years immediately preceding the current calendar  
97 year;

98 (III) after making the calculation required by Subsection (2)(a)(iii)(B)(II), calculate the  
99 product of:

100 (Aa) the amount calculated under Subsection (2)(a)(iii)(B)(II); and

101 (Bb) the percentage of property taxes collected for the five calendar years immediately  
102 preceding the current calendar year; and

103 (IV) after making the calculation required by Subsection (2)(a)(iii)(B)(III), calculate an  
104 amount determined by subtracting from the amount calculated under Subsection  
105 (2)(a)(iii)(B)(III) any new growth as defined in this section:

106 (Aa) within the taxing entity; and

107 (Bb) for the current calendar year.

108 (C) For purposes of Subsection (2)(a)(iii)(B)(I), the aggregate taxable value of all  
109 property taxed:

110 (I) except as provided in Subsection (2)(a)(iii)(C)(II), includes the total taxable value of  
111 the real and personal property contained on the tax rolls of the taxing entity; and

112 (II) does not include the total taxable value of personal property contained on the tax  
113 rolls of the taxing entity that is:

114 (Aa) assessed by a county assessor in accordance with Part 3, County Assessment; and

115 (Bb) semiconductor manufacturing equipment.

116 (D) For purposes of Subsection (2)(a)(iii)(B)(II), for calendar years beginning on or  
117 after January 1, 2007, the value of taxable property does not include the value of personal  
118 property that is:

119 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,  
120 County Assessment; and

121 (II) semiconductor manufacturing equipment.

122 (E) For purposes of Subsection (2)(a)(iii)(B)(III)(Bb), for calendar years beginning on  
123 or after January 1, 2007, the percentage of property taxes collected does not include property  
124 taxes collected from personal property that is:

125 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,  
126 County Assessment; and

127 (II) semiconductor manufacturing equipment.

128 (F) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
129 the commission may prescribe rules for calculating redevelopment adjustments for a calendar  
130 year.

131 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
132 Act, the commission shall make rules determining the calculation of ad valorem property tax  
133 revenues budgeted by a taxing entity.

134 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues  
135 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax  
136 revenues are calculated for purposes of Section 59-2-913.

137 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)  
138 shall be calculated as follows:

139 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified  
140 tax rate is zero;

141 (B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

142 (I) in a county of the first, second, or third class, the levy imposed for municipal-type  
143 services under Sections 17-34-1 and 17-36-9; and

144 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county  
145 purposes and such other levies imposed solely for the municipal-type services identified in  
146 Section 17-34-1 and Subsection 17-36-3(22); and

147 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy  
148 imposed by that section, except that the certified tax rates for the following levies shall be  
149 calculated in accordance with Section 59-2-913 and this section:

150 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,  
151 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

152 (II) levies to pay for the costs of state legislative mandates or judicial or administrative  
153 orders under Section 59-2-906.3.

154 (vi) (A) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be  
155 established at that rate which is sufficient to generate only the revenue required to satisfy one  
156 or more eligible judgments, as defined in Section 59-2-102.

157 (B) The ad valorem property tax revenue generated by the judgment levy shall not be  
158 considered in establishing the taxing entity's aggregate certified tax rate.

159 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use  
160 the taxable value of property on the assessment roll.

161 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the  
162 assessment roll does not include:

163 (A) new growth as defined in Subsection (2)(b)(iii); or

164 (B) the total taxable value of personal property contained on the tax rolls of the taxing  
165 entity that is:

166 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

167 (II) semiconductor manufacturing equipment.

168 (iii) "New growth" means:

169 (A) the difference between the increase in taxable value of the taxing entity from the  
170 previous calendar year to the current year; minus

171 (B) the amount of an increase in taxable value described in Subsection (2)(b)(v).

172 (iv) For purposes of Subsection (2)(b)(iii), the taxable value of the taxing entity does  
173 not include the taxable value of personal property that is:

174 (A) contained on the tax rolls of the taxing entity if that property is assessed by a  
175 county assessor in accordance with Part 3, County Assessment; and

176 (B) semiconductor manufacturing equipment.

177 (v) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

178 (A) the amount of increase to locally assessed real property taxable values resulting  
179 from factoring, reappraisal, or any other adjustments; or

180 (B) the amount of an increase in the taxable value of property assessed by the

181 commission under Section 59-2-201 resulting from a change in the method of apportioning the  
182 taxable value prescribed by:

- 183 (I) the Legislature;  
184 (II) a court;  
185 (III) the commission in an administrative rule; or  
186 (IV) the commission in an administrative order.

187 (c) (i) Beginning January 1, 1997, if a taxing entity receives increased revenues from  
188 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
189 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter  
190 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax  
191 rate to offset the increased revenues.

192 (ii) A taxing entity shall decrease its certified tax rate to offset increased revenues from  
193 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
194 59-2-405.2, or 59-2-405.3 if:

195 (A) the city or town within which the taxing entity is located:

196 (I) on December 31, 2008, does not impose a tax in accordance with Section  
197 59-12-1001; and

198 (II) on or after January 1, 2009, but on or before April 1, 2009, imposes a tax in  
199 accordance with Section 59-12-1001; and

200 (B) the taxing entity receives increased revenues from uniform fees on tangible  
201 personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as  
202 a result of the city or town imposing a sales and use tax under Section 59-12-1001.

203 (d) (i) [~~Beginning~~] Subject to Subsection (2)(d)(iii), beginning on July 1, 1997, if a  
204 county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and  
205 Use Tax, the county's certified tax rate shall be:

206 (A) decreased on a one-time basis by the amount of the estimated sales and use tax  
207 revenue to be distributed to the county under Subsection 59-12-1102(3); and

208 (B) increased by the amount necessary to offset the county's reduction in revenue from  
209 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
210 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection  
211 (2)(d)(i)(A).

212 ~~[(ii) The commission shall determine estimates of sales and use tax distributions for~~  
213 ~~purposes of Subsection (2)(d)(i):]~~

214 (ii) Subject to Subsections (2)(d)(iii) and (iv), if a city or town that, on December 31,  
215 2008, does not impose a tax in accordance with Section 59-12-1001, imposes a sales and use  
216 tax in accordance with Section 59-12-1001 on or after January 1, 2009, but on or before April  
217 1, 2009, the city's or town's certified tax rate shall be:

218 (A) decreased on a one-time basis by the amount of the estimated sales and use tax  
219 revenue under Section 59-12-1001 to be distributed to the city or town for the first year that the  
220 city or town imposes the tax; and

221 (B) increased by the amount necessary to offset the city's or town's reduction in  
222 revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405,  
223 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under  
224 Subsection (2)(d)(ii)(A).

225 (iii) The commission shall determine estimates of sales and use tax distributions for  
226 purposes of Subsections (2)(d)(i)(A) and (2)(d)(ii)(A).

227 (iv) A certified tax rate increase or decrease required by Subsection (2)(d)(ii) shall be  
228 made for the calendar year beginning on the January 1 of the year in which the sales and use  
229 tax is imposed that requires the certified tax rate to be increased or decreased in accordance  
230 with Subsection (2)(d)(ii).

231 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort  
232 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be  
233 decreased on a one-time basis by the amount necessary to offset the first 12 months of  
234 estimated revenue from the additional resort communities sales and use tax imposed under  
235 Section 59-12-402.

236 (f) (i) (A) For fiscal year 2000, the certified tax rate of each county required under  
237 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the  
238 unincorporated area of the county shall be decreased by the amount necessary to reduce  
239 revenues in that fiscal year by an amount equal to the difference between the amount the county  
240 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services  
241 countywide and the amount the county spent during fiscal year 2000 for those services,  
242 excluding amounts spent from a municipal services fund for those services.



243 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection  
244 (2)(f)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal  
245 year by the amount that the county spent during fiscal year 2000 for advanced life support and  
246 paramedic services countywide, excluding amounts spent from a municipal services fund for  
247 those services.

248 (ii) (A) A city or town located within a county of the first class to which Subsection  
249 (2)(f)(i) applies may increase its certified tax rate by the amount necessary to generate within  
250 the city or town the same amount of revenues as the county would collect from that city or  
251 town if the decrease under Subsection (2)(f)(i) did not occur.

252 (B) An increase under Subsection (2)(f)(ii)(A), whether occurring in a single fiscal year  
253 or spread over multiple fiscal years, is not subject to the notice and hearing requirements of  
254 Sections 59-2-918 and 59-2-919.

255 (g) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to  
256 provide detective investigative services to the unincorporated area of the county shall be  
257 decreased:

258 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year  
259 by at least \$4,400,000; and

260 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year  
261 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in  
262 revenues under Subsection (2)(g)(i)(A).

263 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a  
264 county to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate  
265 within the city or town the same amount of revenue as the county would have collected during  
266 county fiscal year 2001 from within the city or town except for Subsection (2)(g)(i)(A).

267 (II) Beginning with municipal fiscal year 2003, a city or town located within a county  
268 to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate within the  
269 city or town the same amount of revenue as the county would have collected during county  
270 fiscal year 2002 from within the city or town except for Subsection (2)(g)(i)(B).

271 (B) (I) Except as provided in Subsection (2)(g)(ii)(B)(II), an increase in the city or  
272 town's certified tax rate under Subsection (2)(g)(ii)(A), whether occurring in a single fiscal year  
273 or spread over multiple fiscal years, is subject to the notice and hearing requirements of

274 Sections 59-2-918 and 59-2-919.

275 (II) For an increase under this Subsection (2)(g)(ii) that generates revenue that does not  
276 exceed the same amount of revenue as the county would have collected except for Subsection  
277 (2)(g)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

278 (Aa) publishes a notice that meets the size, type, placement, and frequency  
279 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed  
280 by the county to one imposed by the city or town, and explains how the revenues from the tax  
281 increase will be used; and

282 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the  
283 city or town's regular budget hearing.

284 (h) (i) This Subsection (2)(h) applies to each county that:

285 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part  
286 13, Utah Special Service District Act, to provide jail service, as provided in Subsection  
287 17A-2-1304(1)(a)(x); and

288 (B) levies a property tax on behalf of the special service district under Section  
289 17A-2-1322.

290 (ii) (A) The certified tax rate of each county to which this Subsection (2)(h) applies  
291 shall be decreased by the amount necessary to reduce county revenues by the same amount of  
292 revenues that will be generated by the property tax imposed on behalf of the special service  
293 district.

294 (B) Each decrease under Subsection (2)(h)(ii)(A) shall occur contemporaneously with  
295 the levy on behalf of the special service district under Section 17A-2-1322.

296 (i) (i) As used in this Subsection (2)(i):

297 (A) "Annexing county" means a county whose unincorporated area is included within a  
298 fire district by annexation.

299 (B) "Annexing municipality" means a municipality whose area is included within a fire  
300 district by annexation.

