

Representative Kay L. McIff proposes the following substitute bill:

SALES AND USE TAX AND INCOME TAX AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay L. McIff

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title to address the taxation of food and food ingredients, to make related adjustments in tax rates and amounts distributed to local governments, and to enact a low-income tax credit.

Highlighted Provisions:

This bill:

- increases the state sales and use tax rate on food and food ingredients to the general state sales and use tax rate;
- reduces the general state sales and use tax rate;
- adjusts allocations of revenues for certain transportation purposes;
- provides that food and food ingredients are taxable for purposes of certain local option sales and use taxes;
- adjusts certain local option sales and use tax rates;
- repeals the Rural Health Care Facilities Account;
- creates a nonrefundable low-income tax credit; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None



Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:**AMENDS:**

10-1-405, as last amended by Laws of Utah 2009, Chapter 212
11-41-102, as last amended by Laws of Utah 2008, Chapters 286 and 384
59-1-401, as last amended by Laws of Utah 2010, Chapter 233
59-10-1002.2, as renumbered and amended by Laws of Utah 2008, Chapter 389
59-12-102, as last amended by Laws of Utah 2010, Chapters 88, 142, 234, and 263
59-12-103, as last amended by Laws of Utah 2010, Chapter 412
59-12-104.2, as last amended by Laws of Utah 2009, Chapter 203
59-12-108, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384
59-12-401, as last amended by Laws of Utah 2010, Chapter 9
59-12-402, as last amended by Laws of Utah 2010, Chapter 9
59-12-703, as last amended by Laws of Utah 2008, Chapters 382 and 384
59-12-802, as last amended by Laws of Utah 2008, Chapter 384
59-12-804, as last amended by Laws of Utah 2008, Chapter 384
59-12-1302, as last amended by Laws of Utah 2008, Chapters 382 and 384
59-12-1402, as last amended by Laws of Utah 2008, Chapters 382 and 384
59-12-2003, as last amended by Laws of Utah 2010, Chapter 263
59-12-2103, as enacted by Laws of Utah 2008, Chapter 323
59-12-2204, as enacted by Laws of Utah 2010, Chapter 263
59-12-2213, as enacted by Laws of Utah 2010, Chapter 263
59-12-2215, as enacted by Laws of Utah 2010, Chapter 263
59-12-2216, as enacted by Laws of Utah 2010, Chapter 263

ENACTS:

59-10-1025, Utah Code Annotated 1953

REPEALS:

26-9-4, as last amended by Laws of Utah 2010, Chapter 278

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

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

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

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

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

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

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

(A) except for:

(I) Subsection 59-12-103(2)(~~g~~)(f);

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2;

(V) Section 59-12-104.3;

(VI) Section 59-12-107.1; and

(VII) Section 59-12-123; and

(B) except that for purposes of Section 59-1-1410, the term "person" may include a customer from whom a municipal telecommunications license tax is recovered in accordance with Subsection 10-1-403(2); and

(b) a uniform interlocal agreement:

(i) between:

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

(B) the commission;

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

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

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

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

(i) transmit money collected under this part:

88 (A) monthly; and
89 (B) by electronic funds transfer by the commission to the municipality;
90 (ii) conduct audits of the municipal telecommunications license tax;
91 (iii) charge the municipality for the commission's services under this section in an
92 amount:
93 (A) sufficient to reimburse the commission for the cost to the commission in rendering
94 the services; and
95 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
96 license tax imposed by the ordinance of the municipality; and
97 (iv) collect, enforce, and administer the municipal telecommunications license tax
98 authorized under this part pursuant to the same procedures used in the administration,
99 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).
100 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
101 commission shall develop a uniform interlocal agreement that meets the requirements of this
102 section.
103 (3) The administrative fee charged under Subsection (2)(a) shall be:
104 (a) deposited in the Sales and Use Tax Administrative Fees Account; and
105 (b) used for administration of municipal telecommunications license taxes under this
106 part.
107 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
108 telecommunications license tax under this part at a rate that exceeds 3.5%:
109 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
110 shall collect the municipal telecommunications license tax:
111 (i) within the municipality;
112 (ii) at a rate of 3.5%; and
113 (iii) from a telecommunications provider required to pay the municipal
114 telecommunications license tax on or after July 1, 2007; and
115 (b) the commission shall collect a municipal telecommunications license tax within the
116 municipality at the rate imposed by the municipality if:
117 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
118 telecommunications license tax under this part at a rate of up to 3.5%;

(ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and

(iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Section 2. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city; or

(b) town.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

(d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section 41-1a-102;

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

(d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

(b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax authorized under:

(i) Subsection 59-12-103(2)(a)(i);

(ii) Subsection 59-12-103(2)(b)(i);

~~[(iii) Subsection 59-12-103(2)(c)(i);]~~

~~[(iv) Subsection 59-12-103(2)(d)(i)(A);]~~

~~[(v)]~~ (iii) Section 59-12-301;

~~[(vi)]~~ (iv) Section 59-12-352;

~~[(vii)]~~ (v) Section 59-12-353;

~~[(viii)]~~ (vi) Section 59-12-603; or

~~[(ix)]~~ (vii) Section 59-12-1201.

