

1                   **SALES AND USE TAXES ON CERTAIN LODGING**

2                                   **RELATED PURCHASES**

3   2011 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Todd E. Kiser**

6                                   Senate Sponsor: Howard A. Stephenson

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8   **LONG TITLE**

9   **General Description:**

10           This bill addresses sales and use taxes on certain lodging related purchases.

11   **Highlighted Provisions:**

12           This bill:

- 13           ▶ defines terms;
- 14           ▶ provides procedures for claiming a sales and use tax exemption for certain lodging
- 15 related purchases;
- 16           ▶ grants rulemaking authority to the State Tax Commission;
- 17           ▶ requires the State Tax Commission to collect the transient room taxes; and
- 18           ▶ makes technical and conforming changes.

19   **Money Appropriated in this Bill:**

20           None

21   **Other Special Clauses:**

22           This bill takes effect on July 1, 2011.

23   **Utah Code Sections Affected:**

24   AMENDS:

25           **59-12-104**, as last amended by Laws of Utah 2010, Chapters 88, 209, and 364

26           **59-12-302**, as last amended by Laws of Utah 2008, Chapter 384

27           **59-12-354**, as last amended by Laws of Utah 2008, Chapter 384

28   ENACTS:

29           **59-12-104.6**, Utah Code Annotated 1953

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

Section 1. Section **59-12-104** is amended to read:

**59-12-104. Exemptions.**

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

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

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

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

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

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

- 58 (i) alcoholic beverages;
- 59 (ii) food and food ingredients; or
- 60 (iii) prepared food;
- 61 (b) sales of tangible personal property or a product transferred electronically:
- 62 (i) to a passenger;
- 63 (ii) by a commercial airline carrier; and
- 64 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 65 (c) services related to Subsection (4)(a) or (b);
- 66 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 67 and equipment:
- 68 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 69 North American Industry Classification System of the federal Executive Office of the
- 70 President, Office of Management and Budget; and
- 71 (II) for:
- 72 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 73 equipment in the aircraft;
- 74 (Bb) renovation of an aircraft; or
- 75 (Cc) repair of an aircraft; or
- 76 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 77 commerce; or
- 78 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 79 aircraft operated by a common carrier in interstate or foreign commerce; and
- 80 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 81 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 82 refund:
- 83 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 84 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 85 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

86 the sale prior to filing for the refund;

87 (iv) for sales and use taxes paid under this chapter on the sale;

88 (v) in accordance with Section 59-1-1410; and

89 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

90 the person files for the refund on or before September 30, 2011;

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

94 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
95 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
96 washing of tangible personal property;

97 (b) if a seller that sells at the same business location assisted cleaning or washing of  
98 tangible personal property and cleaning or washing of tangible personal property that is not  
99 assisted cleaning or washing of tangible personal property, the exemption described in  
100 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
101 or washing of the tangible personal property; and

102 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
103 Utah Administrative Rulemaking Act, the commission may make rules:

104 (i) governing the circumstances under which sales are at the same business location;  
105 and

106 (ii) establishing the procedures and requirements for a seller to separately account for  
107 sales of assisted cleaning or washing of tangible personal property;

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

111 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
112 this state if the vehicle is:

113 (a) not registered in this state; and

- 114 (b) (i) not used in this state; or
- 115 (ii) used in this state:
- 116 (A) if the vehicle is not used to conduct business, for a time period that does not
- 117 exceed the longer of:
- 118 (I) 30 days in any calendar year; or
- 119 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 120 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 121 the vehicle to the borders of this state;
- 122 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 123 (i) the item is intended for human use; and
- 124 (ii) (A) a prescription was issued for the item; or
- 125 (B) the item was purchased by a hospital or other medical facility; and
- 126 (b) (i) Subsection (10)(a) applies to:
- 127 (A) a drug;
- 128 (B) a syringe; or
- 129 (C) a stoma supply; and
- 130 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 131 commission may by rule define the terms:
- 132 (A) "syringe"; or
- 133 (B) "stoma supply";
- 134 (11) sales or use of property, materials, or services used in the construction of or
- 135 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 136 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 137 (i) the following if the item described in Subsection (12)(c) is not available to the
- 138 general public:
- 139 (A) a church; or
- 140 (B) a charitable institution;
- 141 (ii) an institution of higher education if:

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

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

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

146 (i) a medical facility; or

147 (ii) a nursing facility; and

148 (c) Subsections (12)(a) and (b) apply to:

149 (i) food and food ingredients;

150 (ii) prepared food; or

151 (iii) alcoholic beverages;

152 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
153 or a product transferred electronically by a person:

154 (i) regardless of the number of transactions involving the sale of that tangible personal  
155 property or product transferred electronically by that person; and

156 (ii) not regularly engaged in the business of selling that type of tangible personal  
157 property or product transferred electronically;

158 (b) this Subsection (13) does not apply if:

159 (i) the sale is one of a series of sales of a character to indicate that the person is  
160 regularly engaged in the business of selling that type of tangible personal property or product  
161 transferred electronically;

162 (ii) the person holds that person out as regularly engaged in the business of selling that  
163 type of tangible personal property or product transferred electronically;

164 (iii) the person sells an item of tangible personal property or product transferred  
165 electronically that the person purchased as a sale that is exempt under Subsection (25); or

166 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
167 this state in which case the tax is based upon:

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

170 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
171 value of the vehicle or vessel being sold at the time of the sale as determined by the  
172 commission; and

173 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
174 commission shall make rules establishing the circumstances under which:

175 (i) a person is regularly engaged in the business of selling a type of tangible personal  
176 property or product transferred electronically;

177 (ii) a sale of tangible personal property or a product transferred electronically is one of  
178 a series of sales of a character to indicate that a person is regularly engaged in the business of  
179 selling that type of tangible personal property or product transferred electronically; or

180 (iii) a person holds that person out as regularly engaged in the business of selling a type  
181 of tangible personal property or product transferred electronically;

182 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
183 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration  
184 facility, of the following:

185 (i) machinery and equipment that:

186 (A) are used:

187 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
188 recycler described in Subsection 59-12-102(54)(b):

189 (Aa) in the manufacturing process;

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

191 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
192 (14)(a)(i)(A)(I) in the state; or

193 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
194 59-12-102(54)(b):

195 (Aa) to process an item sold as tangible personal property; and

196 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
197 (14)(a)(i)(A)(II) in the state; and

198 (B) have an economic life of three or more years; and  
199 (ii) normal operating repair or replacement parts that:  
200 (A) have an economic life of three or more years; and  
201 (B) are used:  
202 (I) for a manufacturing facility except for a manufacturing facility that is a scrap  
203 recycler described in Subsection 59-12-102(54)(b):  
204 (Aa) in the manufacturing process; and  
205 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the  
206 state; or  
207 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
208 59-12-102(54)(b):  
209 (Aa) to process an item sold as tangible personal property; and  
210 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the  
211 state;  
212 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
213 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
214 of the following:  
215 (i) machinery and equipment that:  
216 (A) are used:  
217 (I) in the manufacturing process;  
218 (II) to manufacture an item sold as tangible personal property; and  
219 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection  
220 (14)(b) in the state; and  
221 (B) have an economic life of three or more years; and  
222 (ii) normal operating repair or replacement parts that:  
223 (A) are used:  
224 (I) in the manufacturing process; and  
225 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and



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

227 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

228 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

229 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

230 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

231 of the 2002 North American Industry Classification System of the federal Executive Office of

232 the President, Office of Management and Budget, of the following:

233 (i) machinery and equipment that:

234 (A) are used:

235 (I) (Aa) in the production process, other than the production of real property; or

236 (Bb) in research and development; and

237 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

238 in the state; and

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

240 (ii) normal operating repair or replacement parts that:

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

242 (B) are used in:

243 (I) (Aa) the production process, except for the production of real property; and

244 (Bb) an establishment described in this Subsection (14)(c) in the state; or

245 (II) (Aa) research and development; and

246 (Bb) in an establishment described in this Subsection (14)(c) in the state;

247 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

248 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

249 Search Portals, of the 2002 North American Industry Classification System of the federal

250 Executive Office of the President, Office of Management and Budget, of the following:

251 (A) machinery and equipment that:

252 (I) are used in the operation of the web search portal;

253 (II) have an economic life of three or more years; and

254 (III) are used in a new or expanding establishment described in this Subsection (14)(d)  
255 in the state; and

256 (B) normal operating repair or replacement parts that:

257 (I) are used in the operation of the web search portal;

258 (II) have an economic life of three or more years; and

259 (III) are used in a new or expanding establishment described in this Subsection (14)(d)  
260 in the state; or

261 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by  
262 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North  
263 American Industry Classification System of the federal Executive Office of the President,  
264 Office of Management and Budget, of the following:

265 (A) machinery and equipment that:

266 (I) are used in the operation of the web search portal; and

267 (II) have an economic life of three or more years; and

268 (B) normal operating repair or replacement parts that:

269 (I) are used in the operation of the web search portal; and

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

271 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,  
272 Utah Administrative Rulemaking Act, the commission:

273 (i) shall by rule define the term "establishment"; and

274 (ii) may by rule define what constitutes:

275 (A) processing an item sold as tangible personal property;

276 (B) the production process, except for the production of real property;

277 (C) research and development; or

278 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

279 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

280 commission shall:

281 (i) review the exemptions described in this Subsection (14) and make

282 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
283 exemptions should be continued, modified, or repealed; and  
284 (ii) include in its report:  
285 (A) an estimate of the cost of the exemptions;  
286 (B) the purpose and effectiveness of the exemptions; and  
287 (C) the benefits of the exemptions to the state;  
288 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:  
289 (i) tooling;  
290 (ii) special tooling;  
291 (iii) support equipment;  
292 (iv) special test equipment; or  
293 (v) parts used in the repairs or renovations of tooling or equipment described in  
294 Subsections (15)(a)(i) through (iv); and  
295 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:  
296 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
297 performance of any aerospace or electronics industry contract with the United States  
298 government or any subcontract under that contract; and  
299 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
300 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
301 by:  
302 (A) a government identification tag placed on the tooling, equipment, or parts; or  
303 (B) listing on a government-approved property record if placing a government  
304 identification tag on the tooling, equipment, or parts is impractical;  
305 (16) sales of newspapers or newspaper subscriptions;  
306 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
307 product transferred electronically traded in as full or part payment of the purchase price, except  
308 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
309 trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

315 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
316 following items of tangible personal property or products transferred electronically traded in as  
317 full or part payment of the purchase price:

318 (i) money;

319 (ii) electricity;

320 (iii) water;

321 (iv) gas; or

322 (v) steam;

323 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
324 or a product transferred electronically used or consumed primarily and directly in farming  
325 operations, regardless of whether the tangible personal property or product transferred  
326 electronically:

327 (A) becomes part of real estate; or

328 (B) is installed by a:

329 (I) farmer;

330 (II) contractor; or

331 (III) subcontractor; or

332 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
333 product transferred electronically if the tangible personal property or product transferred  
334 electronically is exempt under Subsection (18)(a)(i); and

335 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are  
336 subject to the taxes imposed by this chapter:

337 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

338 incidental to farming:

339       (I) machinery;

340       (II) equipment;

341       (III) materials; or

342       (IV) supplies; and

343       (B) tangible personal property that is considered to be used in a manner that is

344 incidental to farming includes:

345       (I) hand tools; or

346       (II) maintenance and janitorial equipment and supplies;

347       (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

348 transferred electronically if the tangible personal property or product transferred electronically

349 is used in an activity other than farming; and

350       (B) tangible personal property or a product transferred electronically that is considered

351 to be used in an activity other than farming includes:

352       (I) office equipment and supplies; or

353       (II) equipment and supplies used in:

354       (Aa) the sale or distribution of farm products;

355       (Bb) research; or

356       (Cc) transportation; or

357       (iii) a vehicle required to be registered by the laws of this state during the period

358 ending two years after the date of the vehicle's purchase;

359       (19) sales of hay;

360       (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

361 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

362 garden, farm, or other agricultural produce is sold by:

363       (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

364 agricultural produce;

365       (b) an employee of the producer described in Subsection (20)(a); or

366 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
367 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
368 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

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

373 (23) a product stored in the state for resale;

374 (24) (a) purchases of a product if:

375 (i) the product is:

376 (A) purchased outside of this state;

377 (B) brought into this state:

378 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

379 (II) by a nonresident person who is not living or working in this state at the time of the  
380 purchase;

381 (C) used for the personal use or enjoyment of the nonresident person described in  
382 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

383 (D) not used in conducting business in this state; and

384 (ii) for:

385 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
386 the product for a purpose for which the product is designed occurs outside of this state;

387 (B) a boat, the boat is registered outside of this state; or

388 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
389 outside of this state;

390 (b) the exemption provided for in Subsection (24)(a) does not apply to:

391 (i) a lease or rental of a product; or

392 (ii) a sale of a vehicle exempt under Subsection (33); and

393 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

394 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
395 following:

396 (i) conducting business in this state if that phrase has the same meaning in this  
397 Subsection (24) as in Subsection (63);

398 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
399 as in Subsection (63); or

400 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
401 this Subsection (24) as in Subsection (63);

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

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

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

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

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

418 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
419 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

420 (a) not registered in this state; and

421 (b) (i) not used in this state; or

- 422 (ii) used in this state:
- 423 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 424 time period that does not exceed the longer of:
- 425 (I) 30 days in any calendar year; or
- 426 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 427 the borders of this state; or
- 428 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 429 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 430 state;
- 431 (31) sales of aircraft manufactured in Utah;
- 432 (32) amounts paid for the purchase of telecommunications service for purposes of
- 433 providing telecommunications service;
- 434 (33) sales, leases, or uses of the following:
- 435 (a) a vehicle by an authorized carrier; or
- 436 (b) tangible personal property that is installed on a vehicle:
- 437 (i) sold or leased to or used by an authorized carrier; and
- 438 (ii) before the vehicle is placed in service for the first time;
- 439 (34) (a) 45% of the sales price of any new manufactured home; and
- 440 (b) 100% of the sales price of any used manufactured home;
- 441 (35) sales relating to schools and fundraising sales;
- 442 (36) sales or rentals of durable medical equipment if:
- 443 (a) a person presents a prescription for the durable medical equipment; and
- 444 (b) the durable medical equipment is used for home use only;
- 445 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 446 Section 72-11-102; and
- 447 (b) the commission shall by rule determine the method for calculating sales exempt
- 448 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 449 (38) sales to a ski resort of:



- 450 (a) snowmaking equipment;
- 451 (b) ski slope grooming equipment;
- 452 (c) passenger ropeways as defined in Section 72-11-102; or
- 453 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 454 described in Subsections (38)(a) through (c);
- 455 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 456 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 457 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 458 59-12-102;
- 459 (b) if a seller that sells or rents at the same business location the right to use or operate
- 460 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 461 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 462 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 463 amusement, entertainment, or recreation for the assisted amusement devices; and
- 464 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 465 Utah Administrative Rulemaking Act, the commission may make rules:
- 466 (i) governing the circumstances under which sales are at the same business location;
- 467 and
- 468 (ii) establishing the procedures and requirements for a seller to separately account for
- 469 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 470 assisted amusement devices;
- 471 (41) (a) sales of photocopies by:
- 472 (i) a governmental entity; or
- 473 (ii) an entity within the state system of public education, including:
- 474 (A) a school; or
- 475 (B) the State Board of Education; or
- 476 (b) sales of publications by a governmental entity;
- 477 (42) amounts paid for admission to an athletic event at an institution of higher

478 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
479 20 U.S.C. Sec. 1681 et seq.;

480 (43) (a) sales made to or by:

481 (i) an area agency on aging; or

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

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

484 (44) sales or leases of semiconductor fabricating, processing, research, or development  
485 materials regardless of whether the semiconductor fabricating, processing, research, or  
486 development materials:

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

488 (b) ultimately become incorporated into real property;

489 (45) an amount paid by or charged to a purchaser for accommodations and services  
490 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
491 59-12-104.2;

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

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

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

499 (b) for an amount of electricity that is:

500 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
501 under the tariff described in Subsection (47)(a); and

502 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
503 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

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

- 506 (49) sales of water in a:
- 507 (a) pipe;
- 508 (b) conduit;
- 509 (c) ditch; or
- 510 (d) reservoir;
- 511 (50) sales of currency or coinage that constitute legal tender of the United States or of a
- 512 foreign nation;
- 513 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 514 (i) does not constitute legal tender of any nation; and
- 515 (ii) has a gold, silver, or platinum content of 80% or more; and
- 516 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 517 (i) ingot;
- 518 (ii) bar;
- 519 (iii) medallion; or
- 520 (iv) decorative coin;
- 521 (52) amounts paid on a sale-leaseback transaction;
- 522 (53) sales of a prosthetic device:
- 523 (a) for use on or in a human; and
- 524 (b) (i) for which a prescription is required; or
- 525 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 526 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 527 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 528 or equipment is primarily used in the production or postproduction of the following media for
- 529 commercial distribution:
- 530 (i) a motion picture;
- 531 (ii) a television program;
- 532 (iii) a movie made for television;
- 533 (iv) a music video;

534 (v) a commercial;

535 (vi) a documentary; or

536 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

537 commission by administrative rule made in accordance with Subsection (54)(d); or