301 (C) "Equalized fire protection tax rate" means the tax rate that results from:

302 (I) calculating, for each participating county and each participating municipality, the  
303 property tax revenue necessary to cover all of the costs associated with providing fire  
304 protection, paramedic, and emergency services:

- 305 (Aa) for a participating county, in the unincorporated area of the county; and  
306 (Bb) for a participating municipality, in the municipality; and  
307 (II) adding all the amounts calculated under Subsection (2)(i)(i)(C)(I) for all  
308 participating counties and all participating municipalities and then dividing that sum by the  
309 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:
- 310 (Aa) for participating counties, in the unincorporated area of all participating counties;  
311 and  
312 (Bb) for participating municipalities, in all the participating municipalities.
- 313 (D) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service  
314 Area Act, in the creation of which an election was not required under Subsection  
315 17B-1-214(3)(c).
- 316 (E) "Fire protection tax rate" means:  
317 (I) for an annexing county, the property tax rate that, when applied to taxable property  
318 in the unincorporated area of the county, generates enough property tax revenue to cover all the  
319 costs associated with providing fire protection, paramedic, and emergency services in the  
320 unincorporated area of the county; and  
321 (II) for an annexing municipality, the property tax rate that generates enough property  
322 tax revenue in the municipality to cover all the costs associated with providing fire protection,  
323 paramedic, and emergency services in the municipality.
- 324 (F) "Participating county" means a county whose unincorporated area is included  
325 within a fire district at the time of the creation of the fire district.
- 326 (G) "Participating municipality" means a municipality whose area is included within a  
327 fire district at the time of the creation of the fire district.
- 328 (ii) In the first year following creation of a fire district, the certified tax rate of each  
329 participating county and each participating municipality shall be decreased by the amount of  
330 the equalized fire protection tax rate.
- 331 (iii) In the first year following annexation to a fire district, the certified tax rate of each  
332 annexing county and each annexing municipality shall be decreased by the fire protection tax  
333 rate.
- 334 (iv) Each tax levied under this section by a fire district shall be considered to be levied  
335 by:

336 (A) each participating county and each annexing county for purposes of the county's  
337 tax limitation under Section 59-2-908; and

338 (B) each participating municipality and each annexing municipality for purposes of the  
339 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a  
340 city.

341 (j) For the calendar year beginning on January 1, 2007, the calculation of a taxing  
342 entity's certified tax rate shall be adjusted by the amount necessary to offset any change in the  
343 certified tax rate that may result from excluding the following from the certified tax rate under  
344 Subsection (2)(a) enacted by the Legislature during the 2007 General Session:

345 (i) personal property tax revenue:

346 (A) received by a taxing entity;

347 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

348 (C) for personal property that is semiconductor manufacturing equipment; or

349 (ii) the taxable value of personal property:

350 (A) contained on the tax rolls of a taxing entity;

351 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

352 (C) that is semiconductor manufacturing equipment.

353 (3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

354 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county  
355 auditor of:

356 (i) its intent to exceed the certified tax rate; and

357 (ii) the amount by which it proposes to exceed the certified tax rate.

358 (c) The county auditor shall notify all property owners of any intent to exceed the  
359 certified tax rate in accordance with Subsection 59-2-919(2).

360 (4) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be  
361 reduced for any year to the extent necessary to provide a community development and renewal  
362 agency established under Title 17C, Limited Purpose Local Government Entities - Community  
363 Development and Renewal Agencies, with approximately the same amount of money the  
364 agency would have received without a reduction in the county's certified tax rate if:

365 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or  
366 (2)(d)(i);

367 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the  
368 previous year; and

369 (iii) the decrease results in a reduction of the amount to be paid to the agency under  
370 Section 17C-1-403 or 17C-1-404.

371 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any  
372 year to the extent necessary to provide a community development and renewal agency with  
373 approximately the same amount of money as the agency would have received without an  
374 increase in the certified tax rate that year if:

375 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to  
376 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

377 (ii) The certified tax rate of a city, school district, local district, or special service  
378 district increases independent of the adjustment to the taxable value of the base year.

379 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or  
380 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a community  
381 development and renewal agency established under Title 17C, Limited Purpose Local  
382 Government Entities - Community Development and Renewal Agencies, for the payment of  
383 bonds or other contract indebtedness, but not for administrative costs, may not be less than that  
384 amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or  
385 (2)(d)(i).

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

387 **59-12-102. Definitions.**

388 As used in this chapter:

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

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

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

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

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

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

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

- 398 (a) Subsection 59-12-103(2)(a)(i);
- 399 (b) Subsection 59-12-103(2)(b)(i);
- 400 (c) Subsection 59-12-103(2)(c)(i);
- 401 (d) Subsection 59-12-103(2)(d)(i);
- 402 (e) Subsection 59-12-103(2)(e)(ii)(A);
- 403 (f) Subsection 59-12-103(2)(e)(iii)(A);
- 404 (g) Section 59-12-204;
- 405 (h) Section 59-12-401;
- 406 (i) Section 59-12-402;
- 407 (j) Section 59-12-501;
- 408 (k) Section 59-12-502;
- 409 (l) Section 59-12-703;
- 410 (m) Section 59-12-802;
- 411 (n) Section 59-12-804;
- 412 (o) Section 59-12-1001;
- 413 (p) Section 59-12-1102;
- 414 (q) Section 59-12-1302;
- 415 (r) Section 59-12-1402;
- 416 (s) Section 59-12-1503; [~~or~~]
- 417 (t) Section 59-12-1703[~~;~~]; or
- 418 (u) Section 59-12-1802.
- 419 (5) "Aircraft" is as defined in Section 72-10-102.
- 420 (6) "Alcoholic beverage" means a beverage that:
  - 421 (a) is suitable for human consumption; and
  - 422 (b) contains .5% or more alcohol by volume.
- 423 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 424 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 425 device that is started and stopped by an individual:
  - 426 (a) who is not the purchaser or renter of the right to use or operate the amusement
  - 427 device, skill device, or ride device; and
  - 428 (b) at the direction of the seller of the right to use the amusement device, skill device,

429 or ride device.

430 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or  
431 washing of tangible personal property if the cleaning or washing labor is primarily performed  
432 by an individual:

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

435 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
436 property.

437 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

450 (B) animal waste;

451 (C) methane produced:

452 (I) at landfills; or

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

454 (D) aquatic plants; and

455 (E) agricultural products.

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

457 (i) black liquor;

458 (ii) treated woods; or

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

- 460 (A) at landfills; or
- 461 (B) as a byproduct of the treatment of wastewater residuals.
- 462 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 463 property if:
  - 464 (i) one or more of the items of tangible personal property is food and food ingredients;
  - 465 and
  - 466 (ii) the items of tangible personal property are:
    - 467 (A) distinct and identifiable; and
    - 468 (B) sold for one price that is not itemized.
  - 469 (b) "Bundled transaction" does not include the sale of tangible personal property if the
  - 470 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
  - 471 tangible personal property included in the transaction.
  - 472 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
  - 473 and identifiable does not include:
    - 474 (i) packaging that:
      - 475 (A) accompanies the sale of the tangible personal property; and
      - 476 (B) is incidental or immaterial to the sale of the tangible personal property;
    - 477 (ii) tangible personal property provided free of charge with the purchase of another
    - 478 item of tangible personal property; or
    - 479 (iii) an item of tangible personal property included in the definition of "purchase
    - 480 price."
    - 481 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
    - 482 provided free of charge with the purchase of another item of tangible personal property if the
    - 483 sales price of the purchased item of tangible personal property does not vary depending on the
    - 484 inclusion of the tangible personal property provided free of charge.
    - 485 (13) "Certified automated system" means software certified by the governing board of
    - 486 the agreement in accordance with Section 59-12-102.1 that:
      - 487 (a) calculates the agreement sales and use tax imposed within a local taxing
      - 488 jurisdiction:
        - 489 (i) on a transaction; and
        - 490 (ii) in the states that are members of the agreement;



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

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

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

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

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

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

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

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

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

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

508 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
509 fuels that does not constitute industrial use under Subsection (42) or residential use under  
510 Subsection (80).

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

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

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

519 (19) "Component part" includes:

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

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

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

525 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

538 (i) by a seller of:

539 (A) tangible personal property; or

540 (B) services; and

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

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

544 (i) transportation;

545 (ii) shipping;

546 (iii) postage;

547 (iv) handling;

548 (v) crating; or

549 (vi) packing.

550 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:

551 (i) a bridge;

552 (ii) a crown if that crown covers at least 75% of a tooth structure;

- 553 (iii) a denture;
- 554 (iv) an implant;
- 555 (v) an orthodontic device designed to:
  - 556 (A) retain the position or spacing of teeth; and
  - 557 (B) replace a missing tooth;
- 558 (vi) a partial denture; or
- 559 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 560 (b) "Dental prosthesis" does not include an appliance or device, other than a device
- 561 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
- 562 apply force to the teeth and their supporting structures to:
  - 563 (i) produce changes in their relationship to each other; and
  - 564 (ii) control their growth and development.
- 565 (26) "Dietary supplement" means a product, other than tobacco, that:
  - 566 (a) is intended to supplement the diet;
  - 567 (b) contains one or more of the following dietary ingredients:
    - 568 (i) a vitamin;
    - 569 (ii) a mineral;
    - 570 (iii) an herb or other botanical;
    - 571 (iv) an amino acid;
    - 572 (v) a dietary substance for use by humans to supplement the diet by increasing the total
    - 573 dietary intake; or
    - 574 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
    - 575 described in Subsections (26)(b)(i) through (v);
    - 576 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
      - 577 (A) tablet form;
      - 578 (B) capsule form;
      - 579 (C) powder form;
      - 580 (D) softgel form;
      - 581 (E) gelcap form; or
      - 582 (F) liquid form; or
      - 583 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in

584 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:

585 (A) as conventional food; and

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

587 (I) a meal; or

588 (II) the diet; and

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

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

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

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

594 (i) to:

595 (A) a mass audience; or

596 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

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

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

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

602 (28) (a) "Disposable home medical equipment or supplies" means medical equipment  
603 or supplies that:

604 (i) cannot withstand repeated use; and

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

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

607 (B) a health care provider as defined in Section 78-14-3;

608 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or

609 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

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

611 (i) a drug;

612 (ii) durable medical equipment;

613 (iii) a hearing aid;

614 (iv) a hearing aid accessory;

- 615 (v) mobility enhancing equipment; or
- 616 (vi) tangible personal property used to correct impaired vision, including:
- 617 (A) eyeglasses; or
- 618 (B) contact lenses.
- 619 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 620 commission may by rule define what constitutes medical equipment or supplies.

621 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a

622 compound, substance, or preparation that is:

- 623 (i) recognized in:
- 624 (A) the official United States Pharmacopoeia;
- 625 (B) the official Homeopathic Pharmacopoeia of the United States;
- 626 (C) the official National Formulary; or
- 627 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
- 628 (ii) intended for use in the:
- 629 (A) diagnosis of disease;
- 630 (B) cure of disease;
- 631 (C) mitigation of disease;
- 632 (D) treatment of disease; or
- 633 (E) prevention of disease; or
- 634 (iii) intended to affect:
- 635 (A) the structure of the body; or
- 636 (B) any function of the body.
- 637 (b) "Drug" does not include:
- 638 (i) food and food ingredients;
- 639 (ii) a dietary supplement;
- 640 (iii) an alcoholic beverage; or
- 641 (iv) a prosthetic device.