(6) (a) "Sales and use tax incentive payment" means a payment of revenues:

(i) to a person;

(ii) by a:

(A) county; or

(B) municipality;

(iii) to induce the person to locate or relocate a regional retail business within the:

(A) county; or

(B) municipality; and

(iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Section 3. Section **59-1-401** is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

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

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

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14;

(IX) Section 69-2-5;

(X) Section 69-2-5.5; or

(XI) Section 69-2-5.6; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

243 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
244 filed more than 15 days after the due date described in Subsection (2)(a).

245 (d) This Subsection (2) does not apply to:

246 (i) an amended return; or

247 (ii) a return with no tax due.

248 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

249 (i) the person files a return on or before the due date for filing a return described in
250 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
251 date;

252 (ii) the person:

253 (A) is subject to a penalty under Subsection (2)(b); and

254 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
255 due date for filing a return described in Subsection (2)(a);

256 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

257 (B) the commission estimates an amount of tax due for that person in accordance with
258 Subsection 59-1-1406(2);

259 (iv) the person:

260 (A) is mailed a notice of deficiency; and

261 (B) within a 30-day period after the day on which the notice of deficiency described in
262 Subsection (3)(a)(iv)(A) is mailed:

263 (I) does not file a petition for redetermination or a request for agency action; and

264 (II) fails to pay the tax, fee, or charge due on a return;

265 (v) (A) the commission:

266 (I) issues an order constituting final agency action resulting from a timely filed petition
267 for redetermination or a timely filed request for agency action; or

268 (II) is considered to have denied a request for reconsideration under Subsection
269 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
270 request for agency action; and

271 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
272 after the date the commission:

273 (I) issues the order constituting final agency action described in Subsection

(3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in

Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to

whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is

due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice;

or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in

Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~[(d)]~~ (c); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~[(d)]~~ (c).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~[(d)]~~ (c); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through ~~[(d)]~~ (c); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the

398 establishment of new law.

399 (8) The penalty for failure to file an information return, information report, or a
400 complete supporting schedule is \$50 for each information return, information report, or
401 supporting schedule up to a maximum of \$1,000.

402 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay
403 or impede administration of a law relating to a tax, fee, or charge and files a purported return
404 that fails to contain information from which the correctness of reported tax, fee, or charge
405 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is
406 substantially incorrect, the penalty is \$500.

407 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
408 Subsection 59-12-108(1)(a):

409 (i) is subject to a penalty described in Subsection (2); and

410 (ii) may not retain the percentage of sales and use taxes that would otherwise be
411 allowable under Subsection 59-12-108(2).

412 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as
413 required by Subsection 59-12-108(1)(a)(ii)(B):

414 (i) is subject to a penalty described in Subsection (2); and

415 (ii) may not retain the percentage of sales and use taxes that would otherwise be
416 allowable under Subsection 59-12-108(2).

417 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

418 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
419 following documents:

420 (A) a return;

421 (B) an affidavit;

422 (C) a claim; or

423 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

424 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
425 will be used in connection with any material matter administered by the commission; and

426 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
427 with any material matter administered by the commission, would result in an understatement of
428 another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this title or any lawful requirement of the commission, fails to make, render, sign, or verify a return or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

491 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
492 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
493 (D) advising in the preparation or presentation of any portion of a document described
494 in Subsection (12)(e)(i)(A);
495 (E) aiding in the preparation or presentation of any portion of a document described in
496 Subsection (12)(e)(i)(A);
497 (F) assisting in the preparation or presentation of any portion of a document described
498 in Subsection (12)(e)(i)(A); or
499 (G) counseling in the preparation or presentation of any portion of a document
500 described in Subsection (12)(e)(i)(A).
501 (iii) This Subsection (12)(e) applies:
502 (A) regardless of whether the person for which the document described in Subsection
503 (12)(e)(i)(A) is prepared or presented:
504 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
505 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
506 (B) in addition to any other penalty provided by law.
507 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
508 penalty may not:
509 (A) be less than \$1,500; or
510 (B) exceed \$25,000.
511 (v) The commission may seek a court order to enjoin a person from engaging in
512 conduct that is subject to a penalty under this Subsection (12)(e).
513 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
514 the commission may make rules prescribing the documents that are similar to Subsections
515 (12)(e)(i)(A)(I) through (III).
516 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
517 the later of six years:
518 (i) from the date the tax should have been remitted; or
519 (ii) after the day on which the person commits the criminal offense.
520 (13) Upon making a record of its actions, and upon reasonable cause shown, the
521 commission may waive, reduce, or compromise any of the penalties or interest imposed under

522 this part.