538 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or

539 equipment by an establishment described in Subsection (54)(c) that is used for the production

540 or postproduction of the following are subject to the taxes imposed by this chapter:

541 (i) a live musical performance;

542 (ii) a live news program; or

543 (iii) a live sporting event;

544 (c) the following establishments listed in the 1997 North American Industry

545 Classification System of the federal Executive Office of the President, Office of Management

546 and Budget, apply to Subsections (54)(a) and (b):

547 (i) NAICS Code 512110; or

548 (ii) NAICS Code 51219; and

549 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

550 commission may by rule:

551 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

552 or

553 (ii) define:

554 (A) "commercial distribution";

555 (B) "live musical performance";

556 (C) "live news program"; or

557 (D) "live sporting event";

558 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

559 on or before June 30, 2019, of machinery or equipment that:

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

561 (A) is a renewable energy production facility;

562 (B) is located in the state; and  
563 (C) (I) becomes operational on or after July 1, 2004; or  
564 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
565 2004, as a result of the use of the machinery or equipment;  
566 (ii) has an economic life of five or more years; and  
567 (iii) is used to make the facility or the increase in capacity of the facility described in  
568 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
569 transmission grid including:  
570 (A) a wind turbine;  
571 (B) generating equipment;  
572 (C) a control and monitoring system;  
573 (D) a power line;  
574 (E) substation equipment;  
575 (F) lighting;  
576 (G) fencing;  
577 (H) pipes; or  
578 (I) other equipment used for locating a power line or pole; and  
579 (b) this Subsection (55) does not apply to:  
580 (i) machinery or equipment used in construction of:  
581 (A) a new renewable energy production facility; or  
582 (B) the increase in the capacity of a renewable energy production facility;  
583 (ii) contracted services required for construction and routine maintenance activities;  
584 and  
585 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
586 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or  
587 acquired after:  
588 (A) the renewable energy production facility described in Subsection (55)(a)(i) is  
589 operational as described in Subsection (55)(a)(iii); or

590 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
591 in Subsection (55)(a)(iii);

592 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
593 on or before June 30, 2019, of machinery or equipment that:

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

595 (A) is a waste energy production facility;

596 (B) is located in the state; and

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

598 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
599 2004, as a result of the use of the machinery or equipment;

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

601 (iii) is used to make the facility or the increase in capacity of the facility described in  
602 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
603 transmission grid including:

604 (A) generating equipment;

605 (B) a control and monitoring system;

606 (C) a power line;

607 (D) substation equipment;

608 (E) lighting;

609 (F) fencing;

610 (G) pipes; or

611 (H) other equipment used for locating a power line or pole; and

612 (b) this Subsection (56) does not apply to:

613 (i) machinery or equipment used in construction of:

614 (A) a new waste energy facility; or

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

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

617 and

618 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
619 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:  
620 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
621 described in Subsection (56)(a)(iii); or  
622 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
623 in Subsection (56)(a)(iii);  
624 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
625 or before June 30, 2019, of machinery or equipment that:  
626 (i) is leased or purchased for or by a facility that:  
627 (A) is located in the state;  
628 (B) produces fuel from biomass energy including:  
629 (I) methanol; or  
630 (II) ethanol; and  
631 (C) (I) becomes operational on or after July 1, 2004; or  
632 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as  
633 a result of the installation of the machinery or equipment;  
634 (ii) has an economic life of five or more years; and  
635 (iii) is installed on the facility described in Subsection (57)(a)(i);  
636 (b) this Subsection (57) does not apply to:  
637 (i) machinery or equipment used in construction of:  
638 (A) a new facility described in Subsection (57)(a)(i); or  
639 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
640 (ii) contracted services required for construction and routine maintenance activities;  
641 and  
642 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
643 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:  
644 (A) the facility described in Subsection (57)(a)(i) is operational; or  
645 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

646 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
647 product transferred electronically to a person within this state if that tangible personal property  
648 or product transferred electronically is subsequently shipped outside the state and incorporated  
649 pursuant to contract into and becomes a part of real property located outside of this state;

650 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
651 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
652 gross receipts, or other similar transaction excise tax on the transaction against which the other  
653 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

654 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
655 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
656 refund:

657 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

658 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
659 which the sale is made;

660 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
661 sale prior to filing for the refund;

662 (iv) for sales and use taxes paid under this chapter on the sale;