642 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means

643 equipment that:

- 644 (i) can withstand repeated use;
- 645 (ii) is primarily and customarily used to serve a medical purpose;

- 646 (iii) generally is not useful to a person in the absence of illness or injury; and
- 647 (iv) is not worn in or on the body.
- 648 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 649 equipment described in Subsection (30)(a).
- 650 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
- 651 mobility enhancing equipment.
- 652 (31) "Electronic" means:
- 653 (a) relating to technology; and
- 654 (b) having:
- 655 (i) electrical capabilities;
- 656 (ii) digital capabilities;
- 657 (iii) magnetic capabilities;
- 658 (iv) wireless capabilities;
- 659 (v) optical capabilities;
- 660 (vi) electromagnetic capabilities; or
- 661 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
- 662 (32) "Employee" is as defined in Section 59-10-401.
- 663 (33) "Fixed guideway" means a public transit facility that uses and occupies:
- 664 (a) rail for the use of public transit; or
- 665 (b) a separate right-of-way for the use of public transit.
- 666 (34) (a) "Food and food ingredients" means substances:
- 667 (i) regardless of whether the substances are in:
- 668 (A) liquid form;
- 669 (B) concentrated form;
- 670 (C) solid form;
- 671 (D) frozen form;
- 672 (E) dried form; or
- 673 (F) dehydrated form; and
- 674 (ii) that are:
- 675 (A) sold for:
- 676 (I) ingestion by humans; or

- 677 (II) chewing by humans; and  
678 (B) consumed for the substance's:  
679 (I) taste; or  
680 (II) nutritional value.  
681 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).  
682 (c) "Food and food ingredients" does not include:  
683 (i) an alcoholic beverage;  
684 (ii) tobacco; or  
685 (iii) prepared food.  
686 (35) (a) "Fundraising sales" means sales:  
687 (i) (A) made by a school; or  
688 (B) made by a school student;  
689 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
690 materials, or provide transportation; and  
691 (iii) that are part of an officially sanctioned school activity.  
692 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"  
693 means a school activity:  
694 (i) that is conducted in accordance with a formal policy adopted by the school or school  
695 district governing the authorization and supervision of fundraising activities;  
696 (ii) that does not directly or indirectly compensate an individual teacher or other  
697 educational personnel by direct payment, commissions, or payment in kind; and  
698 (iii) the net or gross revenues from which are deposited in a dedicated account  
699 controlled by the school or school district.  
700 (36) "Geothermal energy" means energy contained in heat that continuously flows  
701 outward from the earth that is used as the sole source of energy to produce electricity.  
702 (37) "Governing board of the agreement" means the governing board of the agreement  
703 that is:  
704 (a) authorized to administer the agreement; and  
705 (b) established in accordance with the agreement.  
706 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:  
707 (i) the executive branch of the state, including all departments, institutions, boards,

708 divisions, bureaus, offices, commissions, and committees;

709 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
710 Office of the Court Administrator, and similar administrative units in the judicial branch;

711 (iii) the legislative branch of the state, including the House of Representatives, the  
712 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
713 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
714 Analyst;

715 (iv) the National Guard;

716 (v) an independent entity as defined in Section 63E-1-102; or

717 (vi) a political subdivision as defined in Section 17B-1-102.

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

720 (i) a college campus of the Utah College of Applied Technology;

721 (ii) a school;

722 (iii) the State Board of Education;

723 (iv) the State Board of Regents; or

724 (v) a state institution of higher education as defined in Section 53B-3-102.

725 (39) (a) "Hearing aid" means:

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

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

728 (II) correct impaired human hearing; and

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

730 (II) affixed behind the human ear;

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

732 (iii) a telephone amplifying device.

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

734 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device  
735 having an electronic component that is designed to be worn on the body;

736 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system  
737 designed to be used by one individual, including:

738 (A) a personal amplifying system;



- 739 (B) a personal FM system;
- 740 (C) a television listening system; or
- 741 (D) a device or system similar to a device or system described in Subsections
- 742 (39)(b)(ii)(A) through (C); or
- 743 (iii) an assistive listening device or system designed to be used by more than one
- 744 individual, including:
  - 745 (A) a device or system installed in:
    - 746 (I) an auditorium;
    - 747 (II) a church;
    - 748 (III) a conference room;
    - 749 (IV) a synagogue; or
    - 750 (V) a theater; or
  - 751 (B) a device or system similar to a device or system described in Subsections
  - 752 (39)(b)(iii)(A)(I) through (V).
- 753 (40) (a) "Hearing aid accessory" means a hearing aid:
  - 754 (i) component;
  - 755 (ii) attachment; or
  - 756 (iii) accessory.
- 757 (b) "Hearing aid accessory" includes:
  - 758 (i) a hearing aid neck loop;
  - 759 (ii) a hearing aid cord;
  - 760 (iii) a hearing aid ear mold;
  - 761 (iv) hearing aid tubing;
  - 762 (v) a hearing aid ear hook; or
  - 763 (vi) a hearing aid remote control.
- 764 (c) "Hearing aid accessory" does not include:
  - 765 (i) a component, attachment, or accessory designed to be used only with an:
    - 766 (A) instrument or device described in Subsection (39)(b)(i); or
    - 767 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
    - 768 (ii) a hearing aid battery.
- 769 (41) "Hydroelectric energy" means water used as the sole source of energy to produce

770 electricity.

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

773 (a) in mining or extraction of minerals;

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

776 (i) commercial greenhouses;

777 (ii) irrigation pumps;

778 (iii) farm machinery;

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

781 (v) other farming activities;

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

785 (d) by a scrap recycler if:

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

789 (A) iron;

790 (B) steel;

791 (C) nonferrous metal;

792 (D) paper;

793 (E) glass;

794 (F) plastic;

795 (G) textile; or

796 (H) rubber; and

797 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with  
798 nonrecycled materials; or

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

801 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge  
802 for installing tangible personal property.

803 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge  
804 for repairs or renovations of tangible personal property.

805 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
806 personal property for:

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

808 (B) an indeterminate term; and

809 (ii) consideration.

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

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

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

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

820 (A) upon completion of required payments; and

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

822 (I) \$100; or

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

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

827 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to  
828 perform as designed if the operator's duties exceed the:

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

830 (ii) maintenance of tangible personal property; or

831 (iii) inspection of tangible personal property.

832 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
833 if the tangible storage media is not physically transferred to the purchaser.

834 (46) "Local taxing jurisdiction" means a:

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

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

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

838 (47) "Manufactured home" is as defined in Section 58-56-3.

839 (48) For purposes of Section 59-12-104, "manufacturing facility" means:

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

841 Industrial Classification Manual of the federal Executive Office of the President, Office of  
842 Management and Budget;

843 (b) a scrap recycler if:

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

847 (A) iron;

848 (B) steel;

849 (C) nonferrous metal;

850 (D) paper;

851 (E) glass;

852 (F) plastic;

853 (G) textile; or

854 (H) rubber; and

855 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with  
856 nonrecycled materials; or

857 (c) a cogeneration facility as defined in Section 54-2-1.

858 (49) "Member of the immediate family of the producer" means a person who is related  
859 to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

862 (ii) a foster child or foster stepchild;

- 863 (b) grandchild or stepgrandchild;
- 864 (c) grandparent or stepgrandparent;
- 865 (d) nephew or stepnephew;
- 866 (e) niece or stepniece;
- 867 (f) parent or stepparent;
- 868 (g) sibling or stepsibling;
- 869 (h) spouse;
- 870 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);

871 or

- 872 (j) person similar to a person described in Subsections (49)(a) through (i) as
- 873 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
- 874 Administrative Rulemaking Act.

875 (50) "Mobile home" is as defined in Section 58-56-3.

876 (51) "Mobile telecommunications service" is as defined in the Mobile  
877 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

878 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"  
879 means equipment that is:

- 880 (i) primarily and customarily used to provide or increase the ability to move from one
- 881 place to another;
- 882 (ii) appropriate for use in a:
  - 883 (A) home; or
  - 884 (B) motor vehicle; and
- 885 (iii) not generally used by persons with normal mobility.

886 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
887 the equipment described in Subsection (52)(a).

888 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not  
889 include:

- 890 (i) a motor vehicle;
- 891 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 892 vehicle manufacturer;
- 893 (iii) durable medical equipment; or

894 (iv) a prosthetic device.

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

899 (54) "Model 2 seller" means a seller that:

900 (a) except as provided in Subsection (54)(b), has selected a certified automated system  
901 to perform the seller's sales tax functions for agreement sales and use taxes; and

902 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the  
903 sales tax:

904 (i) collected by the seller; and

905 (ii) to the appropriate local taxing jurisdiction.

906 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:

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

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

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

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

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

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

913 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of  
914 sellers using the same proprietary system.

915 (56) "Modular home" means a modular unit as defined in Section 58-56-3.

916 (57) "Motor vehicle" is as defined in Section 41-1a-102.

917 (58) "Oil shale" means a group of fine black to dark brown shales containing  
918 bituminous material that yields petroleum upon distillation.

919 (59) (a) "Other fuels" means products that burn independently to produce heat or  
920 energy.

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

923 (60) "Pawnbroker" is as defined in Section 13-32a-102.

924 (61) "Pawn transaction" is as defined in Section 13-32a-102.

925 (62) (a) "Permanently attached to real property" means that for tangible personal  
926 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

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

947 (A) property attached to oil, gas, or water pipelines, other than the property listed in  
948 Subsection (62)(c)(iii);

949 (B) a hot water heater;

950 (C) a water softener system; or

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

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

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

956 (A) convenience;  
957 (B) stability; or  
958 (C) for an obvious temporary purpose;  
959 (ii) the detachment of tangible personal property from real property other than the  
960 detachment described in Subsection (62)(b)(ii); or  
961 (iii) an attachment of the following tangible personal property to real property if the  
962 attachment to real property is only through a line that supplies water, electricity, gas, telephone,  
963 cable, or supplies a similar item as determined by the commission by rule made in accordance  
964 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:  
965 (A) a refrigerator;  
966 (B) a washer;  
967 (C) a dryer;  
968 (D) a stove;  
969 (E) a television;  
970 (F) a computer;  
971 (G) a telephone; or  
972 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as  
973 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah  
974 Administrative Rulemaking Act.  
975 (63) "Person" includes any individual, firm, partnership, joint venture, association,  
976 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
977 municipality, district, or other local governmental entity of the state, or any group or  
978 combination acting as a unit.  
979 (64) "Place of primary use":  
980 (a) for telephone service other than mobile telecommunications service, means the  
981 street address representative of where the purchaser's use of the telephone service primarily  
982 occurs, which shall be:  
983 (i) the residential street address of the purchaser; or  
984 (ii) the primary business street address of the purchaser; or  
985 (b) for mobile telecommunications service, is as defined in the Mobile  
986 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.



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

989 (66) (a) "Prepared food" means:

990 (i) food:

991 (A) sold in a heated state; or

992 (B) heated by a seller;

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

995 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided  
996 by the seller, including a:

997 (A) plate;

998 (B) knife;

999 (C) fork;

1000 (D) spoon;

1001 (E) glass;

1002 (F) cup;

1003 (G) napkin; or

1004 (H) straw.