523 Section 4. Section **59-10-1002.2** is amended to read:

524 **59-10-1002.2. Apportionment of tax credits.**

525 (1) A nonresident individual or a part-year resident individual that claims a tax credit
526 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022,
527 59-10-1023, [or] 59-10-1024, or 59-10-1025 may only claim an apportioned amount of the tax
528 credit equal to:

529 (a) for a nonresident individual, the product of:

530 (i) the state income tax percentage for the nonresident individual; and

531 (ii) the amount of the tax credit that the nonresident individual would have been
532 allowed to claim but for the apportionment requirements of this section; or

533 (b) for a part-year resident individual, the product of:

534 (i) the state income tax percentage for the part-year resident individual; and

535 (ii) the amount of the tax credit that the part-year resident individual would have been
536 allowed to claim but for the apportionment requirements of this section.

537 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
538 59-10-1017, 59-10-1020, 59-10-1022, [or] 59-10-1024, or 59-10-1025 may only claim an
539 apportioned amount of the tax credit equal to the product of:

540 (a) the state income tax percentage for the nonresident estate or trust; and

541 (b) the amount of the tax credit that the nonresident estate or trust would have been
542 allowed to claim but for the apportionment requirements of this section.

543 Section 5. Section **59-10-1025** is enacted to read:

544 **59-10-1025. Nonrefundable low income tax credit.**

545 (1) As used in this section, "federal earned income tax credit" means the amount of the
546 federal earned income tax credit a claimant claims as allowed for a taxable year in accordance
547 with Section 32, Internal Revenue Code, on the claimant's federal individual income tax return.

548 (2) Except as provided in Section 59-10-1002.2 and subject to Subsection (3), a
549 claimant may claim a nonrefundable low income tax credit equal to 5% of the federal earned
550 income tax credit.

551 (3) A claimant may not carry forward or carry back a tax credit provided for under this
552 section.

553 (4) In accordance with any rules prescribed by the commission under Subsection
554 (5)(b), the commission shall transfer at least annually from the General Fund into the Education
555 Fund an amount equal to the amount of the tax credit claimed under this section.

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

558 (a) providing procedures for issuing refunds for a credit claimed under this section;

559 and

560 (b) for making a transfer from the General Fund into the Education Fund as required by
561 Subsection (4).

562 Section 6. Section **59-12-102** is amended to read:

563 **59-12-102. Definitions.**

564 As used in this chapter:

565 (1) "800 service" means a telecommunications service that:

566 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

567 (b) is typically marketed:

568 (i) under the name 800 toll-free calling;

569 (ii) under the name 855 toll-free calling;

570 (iii) under the name 866 toll-free calling;

571 (iv) under the name 877 toll-free calling;

572 (v) under the name 888 toll-free calling; or

573 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
574 Federal Communications Commission.

575 (2) (a) "900 service" means an inbound toll telecommunications service that:

576 (i) a subscriber purchases;

577 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
578 the subscriber's:

579 (A) prerecorded announcement; or

580 (B) live service; and

581 (iii) is typically marketed:

582 (A) under the name 900 service; or

583 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

584 Communications Commission.

585 (b) "900 service" does not include a charge for:

586 (i) a collection service a seller of a telecommunications service provides to a

587 subscriber; or

588 (ii) the following a subscriber sells to the subscriber's customer:

589 (A) a product; or

590 (B) a service.

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

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

593 organizations.