663 (v) in accordance with Section 59-1-1410; and

664 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
665 the person files for the refund on or before June 30, 2011;

666 (59) purchases:

667 (a) of one or more of the following items in printed or electronic format:

668 (i) a list containing information that includes one or more:

669 (A) names; or

670 (B) addresses; or

671 (ii) a database containing information that includes one or more:

672 (A) names; or

673 (B) addresses; and



674 (b) used to send direct mail;

675 (60) redemptions or repurchases of a product by a person if that product was:

676 (a) delivered to a pawnbroker as part of a pawn transaction; and

677 (b) redeemed or repurchased within the time period established in a written agreement

678 between the person and the pawnbroker for redeeming or repurchasing the product;

679 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

680 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

681 and

682 (ii) has a useful economic life of one or more years; and

683 (b) the following apply to Subsection (61)(a):

684 (i) telecommunications enabling or facilitating equipment, machinery, or software;

685 (ii) telecommunications equipment, machinery, or software required for 911 service;

686 (iii) telecommunications maintenance or repair equipment, machinery, or software;

687 (iv) telecommunications switching or routing equipment, machinery, or software; or

688 (v) telecommunications transmission equipment, machinery, or software;

689 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible

690 personal property or a product transferred electronically that are used in the research and

691 development of coal-to-liquids, oil shale, or tar sands technology; and

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

693 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

694 purchases of tangible personal property or a product transferred electronically that are used in

695 the research and development of coal-to-liquids, oil shale, and tar sands technology;

696 (63) (a) purchases of tangible personal property or a product transferred electronically

697 if:

698 (i) the tangible personal property or product transferred electronically is:

699 (A) purchased outside of this state;

700 (B) brought into this state at any time after the purchase described in Subsection

701 (63)(a)(i)(A); and

702 (C) used in conducting business in this state; and  
703 (ii) for:  
704 (A) tangible personal property or a product transferred electronically other than the  
705 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
706 for a purpose for which the property is designed occurs outside of this state; or  
707 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
708 outside of this state;  
709 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
710 (i) a lease or rental of tangible personal property or a product transferred electronically;  
711 or  
712 (ii) a sale of a vehicle exempt under Subsection (33); and  
713 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
714 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
715 following:  
716 (i) conducting business in this state if that phrase has the same meaning in this  
717 Subsection (63) as in Subsection (24);  
718 (ii) the first use of tangible personal property or a product transferred electronically if  
719 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or  
720 (iii) a purpose for which tangible personal property or a product transferred  
721 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
722 Subsection (24);  
723 (64) sales of disposable home medical equipment or supplies if:  
724 (a) a person presents a prescription for the disposable home medical equipment or  
725 supplies;  
726 (b) the disposable home medical equipment or supplies are used exclusively by the  
727 person to whom the prescription described in Subsection (64)(a) is issued; and  
728 (c) the disposable home medical equipment and supplies are listed as eligible for  
729 payment under:

- 730 (i) Title XVIII, federal Social Security Act; or
- 731 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 732 (65) sales:
- 733 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 734 District Act; or
- 735 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 736 tangible personal property is:
- 737 (i) clearly identified; and
- 738 (ii) installed or converted to real property owned by the public transit district;
- 739 (66) sales of construction materials:
- 740 (a) purchased on or after July 1, 2010;
- 741 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 742 (i) located within a county of the first class; and
- 743 (ii) that has a United States customs office on its premises; and
- 744 (c) if the construction materials are:
- 745 (i) clearly identified;
- 746 (ii) segregated; and
- 747 (iii) installed or converted to real property:
- 748 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 749 (B) located at the international airport described in Subsection (66)(b);
- 750 (67) sales of construction materials:
- 751 (a) purchased on or after July 1, 2008;
- 752 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 753 (i) located within a county of the second class; and
- 754 (ii) that is owned or operated by a city in which an airline as defined in Section
- 755 59-2-102 is headquartered; and
- 756 (c) if the construction materials are:
- 757 (i) clearly identified;

- 758 (ii) segregated; and
- 759 (iii) installed or converted to real property:
- 760 (A) owned or operated by the new airport described in Subsection (67)(b);
- 761 (B) located at the new airport described in Subsection (67)(b); and
- 762 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 763 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 764 (69) purchases and sales described in Section 9-3-511; and
- 765 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 766 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 767 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 768 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 769 powered aircraft; or
- 770 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 771 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 772 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 773 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 774 powered aircraft.