1005 (b) "Prepared food" does not include:

1006 (i) food that a seller only:

1007 (A) cuts;

1008 (B) repackages; or

1009 (C) pasteurizes; or

1010 (ii) (A) the following:

1011 (I) raw egg;

1012 (II) raw fish;

1013 (III) raw meat;

1014 (IV) raw poultry; or

1015 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);

1016 and

1017 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

1018 Food and Drug Administration's Food Code that a consumer cook the items described in  
1019 Subsection (66)(b)(ii)(A) to prevent food borne illness; or  
1020 (iii) the following if sold without eating utensils provided by the seller:  
1021 (A) food and food ingredients sold by a seller if the seller's proper primary  
1022 classification under the 2002 North American Industry Classification System of the federal  
1023 Executive Office of the President, Office of Management and Budget, is manufacturing in  
1024 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla  
1025 Manufacturing;  
1026 (B) food and food ingredients sold in an unheated state:  
1027 (I) by weight or volume; and  
1028 (II) as a single item; or  
1029 (C) a bakery item, including:  
1030 (I) a bagel;  
1031 (II) a bar;  
1032 (III) a biscuit;  
1033 (IV) bread;  
1034 (V) a bun;  
1035 (VI) a cake;  
1036 (VII) a cookie;  
1037 (VIII) a croissant;  
1038 (IX) a danish;  
1039 (X) a donut;  
1040 (XI) a muffin;  
1041 (XII) a pastry;  
1042 (XIII) a pie;  
1043 (XIV) a roll;  
1044 (XV) a tart;  
1045 (XVI) a torte; or  
1046 (XVII) a tortilla.  
1047 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller  
1048 does not include the following used to transport the food:

1049 (i) a container; or  
1050 (ii) packaging.  
1051 (67) "Prescription" means an order, formula, or recipe that is issued:  
1052 (a) (i) orally;  
1053 (ii) in writing;  
1054 (iii) electronically; or  
1055 (iv) by any other manner of transmission; and  
1056 (b) by a licensed practitioner authorized by the laws of a state.  
1057 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer  
1058 software" means computer software that is not designed and developed:  
1059 (i) by the author or other creator of the computer software; and  
1060 (ii) to the specifications of a specific purchaser.  
1061 (b) "Prewritten computer software" includes:  
1062 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
1063 software is not designed and developed:  
1064 (A) by the author or other creator of the computer software; and  
1065 (B) to the specifications of a specific purchaser;  
1066 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by  
1067 the author or other creator of the computer software to the specifications of a specific purchaser  
1068 if the computer software is sold to a person other than the purchaser; or  
1069 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),  
1070 prewritten computer software or a prewritten portion of prewritten computer software:  
1071 (A) that is modified or enhanced to any degree; and  
1072 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is  
1073 designed and developed to the specifications of a specific purchaser.  
1074 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not  
1075 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for  
1076 the modification or enhancement are:  
1077 (i) reasonable; and  
1078 (ii) separately stated on the invoice or other statement of price provided to the  
1079 purchaser.

- 1080 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1081 (i) artificially replace a missing portion of the body;
- 1082 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1083 (iii) support a weak or deformed portion of the body.
- 1084 (b) "Prosthetic device" includes:
- 1085 (i) parts used in the repairs or renovation of a prosthetic device;
- 1086 (ii) replacement parts for a prosthetic device; or
- 1087 (iii) a dental prosthesis.
- 1088 (c) "Prosthetic device" does not include:
- 1089 (i) corrective eyeglasses;
- 1090 (ii) contact lenses; or
- 1091 (iii) hearing aids.
- 1092 (70) (a) "Protective equipment" means an item:
- 1093 (i) for human wear; and
- 1094 (ii) that is:
- 1095 (A) designed as protection:
- 1096 (I) to the wearer against injury or disease; or
- 1097 (II) against damage or injury of other persons or property; and
- 1098 (B) not suitable for general use.
- 1099 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1100 commission shall make rules:
- 1101 (i) listing the items that constitute "protective equipment"; and
- 1102 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1103 under the agreement.
- 1104 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1105 printed matter, other than a photocopy:
- 1106 (i) regardless of:
- 1107 (A) characteristics;
- 1108 (B) copyright;
- 1109 (C) form;
- 1110 (D) format;

- 1111 (E) method of reproduction; or
- 1112 (F) source; and
- 1113 (ii) made available in printed or electronic format.
- 1114 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1115 commission may by rule define the term "photocopy."
- 1116 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1117 (i) valued in money; and
- 1118 (ii) for which tangible personal property or services are:
- 1119 (A) sold;
- 1120 (B) leased; or
- 1121 (C) rented.
- 1122 (b) "Purchase price" and "sales price" include:
- 1123 (i) the seller's cost of the tangible personal property or services sold;
- 1124 (ii) expenses of the seller, including:
- 1125 (A) the cost of materials used;
- 1126 (B) a labor cost;
- 1127 (C) a service cost;
- 1128 (D) interest;
- 1129 (E) a loss;
- 1130 (F) the cost of transportation to the seller; or
- 1131 (G) a tax imposed on the seller; or
- 1132 (iii) a charge by the seller for any service necessary to complete the sale.
- 1133 (c) "Purchase price" and "sales price" do not include:
- 1134 (i) a discount:
- 1135 (A) in a form including:
- 1136 (I) cash;
- 1137 (II) term; or
- 1138 (III) coupon;
- 1139 (B) that is allowed by a seller;
- 1140 (C) taken by a purchaser on a sale; and
- 1141 (D) that is not reimbursed by a third party; or

1142 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
1143 provided to the purchaser:

1144 (A) the amount of a trade-in;

1145 (B) the following from credit extended on the sale of tangible personal property or  
1146 services:

1147 (I) interest charges;

1148 (II) financing charges; or

1149 (III) carrying charges;

1150 (C) a tax or fee legally imposed directly on the consumer;

1151 (D) a delivery charge; or

1152 (E) an installation charge.

1153 (73) "Purchaser" means a person to whom:

1154 (a) a sale of tangible personal property is made; or

1155 (b) a service is furnished.

1156 (74) "Regularly rented" means:

1157 (a) rented to a guest for value three or more times during a calendar year; or

1158 (b) advertised or held out to the public as a place that is regularly rented to guests for  
1159 value.

1160 (75) "Renewable energy" means:

1161 (a) biomass energy;

1162 (b) hydroelectric energy;

1163 (c) geothermal energy;

1164 (d) solar energy; or

1165 (e) wind energy.

1166 (76) (a) "Renewable energy production facility" means a facility that:

1167 (i) uses renewable energy to produce electricity; and

1168 (ii) has a production capacity of 20 kilowatts or greater.

1169 (b) A facility is a renewable energy production facility regardless of whether the  
1170 facility is:

1171 (i) connected to an electric grid; or

1172 (ii) located on the premises of an electricity consumer.

1173 (77) "Rental" is as defined in Subsection (44).

1174 (78) "Repairs or renovations of tangible personal property" means:

1175 (a) a repair or renovation of tangible personal property that is not permanently attached  
1176 to real property; or

1177 (b) attaching tangible personal property to other tangible personal property if the other  
1178 tangible personal property to which the tangible personal property is attached is not  
1179 permanently attached to real property.

1180 (79) "Research and development" means the process of inquiry or experimentation  
1181 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1182 preparing those devices, technologies, or applications for marketing.

1183 (80) "Residential use" means the use in or around a home, apartment building, sleeping  
1184 quarters, and similar facilities or accommodations.

1185 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1186 than:

1187 (a) resale;

1188 (b) sublease; or

1189 (c) subrent.

1190 (82) (a) "Retailer" means any person engaged in a regularly organized business in  
1191 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1192 who is selling to the user or consumer and not for resale.

1193 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1194 engaged in the business of selling to users or consumers within the state.

1195 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1196 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1197 Subsection 59-12-103(1), for consideration.

1198 (b) "Sale" includes:

1199 (i) installment and credit sales;

1200 (ii) any closed transaction constituting a sale;

1201 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1202 chapter;

1203 (iv) any transaction if the possession of property is transferred but the seller retains the

1204 title as security for the payment of the price; and  
1205 (v) any transaction under which right to possession, operation, or use of any article of  
1206 tangible personal property is granted under a lease or contract and the transfer of possession  
1207 would be taxable if an outright sale were made.  
1208 (84) "Sale at retail" is as defined in Subsection (81).  
1209 (85) "Sale-leaseback transaction" means a transaction by which title to tangible  
1210 personal property that is subject to a tax under this chapter is transferred:  
1211 (a) by a purchaser-lessee;  
1212 (b) to a lessor;  
1213 (c) for consideration; and  
1214 (d) if:  
1215 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1216 of the tangible personal property;  
1217 (ii) the sale of the tangible personal property to the lessor is intended as a form of  
1218 financing:  
1219 (A) for the property; and  
1220 (B) to the purchaser-lessee; and  
1221 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1222 is required to:  
1223 (A) capitalize the property for financial reporting purposes; and  
1224 (B) account for the lease payments as payments made under a financing arrangement.  
1225 (86) "Sales price" is as defined in Subsection (72).  
1226 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1227 amounts charged by a school:  
1228 (i) sales that are directly related to the school's educational functions or activities  
1229 including:  
1230 (A) the sale of:  
1231 (I) textbooks;  
1232 (II) textbook fees;  
1233 (III) laboratory fees;  
1234 (IV) laboratory supplies; or



- 1235 (V) safety equipment;
- 1236 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1237 that:
- 1238 (I) a student is specifically required to wear as a condition of participation in a
- 1239 school-related event or school-related activity; and
- 1240 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1241 place of ordinary clothing;
- 1242 (C) sales of the following if the net or gross revenues generated by the sales are
- 1243 deposited into a school district fund or school fund dedicated to school meals:
- 1244 (I) food and food ingredients; or
- 1245 (II) prepared food; or
- 1246 (D) transportation charges for official school activities; or
- 1247 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1248 event or school-related activity.
- 1249 (b) "Sales relating to schools" does not include:
- 1250 (i) bookstore sales of items that are not educational materials or supplies;
- 1251 (ii) except as provided in Subsection (87)(a)(i)(B):
- 1252 (A) clothing;
- 1253 (B) clothing accessories or equipment;
- 1254 (C) protective equipment; or
- 1255 (D) sports or recreational equipment; or
- 1256 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1257 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1258 (A) other than a:
- 1259 (I) school;
- 1260 (II) nonprofit organization authorized by a school board or a governing body of a
- 1261 private school to organize and direct a competitive secondary school activity; or
- 1262 (III) nonprofit association authorized by a school board or a governing body of a
- 1263 private school to organize and direct a competitive secondary school activity; and
- 1264 (B) that is required to collect sales and use taxes under this chapter.
- 1265 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1266 commission may make rules defining the term "passed through."  
1267 (88) For purposes of this section and Section 59-12-104, "school":  
1268 (a) means:  
1269 (i) an elementary school or a secondary school that:  
1270 (A) is a:  
1271 (I) public school; or  
1272 (II) private school; and  
1273 (B) provides instruction for one or more grades kindergarten through 12; or  
1274 (ii) a public school district; and  
1275 (b) includes the Electronic High School as defined in Section 53A-15-1002.  
1276 (89) "Seller" means a person that makes a sale, lease, or rental of:  
1277 (a) tangible personal property; or  
1278 (b) a service.  
1279 (90) (a) "Semiconductor fabricating, processing, research, or development materials"  
1280 means tangible personal property:  
1281 (i) used primarily in the process of:  
1282 (A) (I) manufacturing a semiconductor;  
1283 (II) fabricating a semiconductor; or  
1284 (III) research or development of a:  
1285 (Aa) semiconductor; or  
1286 (Bb) semiconductor manufacturing process; or  
1287 (B) maintaining an environment suitable for a semiconductor; or  
1288 (ii) consumed primarily in the process of:  
1289 (A) (I) manufacturing a semiconductor;  
1290 (II) fabricating a semiconductor; or  
1291 (III) research or development of a:  
1292 (Aa) semiconductor; or  
1293 (Bb) semiconductor manufacturing process; or  
1294 (B) maintaining an environment suitable for a semiconductor.  
1295 (b) "Semiconductor fabricating, processing, research, or development materials"  
1296 includes:

- 1297 (i) parts used in the repairs or renovations of tangible personal property described in  
1298 Subsection (90)(a); or
- 1299 (ii) a chemical, catalyst, or other material used to:
- 1300 (A) produce or induce in a semiconductor a:
- 1301 (I) chemical change; or
- 1302 (II) physical change;
- 1303 (B) remove impurities from a semiconductor; or
- 1304 (C) improve the marketable condition of a semiconductor.
- 1305 (91) "Senior citizen center" means a facility having the primary purpose of providing  
1306 services to the aged as defined in Section 62A-3-101.
- 1307 (92) "Simplified electronic return" means the electronic return:
- 1308 (a) described in Section 318(C) of the agreement; and
- 1309 (b) approved by the governing board of the agreement.
- 1310 (93) "Solar energy" means the sun used as the sole source of energy for producing  
1311 electricity.
- 1312 (94) (a) "Sports or recreational equipment" means an item:
- 1313 (i) designed for human use; and
- 1314 (ii) that is:
- 1315 (A) worn in conjunction with:
- 1316 (I) an athletic activity; or
- 1317 (II) a recreational activity; and
- 1318 (B) not suitable for general use.
- 1319 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1320 commission shall make rules:
- 1321 (i) listing the items that constitute "sports or recreational equipment"; and
- 1322 (ii) that are consistent with the list of items that constitute "sports or recreational  
1323 equipment" under the agreement.
- 1324 (95) "State" means the state of Utah, its departments, and agencies.
- 1325 (96) "Storage" means any keeping or retention of tangible personal property or any  
1326 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
1327 sale in the regular course of business.