594 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on

595 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

596 Agreement after November 12, 2002.

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

598 (a) listed under Subsection (6); and

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

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

601 (a) Subsection 59-12-103(2)(a)(i)(A);

602 (b) Subsection 59-12-103(2)(b)(i);

603 [~~(c) Subsection 59-12-103(2)(c)(i);~~]

604 [~~(d) Subsection 59-12-103(2)(d)(i)(A)(I);~~]

605 [~~(e)~~ (c) Section 59-12-204;

606 [~~(f)~~ (d) Section 59-12-401;

607 [~~(g)~~ (e) Section 59-12-402;

608 [~~(h)~~ (f) Section 59-12-703;

609 [~~(i)~~ (g) Section 59-12-802;

610 [~~(j)~~ (h) Section 59-12-804;

611 [~~(k)~~ (i) Section 59-12-1102;

612 [~~(l)~~ (j) Section 59-12-1302;

613 [~~(m)~~ (k) Section 59-12-1402;

614 [~~(n)~~ (l) Section 59-12-1802;

615 ~~[(m)]~~ (m) Section 59-12-2003;
616 ~~[(p)]~~ (n) Section 59-12-2103;
617 ~~[(q)]~~ (o) Section 59-12-2213;
618 ~~[(r)]~~ (p) Section 59-12-2214;
619 ~~[(s)]~~ (q) Section 59-12-2215;
620 ~~[(t)]~~ (r) Section 59-12-2216;
621 ~~[(u)]~~ (s) Section 59-12-2217; or
622 ~~[(v)]~~ (t) Section 59-12-2218.
623 (7) "Aircraft" is as defined in Section 72-10-102.
624 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
625 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
626 in Subsection 59-12-107(1)(f) of an airline; and
627 (b) that has the workers, expertise, and facilities to perform the following, regardless of
628 whether the business entity performs the following in this state:
629 (i) check, diagnose, overhaul, and repair:
630 (A) an onboard system of a fixed wing turbine powered aircraft; and
631 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
632 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
633 engine;
634 (iii) perform at least the following maintenance on a fixed wing turbine powered
635 aircraft:
636 (A) an inspection;
637 (B) a repair, including a structural repair or modification;
638 (C) changing landing gear; and
639 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
640 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
641 completely apply new paint to the fixed wing turbine powered aircraft; and
642 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
643 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
644 authority that certifies the fixed wing turbine powered aircraft.
645 (9) "Alcoholic beverage" means a beverage that:

- 646 (a) is suitable for human consumption; and
647 (b) contains .5% or more alcohol by volume.
- 648 (10) (a) "Ancillary service" means a service associated with, or incidental to, the
649 provision of telecommunications service.
- 650 (b) "Ancillary service" includes:
651 (i) a conference bridging service;
652 (ii) a detailed communications billing service;
653 (iii) directory assistance;
654 (iv) a vertical service; or
655 (v) a voice mail service.
- 656 (11) "Area agency on aging" is as defined in Section 62A-3-101.
- 657 (12) "Assisted amusement device" means an amusement device, skill device, or ride
658 device that is started and stopped by an individual:
659 (a) who is not the purchaser or renter of the right to use or operate the amusement
660 device, skill device, or ride device; and
661 (b) at the direction of the seller of the right to use the amusement device, skill device,
662 or ride device.
- 663 (13) "Assisted cleaning or washing of tangible personal property" means cleaning or
664 washing of tangible personal property if the cleaning or washing labor is primarily performed
665 by an individual:
666 (a) who is not the purchaser of the cleaning or washing of the tangible personal
667 property; and
668 (b) at the direction of the seller of the cleaning or washing of the tangible personal
669 property.
- 670 (14) "Authorized carrier" means:
671 (a) in the case of vehicles operated over public highways, the holder of credentials
672 indicating that the vehicle is or will be operated pursuant to both the International Registration
673 Plan and the International Fuel Tax Agreement;
674 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
675 certificate or air carrier's operating certificate; or
676 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

677 stock, the holder of a certificate issued by the United States Surface Transportation Board.

678 (15) (a) Except as provided in Subsection (15)(b), "biomass energy" means any of the
679 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

683 (B) animal waste;

684 (C) methane produced:

685 (I) at landfills; or

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

687 (D) aquatic plants; and

688 (E) agricultural products.

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

690 (i) black liquor;

691 (ii) treated woods; or

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

693 (A) at landfills; or

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

695 (16) (a) "Bundled transaction" means the sale of two or more items of tangible personal
696 property, products, or services if the tangible personal property, products, or services are:

697 (i) distinct and identifiable; and

698 (ii) sold for one nonitemized price.