775 Section 2. Section **59-12-104.6** is enacted to read:

776 **59-12-104.6. Procedure for claiming a sales and use tax exemption for certain**  
777 **lodging related purchases -- Rulemaking authority -- Applicability of section.**

778 (1) As used in this section:

779 (a) "Designated establishment within the lodging industry" means an establishment  
780 described in NAICS Code 721110 or 721191 of the 2007 North American Industry  
781 Classification System of the federal Executive Office of the President, Office of Management  
782 and Budget.

783 (b) "Exempt purchaser" means a person that:

784 (i) makes a lodging related purchase; and

785 (ii) may claim an exemption from a tax under this chapter for the purchase.

786 (c) "Lodging related purchase" means the purchase of the following from a seller that is  
787 a designated establishment within the lodging industry:

788 (i) accommodations and services described in Subsection 59-12-103(1)(i); or

789 (ii) any other tangible personal property, product, or service that is:

790 (A) purchased as part of a transaction that includes the purchase of accommodations  
791 and services described in Subsection (1)(c)(i); and

792 (B) included on the invoice, bill of sale, or similar document provided to the purchaser  
793 of the accommodations and services described in Subsection (1)(c)(i).

794 (2) Except as provided in Subsection (3), an exempt purchaser that makes a lodging  
795 related purchase:

796 (a) shall pay a tax that would otherwise be imposed under this chapter on the lodging  
797 related purchase but for the purchaser being allowed to claim an exemption from a tax under  
798 this chapter for the purchase; and

799 (b) may apply to the commission for a refund of the tax described in Subsection (2)(a)  
800 that the purchaser pays.

801 (3) An exempt purchaser that makes a lodging related purchase may claim an  
802 exemption from a tax under this chapter at the point of sale if the exempt purchaser:

803 (a) is an agency or instrumentality of the United States;

804 (b) is exempt from a tax under this chapter on a lodging related purchase as authorized  
805 by a diplomatic tax exemption card issued by the United States; or

806 (c) may claim the exemption at the point of sale in accordance with Section  
807 59-12-104.1.

808 (4) An exempt purchaser that applies to the commission for a refund may not make an  
809 application to the commission for a refund more frequently than monthly.

810 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
811 commission may make rules providing:

812 (a) procedures for applying for a refund under this section;

813 (b) standards for determining and verifying the amount of a lodging related purchase by

814 an exempt purchaser; and

815 (c) procedures for claiming a refund on a monthly basis.

816 (6) This section does not apply to amounts taxed by the Navajo Nation that are exempt  
817 from sales and use taxes in accordance with Section 59-12-104.2.

818 Section 3. Section **59-12-302** is amended to read:

819 **59-12-302. Collection of tax -- Administrative fee -- Penalties.**

820 (1) ~~[(a)]~~ Except as provided in Subsection ~~[(1)(b) or (c)]~~ (2) or (3), the tax authorized  
821 under this part shall be administered, collected, and enforced in accordance with:

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

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

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

825 ~~[(i)]~~ (b) Chapter 1, General Taxation Policies.

826 ~~[(b) (i) Notwithstanding Section 59-12-206, each county may collect the tax imposed~~  
827 ~~by the county and need not transmit the tax to the commission or contract with the commission~~  
828 ~~to collect the tax.]~~

829 ~~[(i)]~~ (2) The ~~[amount of tax collected shall be reported to the commission as provided~~  
830 ~~in]~~ location of a transaction shall be determined in accordance with Sections 59-12-211  
831 through 59-12-215.

832 ~~[(c)]~~ (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or  
833 Subsections 59-12-205(2) through (6).

834 ~~[(d) (i) If the commission collects a tax under this part, the]~~

835 (4) (a) The commission:

836 ~~[(A)]~~ (i) except as provided in Subsection ~~[(1)(d)(i)(B)]~~ (4)(a)(ii), shall distribute the  
837 revenues ~~[generated by]~~ collected from the tax to the county within which the revenues were  
838 ~~[generated]~~ collected; and

839 ~~[(B) notwithstanding Subsection (1)(d)(i)(A);]~~

840 (ii) may retain an amount of tax collected under this part of not to exceed the lesser of:

841 ~~[(F)]~~ (A) 1.5%; or

842 [~~(H)~~] (B) an amount equal to the cost to the commission of administering this part.