- 1328 (97) (a) "Tangible personal property" means personal property that:
- 1329 (i) may be:
- 1330 (A) seen;
- 1331 (B) weighed;
- 1332 (C) measured;
- 1333 (D) felt; or
- 1334 (E) touched; or
- 1335 (ii) is in any manner perceptible to the senses.
- 1336 (b) "Tangible personal property" includes:
- 1337 (i) electricity;
- 1338 (ii) water;
- 1339 (iii) gas;
- 1340 (iv) steam; or
- 1341 (v) prewritten computer software.
- 1342 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
- 1343 and require further processing other than mechanical blending before becoming finished
- 1344 petroleum products.
- 1345 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1346 software" means an item listed in Subsection (99)(b) if that item is purchased or leased
- 1347 primarily to enable or facilitate one or more of the following to function:
- 1348 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1349 (ii) telecommunications transmission equipment, machinery, or software.
- 1350 (b) The following apply to Subsection (99)(a):
- 1351 (i) a pole;
- 1352 (ii) software;
- 1353 (iii) a supplementary power supply;
- 1354 (iv) temperature or environmental equipment or machinery;
- 1355 (v) test equipment;
- 1356 (vi) a tower; or
- 1357 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1358 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in

1359 accordance with Subsection (99)(c).

1360 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1361 commission may by rule define what constitutes equipment, machinery, or software that  
1362 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1363 (100) "Telecommunications equipment, machinery, or software required for 911  
1364 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1365 Sec. 20.18.

1366 (101) "Telecommunications maintenance or repair equipment, machinery, or software"  
1367 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1368 one or more of the following, regardless of whether the equipment, machinery, or software is  
1369 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1370 following:

- 1371 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1372 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1373 (c) telecommunications transmission equipment, machinery, or software.

1374 (102) (a) "Telecommunications switching or routing equipment, machinery, or  
1375 software" means an item listed in Subsection (102)(b) if that item is purchased or leased  
1376 primarily for switching or routing:

- 1377 (i) voice communications;
- 1378 (ii) data communications; or
- 1379 (iii) telephone service.

1380 (b) The following apply to Subsection (102)(a):

- 1381 (i) a bridge;
- 1382 (ii) a computer;
- 1383 (iii) a cross connect;
- 1384 (iv) a modem;
- 1385 (v) a multiplexer;
- 1386 (vi) plug in circuitry;
- 1387 (vii) a router;
- 1388 (viii) software;
- 1389 (ix) a switch; or

1390 (x) equipment, machinery, or software that functions similarly to an item listed in  
1391 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in  
1392 accordance with Subsection (102)(c).

1393 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1394 commission may by rule define what constitutes equipment, machinery, or software that  
1395 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).

1396 (103) (a) "Telecommunications transmission equipment, machinery, or software"  
1397 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for  
1398 sending, receiving, or transporting:

1399 (i) voice communications;

1400 (ii) data communications; or

1401 (iii) telephone service.

1402 (b) The following apply to Subsection (103)(a):

1403 (i) an amplifier;

1404 (ii) a cable;

1405 (iii) a closure;

1406 (iv) a conduit;

1407 (v) a controller;

1408 (vi) a duplexer;

1409 (vii) a filter;

1410 (viii) an input device;

1411 (ix) an input/output device;

1412 (x) an insulator;

1413 (xi) microwave machinery or equipment;

1414 (xii) an oscillator;

1415 (xiii) an output device;

1416 (xiv) a pedestal;

1417 (xv) a power converter;

1418 (xvi) a power supply;

1419 (xvii) a radio channel;

1420 (xviii) a radio receiver;

- 1421 (xix) a radio transmitter;
- 1422 (xx) a repeater;
- 1423 (xxi) software;
- 1424 (xxii) a terminal;
- 1425 (xxiii) a timing unit;
- 1426 (xxiv) a transformer;
- 1427 (xxv) a wire; or
- 1428 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1429 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
- 1430 accordance with Subsection (103)(c).
- 1431 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1432 commission may by rule define what constitutes equipment, machinery, or software that
- 1433 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).
- 1434 (104) (a) "Telephone service" means a two-way transmission:
- 1435 (i) by:
- 1436 (A) wire;
- 1437 (B) radio;
- 1438 (C) lightwave; or
- 1439 (D) other electromagnetic means; and
- 1440 (ii) of one or more of the following:
- 1441 (A) a sign;
- 1442 (B) a signal;
- 1443 (C) writing;
- 1444 (D) an image;
- 1445 (E) sound;
- 1446 (F) a message;
- 1447 (G) data; or
- 1448 (H) other information of any nature.
- 1449 (b) "Telephone service" includes:
- 1450 (i) mobile telecommunications service;
- 1451 (ii) private communications service; or

1452 (iii) automated digital telephone answering service.

1453 (c) "Telephone service" does not include a service or a transaction that a state or a  
1454 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet  
1455 Tax Freedom Act, Pub. L. No. 105-277.

1456 (105) Notwithstanding where a call is billed or paid, "telephone service address"  
1457 means:

1458 (a) if the location described in this Subsection (105)(a) is known, the location of the  
1459 telephone service equipment:

1460 (i) to which a call is charged; and

1461 (ii) from which the call originates or terminates;

1462 (b) if the location described in Subsection (105)(a) is not known but the location  
1463 described in this Subsection (105)(b) is known, the location of the origination point of the  
1464 signal of the telephone service first identified by:

1465 (i) the telecommunications system of the seller; or

1466 (ii) if the system used to transport the signal is not that of the seller, information  
1467 received by the seller from its service provider; or

1468 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location  
1469 of a purchaser's primary place of use.

1470 (106) (a) "Telephone service provider" means a person that:

1471 (i) owns, controls, operates, or manages a telephone service; and

1472 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or  
1473 resale to any person of the telephone service.

1474 (b) A person described in Subsection (106)(a) is a telephone service provider whether  
1475 or not the Public Service Commission of Utah regulates:

1476 (i) that person; or

1477 (ii) the telephone service that the person owns, controls, operates, or manages.

1478 (107) "Tobacco" means:

1479 (a) a cigarette;

1480 (b) a cigar;

1481 (c) chewing tobacco;

1482 (d) pipe tobacco; or



1483 (e) any other item that contains tobacco.

1484 (108) "Unassisted amusement device" means an amusement device, skill device, or  
1485 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1486 the amusement device, skill device, or ride device.

1487 (109) (a) "Use" means the exercise of any right or power over tangible personal  
1488 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
1489 property, item, or service.

1490 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
1491 the regular course of business and held for resale.

1492 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are  
1493 required to be titled, registered, or titled and registered:

- 1494 (i) an aircraft as defined in Section 72-10-102;
- 1495 (ii) a vehicle as defined in Section 41-1a-102;
- 1496 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1497 (iv) a vessel as defined in Section 41-1a-102.

1498 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1499 (i) a vehicle described in Subsection (110)(a); or
- 1500 (ii) (A) a locomotive;
- 1501 (B) a freight car;
- 1502 (C) railroad work equipment; or
- 1503 (D) other railroad rolling stock.

1504 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1505 exchanging a vehicle as defined in Subsection (110).

1506 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a  
1507 facility that generates electricity:

1508 (i) using as the primary source of energy waste materials that would be placed in a  
1509 landfill or refuse pit if it were not used to generate electricity, including:

- 1510 (A) tires;
- 1511 (B) waste coal; or
- 1512 (C) oil shale; and

1513 (ii) in amounts greater than actually required for the operation of the facility.

1514 (b) "Waste energy facility" does not include a facility that incinerates:

1515 (i) municipal solid waste;

1516 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1517 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1518 (113) "Watercraft" means a vessel as defined in Section 73-18-2.

1519 (114) "Wind energy" means wind used as the sole source of energy to produce  
1520 electricity.

1521 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1522 location by the United States Postal Service.

1523 Section 3. Section **59-12-703** is amended to read:

1524 **59-12-703. Imposition of tax -- Base -- Rate -- Uses of tax monies -- Enactment or**  
1525 **repeal of tax -- Effective date -- Notice requirements.**

1526 (1) (a) (i) A county legislative body may [~~submit an opinion question to the residents of~~  
1527 ~~that county, by majority vote of all members of the legislative body, so that each resident of the~~  
1528 ~~county, except residents in municipalities that have already imposed a sales and use tax under~~  
1529 ~~Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological~~  
1530 ~~Organizations or Facilities, has an opportunity to express the resident's opinion on the~~  
1531 ~~imposition of a local] by a majority vote of the members of the county legislative body impose  
1532 a sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located  
1533 within the county[; to fund recreational and zoological facilities, botanical, cultural, and  
1534 zoological organizations, and rural radio stations, in that county], including the cities and towns  
1535 located in the county.~~

1536 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a  
1537 tax under this section on:

1538 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
1539 are exempt from taxation under Section 59-12-104;

1540 [~~(B) sales and uses within municipalities that have already imposed a sales and use tax~~  
1541 ~~under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and~~  
1542 ~~Zoological Organizations or Facilities;]~~

1543 [(C)] (B) amounts paid or charged by a seller that collects a tax under Subsection  
1544 59-12-107(1)(b); and

1545           ~~[(D)]~~ (C) except as provided in Subsection (1)(c), amounts paid or charged for food  
1546 and food ingredients.

1547           (b) For purposes of this Subsection (1), the location of a transaction shall be  
1548 determined in accordance with Section 59-12-207.

1549           (c) A county legislative body imposing a tax under this section shall impose the tax on  
1550 amounts paid or charged for food and food ingredients if:

1551           (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
1552 food and food ingredients and tangible personal property other than food and food ingredients;  
1553 and

1554           (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
1555 accordance with Subsection 59-12-107(1)(b).

1556           ~~[(d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local  
1557 Government Bonding Act.]~~

1558           ~~[(2) (a) If the county legislative body determines that a majority of the county's  
1559 registered voters voting on the imposition of the tax have voted in favor of the imposition of  
1560 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a  
1561 majority vote of all members of the legislative body on the transactions:]~~

1562           ~~[(i) described in Subsection (1); and]~~

1563           ~~[(ii) within the county, including the cities and towns located in the county, except  
1564 those cities and towns that have already imposed a sales and use tax under Part 14, City or  
1565 Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or  
1566 Facilities:]~~

1567           ~~[(b) A county legislative body may revise county ordinances to reflect statutory  
1568 changes to the distribution formula or eligible recipients of revenues generated from a tax  
1569 imposed under Subsection (2)(a):]~~

1570           ~~[(i) after the county legislative body submits an opinion question to residents of the  
1571 county in accordance with Subsection (1) giving them the opportunity to express their opinion  
1572 on the proposed revisions to county ordinances; and]~~

1573           ~~[(ii) if the county legislative body determines that a majority of those voting on the  
1574 opinion question have voted in favor of the revisions:]~~

1575           ~~[(3)]~~ (2) ~~[The monies generated from any]~~ Subject to Section 59-12-704, the revenues

1576 collected from a tax imposed under [Subsection (2)] this section shall be [used for funding]  
1577 expended as follows:

1578 (a) a county legislative body of a county of the first class shall expend revenues  
1579 collected from a tax imposed under this section to fund:

1580 ~~[(a)]~~ (i) recreational facilities and zoological facilities located within the county or a  
1581 city or town located in the county[; except a city or town that has already imposed a sales and  
1582 use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and  
1583 Zoological Organizations or Facilities]; and

1584 ~~[(b)]~~ (ii) ongoing operating expenses of:

1585 ~~[(i)]~~ (A) recreational facilities described in Subsection [ (3) ] (2)(a)(i);

1586 ~~[(ii)]~~ (B) botanical, cultural, and zoological organizations within the county; and

1587 ~~[(iii)]~~ (C) rural radio stations within the county[-]; or

1588 (b) a county of the second, third, fourth, fifth, or sixth class shall:

1589 (i) deposit the revenues collected from a tax imposed under this section into the  
1590 county's general fund; and

1591 (ii) expend the revenues collected from a tax imposed under this section for the same  
1592 purposes for which the county expends the county's general fund revenues.

1593 ~~[(4)]~~ (3) (a) [A] Except as provided in Subsection (3)(b), a tax authorized under this  
1594 part shall be[:(i) except as provided in Subsection (4)(b);] administered, collected, and  
1595 enforced in accordance with:

1596 ~~[(A)]~~ (i) the same procedures used to administer, collect, and enforce the tax under:

1597 ~~[(1)]~~ (A) Part 1, Tax Collection; or

1598 ~~[(2)]~~ (B) Part 2, Local Sales and Use Tax Act; and

1599 ~~[(B)]~~ (ii) Chapter 1, General Taxation Policies[; and].

1600 ~~[(ii) levied for a period of ten years and may be reauthorized at the end of the ten-year~~  
1601 ~~period in accordance with this section.]~~

1602 ~~(b) [Notwithstanding Subsection (4)(a)(i), a]~~ A tax under this part is not subject to  
1603 Subsections 59-12-205(2) through (7).

1604 ~~[(5)]~~ (4) (a) For purposes of this Subsection [ (5) ] (4):

1605 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
1606 Annexation to County.

- 1607 (ii) "Annexing area" means an area that is annexed into a county.
- 1608 (b) (i) Except as provided in Subsection [~~(5)~~] (4)(c) or (d), if, on or after July 1, 2004, a  
1609 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 1610 (A) on the first day of a calendar quarter; and
- 1611 (B) after a 90-day period beginning on the date the commission receives notice meeting  
1612 the requirements of Subsection [~~(5)~~] (4)(b)(ii) from the county.
- 1613 (ii) The notice described in Subsection [~~(5)~~] (4)(b)(i)(B) shall state:
- 1614 (A) that the county will enact or repeal a tax under this part;
- 1615 (B) the statutory authority for the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A);
- 1616 (C) the effective date of the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A); and
- 1617 (D) if the county enacts the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A), the rate of  
1618 the tax.
- 1619 (c) (i) Notwithstanding Subsection [~~(5)~~] (4)(b)(i), for a transaction described in  
1620 Subsection [~~(5)~~] (4)(c)(iii), the enactment of a tax shall take effect on the first day of the first  
1621 billing period:
- 1622 (A) that begins after the effective date of the enactment of the tax; and
- 1623 (B) if the billing period for the transaction begins before the effective date of the  
1624 enactment of the tax under this section.
- 1625 (ii) Notwithstanding Subsection [~~(5)~~] (4)(b)(i), for a transaction described in  
1626 Subsection [~~(5)~~] (4)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing  
1627 period:
- 1628 (A) that began before the effective date of the repeal of the tax; and
- 1629 (B) if the billing period for the transaction begins before the effective date of the repeal  
1630 of the tax imposed under this section.
- 1631 (iii) Subsections [~~(5)~~] (4)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1632 (A) Subsection 59-12-103(1)(b);
- 1633 (B) Subsection 59-12-103(1)(c);
- 1634 (C) Subsection 59-12-103(1)(d);
- 1635 (D) Subsection 59-12-103(1)(e);
- 1636 (E) Subsection 59-12-103(1)(f);
- 1637 (F) Subsection 59-12-103(1)(g);

- 1638 (G) Subsection 59-12-103(1)(h);
- 1639 (H) Subsection 59-12-103(1)(i);
- 1640 (I) Subsection 59-12-103(1)(j); or
- 1641 (J) Subsection 59-12-103(1)(k).
- 1642 (d) (i) Notwithstanding Subsection [~~5~~] (4)(b)(i), if a tax due under this chapter on a
- 1643 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1644 enactment or repeal of a tax described in Subsection [~~5~~] (4)(b)(i) takes effect:
  - 1645 (A) on the first day of a calendar quarter; and
  - 1646 (B) beginning 60 days after the effective date of the enactment or repeal under
  - 1647 Subsection [~~5~~] (4)(b)(i).
- 1648 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1649 the commission may by rule define the term "catalogue sale."
- 1650 (e) (i) Except as provided in Subsection [~~5~~] (4)(f) or (g), if, for an annexation that
- 1651 occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax
- 1652 under this part for an annexing area, the enactment or repeal shall take effect:
  - 1653 (A) on the first day of a calendar quarter; and
  - 1654 (B) after a 90-day period beginning on the date the commission receives notice meeting
  - 1655 the requirements of Subsection [~~5~~] (4)(e)(ii) from the county that annexes the annexing area.
- 1656 (ii) The notice described in Subsection [~~5~~] (4)(e)(i)(B) shall state:
  - 1657 (A) that the annexation described in Subsection [~~5~~] (4)(e)(i) will result in an
  - 1658 enactment or repeal of a tax under this part for the annexing area;
  - 1659 (B) the statutory authority for the tax described in Subsection [~~5~~] (4)(e)(ii)(A);
  - 1660 (C) the effective date of the tax described in Subsection [~~5~~] (4)(e)(ii)(A); and
  - 1661 (D) the rate of the tax described in Subsection [~~5~~] (4)(e)(ii)(A).
- 1662 (f) (i) Notwithstanding Subsection [~~5~~] (4)(e)(i), for a transaction described in
- 1663 Subsection [~~5~~] (4)(f)(iii), the enactment of a tax shall take effect on the first day of the first
- 1664 billing period:
  - 1665 (A) that begins after the effective date of the enactment of the tax; and
  - 1666 (B) if the billing period for the transaction begins before the effective date of the
  - 1667 enactment of the tax under this section.
- 1668 (ii) Notwithstanding Subsection [~~5~~] (4)(e)(i), for a transaction described in

1669 Subsection ~~[(5)]~~ (4)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing  
 1670 period:

1671 (A) that began before the effective date of the repeal of the tax; and

1672 (B) if the billing period for the transaction begins before the effective date of the repeal  
 1673 of the tax imposed under this section.

1674 (iii) Subsections ~~[(5)]~~ (4)(f)(i) and (ii) apply to transactions subject to a tax under:

1675 (A) Subsection 59-12-103(1)(b);

1676 (B) Subsection 59-12-103(1)(c);

1677 (C) Subsection 59-12-103(1)(d);

1678 (D) Subsection 59-12-103(1)(e);

1679 (E) Subsection 59-12-103(1)(f);

1680 (F) Subsection 59-12-103(1)(g);

1681 (G) Subsection 59-12-103(1)(h);

1682 (H) Subsection 59-12-103(1)(i);

1683 (I) Subsection 59-12-103(1)(j); or

1684 (J) Subsection 59-12-103(1)(k).

1685 (g) (i) Notwithstanding Subsection ~~[(5)]~~ (4)(e)(i), if a tax due under this chapter on a  
 1686 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
 1687 enactment or repeal of a tax described in Subsection ~~[(5)]~~ (4)(e)(i) takes effect:

1688 (A) on the first day of a calendar quarter; and

1689 (B) beginning 60 days after the effective date of the enactment or repeal under  
 1690 Subsection ~~[(5)]~~ (4)(e)(i).

1691 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
 1692 the commission may by rule define the term "catalogue sale."

1693 Section 4. Section **59-12-704** is amended to read:

1694 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**  
 1695 **operating expenses.**

1696 (1) Except as provided in Subsections (3)(b) and (5), and subject to ~~[the requirements~~  
 1697 ~~of this section]~~ Subsection (7), ~~[any]~~ revenues collected by a county of the first class under this  
 1698 part shall be distributed annually by the county legislative body ~~[to support recreational and~~  
 1699 ~~zoological facilities and botanical, cultural, and zoological organizations]~~ for a purpose

1700 described in Subsection 59-12-703(3)(a) within that [~~first class~~] county of the first class as  
1701 follows:

1702 (a) 30% of the revenue collected by the county under this section shall be distributed  
1703 by the county legislative body to support recreational facilities located within the county;

1704 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),  
1705 12-1/8% of the revenue collected by the county under this section shall be distributed by the  
1706 county legislative body to support no more than three zoological facilities and organizations  
1707 located within the county, with 94.5% of that revenue being distributed to zoological facilities  
1708 and organizations with average annual operating expenses of \$2,000,000 or more and 5.5% of  
1709 that revenue being distributed to zoological facilities and organizations with average annual  
1710 operating expenses of less than \$2,000,000;

1711 (ii) except as provided in Subsection (1)(b)(iii), the county legislative body shall  
1712 distribute the monies described in Subsection (1)(b)(i) among the zoological facilities and  
1713 organizations in proportion to their average annual operating expenses as determined under  
1714 Subsection (3); and

1715 (iii) if a zoological facility or organization is created or relocated within the county  
1716 after June 1, 2003, the county legislative body shall distribute the monies described in  
1717 Subsection (1)(b)(i) as it determines appropriate;

1718 (c) (i) 48-7/8% of the revenue collected by the county under this section shall be  
1719 distributed to no more than 23 botanical and cultural organizations with average annual  
1720 operating expenses of more than \$250,000 as determined under Subsection (3);

1721 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the  
1722 monies described in Subsection (1)(c)(i) among the organizations and in proportion to their  
1723 average annual operating expenses as determined under Subsection (3); and

1724 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may  
1725 not exceed 35% of the organization's operating budget; and

1726 (d) (i) 9% of the revenue collected by the county under this section shall be distributed  
1727 to botanical and cultural organizations that do not receive revenue under Subsection (1)(c)(i);  
1728 and

1729 (ii) the county legislative body shall determine how the monies shall be distributed  
1730 among the organizations described in Subsection (1)(d)(i).



1731 (2) (a) The county legislative body of each county of the first class that imposes a tax  
1732 under this part shall create an advisory board to advise the county legislative body on  
1733 disbursement of funds to botanical and cultural organizations under Subsection (1)(c)(i).

1734 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members  
1735 appointed by the county legislative body.

1736 (ii) In a county of the first class, two of the seven members of the advisory board under  
1737 Subsection (2)(a) shall be appointed from the Utah Arts Council.