843 [~~(ii)~~] (b) Any amount the commission retains under Subsection [~~(1)(d)(i)(B)~~] (4)(a)(ii)

844 shall be:

845 [~~(A)~~] (i) placed in the Sales and Use Tax Administrative Fees Account; and

846 [~~(B)~~] (ii) used as provided in Subsection 59-12-206(2).

847 [~~(2)(a)~~] ~~The tax ordinance adopted by a county pursuant to Section 59-12-301 may~~  
848 ~~include provisions for the imposition of penalties and interest if a person or entity required to~~  
849 ~~pay a tax under this part fails to timely remit the tax to the collecting agent.]~~

850 [~~(b)~~] ~~A county legislative body may not establish penalties and interest by ordinance~~  
851 ~~that exceed the penalties and interest rates authorized for the commission in Sections 59-1-401~~  
852 ~~and 59-1-402.]~~

853 [~~(3)~~] ~~A county may adopt an ordinance imposing penalties and interest under~~  
854 ~~Subsection (2) only if the county does not contract with the commission to collect the tax.]~~

855 [~~(4)~~] ~~If a county elects to collect the tax as provided in Subsection (1), the commission~~  
856 ~~shall interpret, audit, and adjudicate the tax imposed under this part.]~~

857 Section 4. Section **59-12-354** is amended to read:

858 **59-12-354. Collection of tax -- Administrative fee -- Penalties.**

859 (1) Except as provided in Subsections (2) and (3), the tax authorized under this part  
860 shall be administered, collected, and enforced in accordance with:

861 (a) the same procedures used to administer, collect, and enforce the tax under:

862 (i) Part 1, Tax Collection; or

863 (ii) Part 2, Local Sales and Use Tax Act; and

864 (b) Chapter 1, General Taxation Policies.

865 [~~(2)~~] ~~Notwithstanding Section 59-12-206, a municipality imposing a tax under this~~  
866 ~~part:]~~

867 [~~(a)~~] ~~may collect the tax and is not required to:]~~

868 [~~(i)~~] ~~transmit revenues generated by the tax to the commission; or]~~

869 [~~(ii)~~] ~~contract with the commission to collect the tax;]~~

870 ~~[(b)] (2) (a) [shall report the revenues it collects to the commission as provided in] The~~  
871 ~~location of a transaction shall be determined in accordance with Sections 59-12-211 through~~  
872 ~~59-12-215[~~;~~and].~~

873 ~~[(c) subject to the limitations of Subsections (4) and (5), may adopt an ordinance~~  
874 ~~imposing penalties and interest on a person who:]~~

875 ~~[(i) is required to pay the tax under this part; and]~~

876 ~~[(ii) does not remit the tax to the collecting agent in a timely manner.]~~

877 ~~[(d)] (b) (i) [If the commission collects a tax under this part, the] The commission:~~

878 (A) except as provided in Subsection (2)~~[(d)](b)(i)(B)~~, shall distribute the revenues  
879 ~~[generated by] collected from the tax to the municipality within which the revenues were~~  
880 ~~[generated] collected; and~~

881 (B) ~~[notwithstanding Subsection (2)(d)(i)(A);]~~ may retain an amount of tax collected  
882 under this part of not to exceed the lesser of:

883 (I) 1.5%; or

884 (II) an amount equal to the cost to the commission of administering this part.

885 (ii) Any amount the commission retains under Subsection (2)~~[(d)](b)(i)(B)~~ shall be:

886 (A) placed in the Sales and Use Tax Administrative Fees Account; and

887 (B) used as provided in Subsection 59-12-206(2).

888 (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or  
889 Subsections 59-12-205(2) through (6).

890 ~~[(4) A governing body of a municipality adopting an ordinance imposing penalties and~~  
891 ~~interest under Subsection (2)(c) may impose penalties and interest in amounts that are less than~~  
892 ~~or equal to the penalties and interest rates authorized for the commission under Sections~~  
893 ~~59-1-401 and 59-1-402.]~~

894 ~~[(5) A municipality may adopt an ordinance imposing penalties and interest under~~  
895 ~~Subsection (2)(c) only if the municipality does not contract with the commission to collect the~~  
896 ~~tax.]~~

897 ~~[(6) If a municipality elects to collect the tax as provided in Subsection (2), the~~



898 ~~commission shall interpret, audit, and adjudicate the tax imposed under this part.]~~

899           Section 5. **Effective date.**

900           (1) This bill takes effect on July 1, 2011.

901           (2) The amendments to Section 59-12-104.6 apply to a lodging related purchase made  
902 on or after July 1, 2011.