1738 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive monies  
1739 collected by the county under this part, a botanical, cultural, and zoological organization  
1740 located within a county of the first class shall, every three years:

1741 (i) calculate their average annual operating expenses based upon audited operating  
1742 expenses for three preceding fiscal years; and

1743 (ii) submit to the appropriate county legislative body:

1744 (A) a verified audit of annual operating expenses for each of those three preceding  
1745 fiscal years; and

1746 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

1747 (b) [~~Notwithstanding Subsection (3)(a), the~~] The county legislative body described in  
1748 Subsection (3)(a)(ii) may waive the operating expenses reporting requirements under  
1749 Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

1750 (4) When calculating average annual operating expenses as described in Subsection  
1751 (3), each botanical, cultural, and zoological organization shall use the same three-year fiscal  
1752 period as determined by the county legislative body.

1753 (5) (a) By July 1 of each year, the county legislative body of a first class county may  
1754 index the threshold amount in Subsections (1)(c) and (d).

1755 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

1756 [~~(6) (a) Beginning on July 1, 2001, in a county except for a county of the first class, the~~  
1757 ~~county legislative body shall by ordinance provide for the distribution of the entire amount of~~  
1758 ~~the revenues generated by the tax imposed by this section as provided in this Subsection (6).]~~

1759 [~~(b) Pursuant to an interlocal agreement established in accordance with Title 11,~~  
1760 ~~Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute~~  
1761 ~~to a city, town, or political subdivision within the county revenues generated by a tax under this~~

1762 part.]

1763 ~~[(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or~~  
1764 ~~more organizations or facilities defined in Section 59-12-702 regardless of whether the~~  
1765 ~~revenues are distributed:]~~

1766 ~~[(i) directly by the county described in Subsection (6)(a) to be used for an organization~~  
1767 ~~or facility defined in Section 59-12-702; or]~~

1768 ~~[(ii) in accordance with an interlocal agreement described in Subsection (6)(b).]~~

1769 (6) (a) A county legislative body that imposes a tax under this part shall transfer  
1770 revenues collected from the tax under this part as provided in Subsection (6)(b) to a city  
1771 legislative body or town legislative body if, on July 1, 2008, the city or town imposes a city or  
1772 town option sales and use tax:

1773 (i) for botanical, cultural, recreational, and zoological organizations or facilities; and

1774 (ii) that is repealed by this bill.

1775 (b) For purposes of Subsection (6)(a), a county legislative body shall transfer to a city  
1776 legislative body or town legislative body:

1777 (i) if the city or town imposes the city or town option sales and use tax described in  
1778 Subsection (6)(a) for the entire fiscal year 2007-08, the amount of revenues the city or town  
1779 collects from the city or town option sales and use tax described in Subsection (6)(a) for fiscal  
1780 year 2007-08; or

1781 (ii) if the city or town does not impose the city or town option sales and use tax  
1782 described in Subsection (6)(a) for the entire fiscal year 2007-08, the amount of revenues the  
1783 city or town would have collected from the city or town option sales and use tax described in  
1784 Subsection (6)(a) had the city or town collected that city or town option sales and use tax for  
1785 the entire fiscal year 2007-08.

1786 (c) Subject to Subsection (6)(d), a city legislative body or town legislative body that  
1787 receives a transfer of revenues under this Subsection (6) shall by ordinance provide for the  
1788 distribution of the entire amount of the revenues the city legislative body or town legislative  
1789 body receives.

1790 (d) A city legislative body or town legislative body that receives a transfer of revenues  
1791 under this section shall expend the revenues the city legislative body or town legislative body  
1792 receives for one or more of the following:

1793 (i) a botanical organization;

1794 (ii) a cultural facility;

1795 (iii) a cultural organization;

1796 (iv) a recreational facility;

1797 (v) a rural radio station;

1798 (vi) a zoological facility; or

1799 (vii) a zoological organization.

1800 (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under  
1801 this part for the cost of administering ~~[the provisions of]~~ this part.

1802 (8) The commission may retain an amount not to exceed ~~[1-1/2%]~~ 1.5% of the tax  
1803 collected under this part for the cost of administering this part.

1804 Section 5. Section **59-12-1001** is amended to read:

1805 **59-12-1001. Authority to impose tax for highways or to fund a system for public**  
1806 **transit -- Base -- Rate -- Ordinance requirements -- Enactment or repeal of tax --**  
1807 **Effective date -- Notice requirements.**

1808 (1) (a) ~~[A]~~ Beginning on January 1, 2009, a county, city, or town in which the  
1809 transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax under  
1810 Section 59-12-501 may as provided in this part impose a sales and use tax of~~[(i) beginning on~~  
1811 ~~January 1, 1998, and ending on December 31, 2007, .25% on the transactions described in~~  
1812 ~~Subsection 59-12-103(1) located within the city or town; or (ii) beginning on January 1, 2008,~~  
1813 ~~.30% on the transactions described in Subsection 59-12-103(1) located within the county, city,~~  
1814 ~~or town.~~

1815 (b) Notwithstanding Subsection (1)(a), if a county, city, or town does not have a tax  
1816 under this part in effect on April 1, 2009, the county, city, or town may not impose a tax under  
1817 this part.

1818 (c) Notwithstanding Subsection (1)(a), if a county imposes a tax under this part, the  
1819 county may not impose a tax within the boundaries of a city or town that imposes a tax under  
1820 this part.

1821 ~~[(b)]~~ (d) Notwithstanding Subsection (1)(a), a county, city, or town may not impose a  
1822 tax under this section on:

1823 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses

1824 are exempt from taxation under Section 59-12-104;

1825 (ii) amounts paid or charged by a seller that collects a tax under Subsection  
1826 59-12-107(1)(b); and

1827 (iii) except as provided in Subsection (1)~~(f)~~ (f), amounts paid or charged for food and  
1828 food ingredients.

1829 ~~(e)~~ (e) For purposes of this Subsection (1), the location of a transaction shall be  
1830 determined in accordance with Section 59-12-207.

1831 ~~(f)~~ (f) A county, city, or town imposing a tax under this section shall impose the tax  
1832 on amounts paid or charged for food and food ingredients if:

1833 (i) the food and food ingredients are sold as part of a bundled transaction attributable to  
1834 food and food ingredients and tangible personal property other than food and food ingredients;  
1835 and

1836 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in  
1837 accordance with Subsection 59-12-107(1)(b).

1838 (2) ~~(a)~~ A county, city, or town imposing a tax under this part may ~~[use the revenues~~  
1839 ~~generated by the tax]~~ expend the revenues collected from the tax as follows:

1840 ~~[(i) for the construction and maintenance of highways under the jurisdiction of the city~~  
1841 ~~or town imposing the tax;]~~

1842 ~~[(ii) subject to Subsection (2)(b), to fund a system for public transit; or]~~

1843 ~~[(iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).]~~

1844 ~~[(b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection~~  
1845 ~~(2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.]~~

1846 ~~[(ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed~~  
1847 ~~guideway system.]~~

1848 (a) the first priority is to fund a project or service relating to a state highway for the  
1849 portion of the project or service that is performed within the county, city, or town;

1850 (b) the second priority is to fund a project or service relating to a principal arterial  
1851 highway as defined in Section 72-4-102.5 for the portion of the project or service that is  
1852 performed within the county, city, or town;

1853 (c) the third priority is to fund a project or service relating to a minor arterial highway  
1854 as defined in Section 72-4-102.5 for the portion of the project or service that is performed

1855 within the county, city, or town:

1856 (d) the fourth priority is to fund a project or service relating to a major collector  
 1857 highway as defined in Section 72-4-102.5 for the portion of the project or service that is  
 1858 performed within the county, city, or town:

1859 (e) the fifth priority is to fund a project or service relating to a minor collector road as  
 1860 defined in Section 72-4-102.5 for the portion of the project or service that is performed within  
 1861 the county, city, or town:

1862 (f) the sixth priority is to fund the construction and maintenance of a highway under the  
 1863 jurisdiction of the county, city, or town:

1864 (g) the seventh priority is to fund a system for public transit as defined in Section  
 1865 59-12-1502;

1866 (h) the eighth priority is to fund a fixed guideway as defined in Section 59-12-1702; or

1867 (i) for a combination of Subsections (2)(a) through (h).

1868 (3) To impose a tax under this part, the ~~[governing body of the]~~ county, city, or town  
 1869 legislative body shall~~[(a) pass]~~ adopt an ordinance ~~[approving]~~ imposing the tax~~[-and]~~.

1870 ~~[(b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as~~  
 1871 ~~provided in Subsection (4).]~~

1872 ~~[(4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:]~~

1873 ~~[(a) hold an election during:]~~

1874 ~~[(i) a regular general election; or]~~

1875 ~~[(ii) a municipal general election; and]~~

1876 ~~[(b) publish notice of the election:]~~

1877 ~~[(i) 15 days or more before the day on which the election is held; and]~~

1878 ~~[(ii) in a newspaper of general circulation in the city or town.]~~

1879 ~~[(5)]~~ (4) An ordinance approving a tax under this part shall provide an effective date  
 1880 for the tax as provided in Subsection ~~[(6)]~~ (5).

1881 ~~[(6)]~~ (5) (a) For purposes of this Subsection ~~[(6)]~~ (5):

1882 (i) "Annexation" means an annexation to:

1883 (A) a county under Title 17, Chapter 2, Annexation to County; or

1884 (B) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1885 (ii) "Annexing area" means an area that is annexed into a county, city, or town.

1886 (b) (i) Except as provided in Subsection [~~(6)~~] (5)(c) or (d), if, on or after [~~April 1,~~  
1887 ~~2008~~] July 1, 2009, a county, city, or town enacts or repeals a tax under this part, the enactment  
1888 or repeal shall take effect:

1889 (A) on the first day of a calendar quarter; and

1890 (B) after a 90-day period beginning on the date the commission receives notice meeting  
1891 the requirements of Subsection [~~(6)~~] (5)(b)(ii) from the city or town.

1892 (ii) The notice described in Subsection [~~(6)~~] (5)(b)(i)(B) shall state:

1893 (A) that the county, city, or town will enact or repeal a tax under this part;

1894 (B) the statutory authority for the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A);

1895 (C) the effective date of the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A); and

1896 (D) if the county, city, or town enacts the tax described in Subsection [~~(6)~~]

1897 (5)(b)(ii)(A), the rate of the tax.

1898 (c) (i) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), for a transaction described in  
1899 Subsection [~~(6)~~] (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first  
1900 billing period:

1901 (A) that begins after the effective date of the enactment of the tax; and

1902 (B) if the billing period for the transaction begins before the effective date of the  
1903 enactment of the tax under Subsection (1).

1904 (ii) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), for a transaction described in  
1905 Subsection [~~(6)~~] (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing  
1906 period:

1907 (A) that began before the effective date of the repeal of the tax; and

1908 (B) if the billing period for the transaction begins before the effective date of the repeal  
1909 of the tax imposed under Subsection (1).

1910 (iii) Subsections [~~(6)~~] (5)(c)(i) and (ii) apply to transactions subject to a tax under:

1911 (A) Subsection 59-12-103(1)(b);

1912 (B) Subsection 59-12-103(1)(c);

1913 (C) Subsection 59-12-103(1)(d);

1914 (D) Subsection 59-12-103(1)(e);

1915 (E) Subsection 59-12-103(1)(f);

1916 (F) Subsection 59-12-103(1)(g);

- 1917 (G) Subsection 59-12-103(1)(h);
- 1918 (H) Subsection 59-12-103(1)(i);
- 1919 (I) Subsection 59-12-103(1)(j); or
- 1920 (J) Subsection 59-12-103(1)(k).
- 1921 (d) (i) Notwithstanding Subsection [~~6~~] (5)(b)(i), if a tax due under this chapter on a
- 1922 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1923 enactment or repeal of a tax described in Subsection [~~6~~] (5)(b)(i) takes effect:
- 1924 (A) on the first day of a calendar quarter; and
- 1925 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1926 Subsection [~~6~~] (5)(b)(i).
- 1927 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1928 the commission may by rule define the term "catalogue sale."
- 1929 (e) (i) Except as provided in Subsection [~~6~~] (5)(f) or (g), if, for an annexation that
- 1930 occurs on or after [~~July 1, 2004~~] July 1, 2009, the annexation will result in the enactment or
- 1931 repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
- 1932 (A) on the first day of a calendar quarter; and
- 1933 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1934 the requirements of Subsection [~~6~~] (5)(e)(ii) from the county, city, or town that annexes the
- 1935 annexing area.
- 1936 (ii) The notice described in Subsection [~~6~~] (5)(e)(i)(B) shall state:
- 1937 (A) that the annexation described in Subsection [~~6~~] (5)(e)(i) will result in an
- 1938 enactment or repeal of a tax under this part for the annexing area;
- 1939 (B) the statutory authority for the tax described in Subsection [~~6~~] (5)(e)(ii)(A);
- 1940 (C) the effective date of the tax described in Subsection [~~6~~] (5)(e)(ii)(A); and
- 1941 (D) the rate of the tax described in Subsection [~~6~~] (5)(e)(ii)(A).
- 1942 (f) (i) Notwithstanding Subsection [~~6~~] (5)(e)(i), for a transaction described in
- 1943 Subsection [~~6~~] (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first
- 1944 billing period:
- 1945 (A) that begins after the effective date of the enactment of the tax; and
- 1946 (B) if the billing period for the transaction begins before the effective date of the
- 1947 enactment of the tax under Subsection (1).

1948 (ii) Notwithstanding Subsection ~~[(6)]~~ (5)(e)(i), for a transaction described in  
1949 Subsection ~~[(6)]~~ (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing  
1950 period:

1951 (A) that began before the effective date of the repeal of the tax; and

1952 (B) if the billing period for the transaction begins before the effective date of the repeal  
1953 of the tax imposed under Subsection (1).

1954 (iii) Subsections ~~[(6)]~~ (5)(f)(i) and (ii) apply to transactions subject to a tax under:

1955 (A) Subsection 59-12-103(1)(b);

1956 (B) Subsection 59-12-103(1)(c);

1957 (C) Subsection 59-12-103(1)(d);

1958 (D) Subsection 59-12-103(1)(e);

1959 (E) Subsection 59-12-103(1)(f);

1960 (F) Subsection 59-12-103(1)(g);

1961 (G) Subsection 59-12-103(1)(h);

1962 (H) Subsection 59-12-103(1)(i);

1963 (I) Subsection 59-12-103(1)(j); or

1964 (J) Subsection 59-12-103(1)(k).

1965 (g) (i) Notwithstanding Subsection ~~[(6)]~~ (5)(e)(i), if a tax due under this chapter on a  
1966 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an  
1967 enactment or repeal of a tax described in Subsection ~~[(6)]~~ (5)(e)(i) takes effect:

1968 (A) on the first day of a calendar quarter; and

1969 (B) beginning 60 days after the effective date of the enactment or repeal under  
1970 Subsection ~~[(6)]~~ (5)(e)(i).

1971 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1972 the commission may by rule define the term "catalogue sale."

1973 ~~[(7)(a) Except as provided in Subsection (7)(b), a city or town is not subject to the~~  
1974 ~~voter approval requirements of Subsection (3)(b) if:]~~

1975 ~~[(i) on or before January 1, 1996, the city or town imposed a license fee or tax on~~  
1976 ~~businesses based on gross receipts pursuant to Section 10-1-203; or]~~

1977 ~~[(ii) the city or town:]~~

1978 ~~[(A) on or before June 30, 2002, obtained voter approval in accordance with~~



1979 ~~Subsection (3)(b) to impose a tax under this part for a purpose described in Subsection~~  
 1980 ~~(2)(a)(i); and]~~

1981 ~~[(B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a~~  
 1982 ~~purpose described in Subsection (2)(a).]~~

1983 ~~[(b) Notwithstanding Subsection (7)(a), the exception from the voter approval~~  
 1984 ~~requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January~~  
 1985 ~~1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts~~  
 1986 ~~pursuant to Section 10-1-203.]~~

1987 ~~[(8) A city or town is not subject to the voter approval requirements of Subsection~~  
 1988 ~~(3)(b) if:]~~

1989 ~~[(a) on December 31, 2007, the city or town imposes a tax of .25% under this section;~~  
 1990 ~~and]~~

1991 ~~[(b) on or after January 1, 2008, the city or town increases the tax rate under this~~  
 1992 ~~section to .30%.]~~

1993 Section 6. Section **59-12-1002** is amended to read:

1994 **59-12-1002. Collection of taxes by commission -- Administration, collection, and**  
 1995 **enforcement of tax -- Charge for service.**

1996 (1) The commission shall:

1997 (a) collect the tax imposed by a county, city, or town under this part; and

1998 (b) subject to Subsection (3), transmit to the county, city, or town monthly by  
 1999 electronic funds transfer the revenues generated by the tax imposed by the county, city, or  
 2000 town.

2001 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be  
 2002 administered, collected, and enforced in accordance with:

2003 (i) the same procedures used to administer, collect, and enforce the tax under:

2004 (A) Part 1, Tax Collection; or

2005 (B) Part 2, Local Sales and Use Tax Act; and

2006 (ii) Chapter 1, General Taxation Policies.

2007 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to  
 2008 Subsections 59-12-205(2) through (7).

2009 (3) (a) The commission shall charge a county, city, or town imposing a tax under this

2010 part a fee for administering the tax as provided in Subsections (3)(b) and (c).

2011 (b) The fee shall be in an amount equal to the costs of administering the tax under this  
2012 part, except that the fee may not exceed 1-1/2% of the revenues generated in the county, city, or  
2013 town by the tax under this part.

2014 (c) Fees under this Subsection (3) shall be:

2015 (i) placed in the Sales and Use Tax Administrative Fees Account; and

2016 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

2017 Section 7. **Repealer.**

2018 This bill repeals:

2019 Section **59-12-1401, Purpose statement -- Definitions -- Scope of part.**

2020 Section **59-12-1402, Opinion question election -- Base -- Rate -- Imposition of tax --**

2021 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2022 Section **59-12-1403, Distribution of revenues -- Administrative costs.**

2023 Section 8. **Effective date.**

2024 This bill takes effect on January 1, 2009.

2025 Section 9. **Revisor instructions.**

2026 It is the intent of the Legislature that, in preparing the Utah Code database for

2027 publication, the Office of Legislative Research and General Counsel shall replace the reference

2028 in Subsection 59-12-704(6)(a)(ii) from "by this bill" to the bill's designated chapter and section

2029 number in the Laws of Utah.

2030 Section 10. **Coordinating H.B. 183 with H.B. 77 -- Substantive and technical**  
2031 **amendments.**

2032 If this H.B. 183 and H.B. 77, Personal Property Tax Amendments, both pass, it is the

2033 intent of the Legislature that the Office of Legislative Research and General Counsel, in

2034 preparing the Utah Code database for publication:

2035 (1) modify Subsection 59-2-924.2(2) in H.B. 77 to read:

2036 "(2)(a) Beginning January 1, 1997, if a taxing entity receives increased revenues from

2037 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,

2038 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter

2039 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax

2040 rate to offset the increased revenues.

2041 (b) A taxing entity shall decrease its certified tax rate to offset increased revenues from  
2042 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
2043 59-2-405.2, or 59-2-405.3 if:

2044 (i) the city or town within which the taxing entity is located:

2045 (A) on December 31, 2008, does not impose a tax in accordance with Section  
2046 59-12-1001; and

2047 (B) on or after January 1, 2009, but on or before April 1, 2009, imposes a tax in  
2048 accordance with Section 59-12-1001; and

2049 (ii) the taxing entity receives increased revenues from uniform fees on tangible  
2050 personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as  
2051 a result of the city or town imposing a sales and use tax under Section 59-12-1001.";

2052 (2) modify Subsection 59-2-924.2(3) in H.B. 77 to read:

2053 "(3)(a) Subject to Subsection (3)(c), beginning on July 1, 1997, if a county has imposed  
2054 a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's  
2055 certified tax rate shall be:

2056 (i) decreased on a one-time basis by the amount of the estimated sales and use tax  
2057 revenue to be distributed to the county under Subsection 59-12-1102(3); and

2058 (ii) increased by the amount necessary to offset the county's reduction in revenue from  
2059 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
2060 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection  
2061 (3)(a)(i).

2062 (b) Subject to Subsections (3)(c) and (d), if a city or town that, on December 31, 2008,  
2063 does not impose a tax in accordance with Section 59-12-1001, imposes a sales and use tax in  
2064 accordance with Section 59-12-1001 on or after January 1, 2009, but on or before April 1,  
2065 2009, the city's or town's certified tax rate shall be:

2066 (i) decreased on a one-time basis by the amount of the estimated sales and use tax  
2067 revenue under Section 59-12-1001 to be distributed to the city or town for the first year that the  
2068 city or town imposes the tax; and

2069 (ii) increased by the amount necessary to offset the city's or town's reduction in revenue  
2070 from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,  
2071 59-2-405.2, or 59-2-405.3, as a result of the decrease in the certified tax rate under Subsection

2072 (3)(b)(i).

2073 (c) The commission shall determine estimates of sales and use tax distributions for  
2074 purposes of Subsections (3)(a)(i) and (3)(b)(i).

2075 (d) A certified tax rate increase or decrease required by Subsection (3)(b) shall be made  
2076 for the calendar year beginning on the January 1 of the year in which the sales and use tax is  
2077 imposed that requires the certified tax rate to be increased or decreased in accordance with  
2078 Subsection (3)(b)."; and

2079 (3) modify Subsection 59-2-924.2(8) in H.B. 77 to read:

2080 "(8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be  
2081 reduced for any year to the extent necessary to provide a community development and renewal  
2082 agency established under Title 17C, Limited Purpose Local Government Entities - Community  
2083 Development and Renewal Agencies, with approximately the same amount of money the  
2084 agency would have received without a reduction in the county's certified tax rate, calculated in  
2085 accordance with Section 59-2-924, if:

2086 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3);

2087 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the  
2088 previous year; and

2089 (iii) the decrease results in a reduction of the amount to be paid to the agency under  
2090 Section 17C-1-403 or 17C-1-404.

2091 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any  
2092 year to the extent necessary to provide a community development and renewal agency with  
2093 approximately the same amount of money as the agency would have received without an  
2094 increase in the certified tax rate that year if:

2095 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to  
2096 a decrease in the certified tax rate under Subsection (2) or (3); and

2097 (ii) the certified tax rate of a city, school district, local district, or special service  
2098 district increases independent of the adjustment to the taxable value of the base year.

2099 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3), the  
2100 amount of money allocated and, when collected, paid each year to a community development  
2101 and renewal agency established under Title 17C, Limited Purpose Local Government Entities -  
2102 Community Development and Renewal Agencies, for the payment of bonds or other contract

2103 indebtedness, but not for administrative costs, may not be less than that amount would have  
2104 been without a decrease in the certified tax rate under Subsection (2) or (3).".