699 (b) "Bundled transaction" does not include:

700 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

701 the basis of the selection by the purchaser of the items of tangible personal property included in
702 the transaction;

703 (ii) the sale of real property;

704 (iii) the sale of services to real property;

705 (iv) the retail sale of tangible personal property and a service if:

706 (A) the tangible personal property:

707 (I) is essential to the use of the service; and

708 (II) is provided exclusively in connection with the service; and
709 (B) the service is the true object of the transaction;
710 (v) the retail sale of two services if:
711 (A) one service is provided that is essential to the use or receipt of a second service;
712 (B) the first service is provided exclusively in connection with the second service; and
713 (C) the second service is the true object of the transaction;
714 (vi) a transaction that includes tangible personal property or a product subject to
715 taxation under this chapter and tangible personal property or a product that is not subject to
716 taxation under this chapter if the:
717 (A) seller's purchase price of the tangible personal property or product subject to
718 taxation under this chapter is de minimis; or
719 (B) seller's sales price of the tangible personal property or product subject to taxation
720 under this chapter is de minimis; and
721 (vii) the retail sale of tangible personal property that is not subject to taxation under
722 this chapter and tangible personal property that is subject to taxation under this chapter if:
723 (A) that retail sale includes:
724 (I) food and food ingredients;
725 (II) a drug;
726 (III) durable medical equipment;
727 (IV) mobility enhancing equipment;
728 (V) an over-the-counter drug;
729 (VI) a prosthetic device; or
730 (VII) a medical supply; and
731 (B) subject to Subsection (16)(f):
732 (I) the seller's purchase price of the tangible personal property subject to taxation under
733 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
734 (II) the seller's sales price of the tangible personal property subject to taxation under
735 this chapter is 50% or less of the seller's total sales price of that retail sale.
736 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a
737 service that is distinct and identifiable does not include:
738 (A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and
(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (16)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (16)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (16)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (16)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (16)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (16)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(17) "Certified automated system" means software certified by the governing board of the agreement that:

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

(i) on a transaction; and

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

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

(c) maintains a record of the transaction described in Subsection (17)(a)(i).

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

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(19) (a) Subject to Subsection (19)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

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

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

(21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (48) or residential use under Subsection (94).

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

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

(ii) For purposes of Subsection (22)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(23) "Component part" includes:

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

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

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

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

(a) a computer to perform a task; or

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

(26) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" includes providing a telephone number as part of the ancillary service described in Subsection (26)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (26)(a).

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

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

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

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (29)(a)(i) to a location designated by the purchaser.

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(30) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

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

(a) is intended to supplement the diet;

863 (b) contains one or more of the following dietary ingredients:
864 (i) a vitamin;
865 (ii) a mineral;
866 (iii) an herb or other botanical;
867 (iv) an amino acid;
868 (v) a dietary substance for use by humans to supplement the diet by increasing the total
869 dietary intake; or
870 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
871 described in Subsections (31)(b)(i) through (v);
872 (c) (i) except as provided in Subsection (31)(c)(ii), is intended for ingestion in:
873 (A) tablet form;
874 (B) capsule form;
875 (C) powder form;
876 (D) softgel form;
877 (E) gelcap form; or
878 (F) liquid form; or
879 (ii) notwithstanding Subsection (31)(c)(i), if the product is not intended for ingestion in
880 a form described in Subsections (31)(c)(i)(A) through (F), is not represented:
881 (A) as conventional food; and
882 (B) for use as a sole item of:
883 (I) a meal; or
884 (II) the diet; and
885 (d) is required to be labeled as a dietary supplement:
886 (i) identifiable by the "Supplemental Facts" box found on the label; and
887 (ii) as required by 21 C.F.R. Sec. 101.36.
888 (32) (a) "Direct mail" means printed material delivered or distributed by United States
889 mail or other delivery service:
890 (i) to:
891 (A) a mass audience; or
892 (B) addressees on a mailing list provided:
893 (I) by a purchaser of the mailing list; or

894 (II) at the discretion of the purchaser of the mailing list; and
 895 (ii) if the cost of the printed material is not billed directly to the recipients.
 896 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
 897 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
 898 (c) "Direct mail" does not include multiple items of printed material delivered to a
 899 single address.
 900 (33) "Directory assistance" means an ancillary service of providing:
 901 (a) address information; or
 902 (b) telephone number information.
 903 (34) (a) "Disposable home medical equipment or supplies" means medical equipment
 904 or supplies that:
 905 (i) cannot withstand repeated use; and
 906 (ii) are purchased by, for, or on behalf of a person other than:
 907 (A) a health care facility as defined in Section 26-21-2;
 908 (B) a health care provider as defined in Section 78B-3-403;
 909 (C) an office of a health care provider described in Subsection (34)(a)(ii)(B); or
 910 (D) a person similar to a person described in Subsections (34)(a)(ii)(A) through (C).
 911 (b) "Disposable home medical equipment or supplies" does not include:
 912 (i) a drug;
 913 (ii) durable medical equipment;
 914 (iii) a hearing aid;
 915 (iv) a hearing aid accessory;
 916 (v) mobility enhancing equipment; or
 917 (vi) tangible personal property used to correct impaired vision, including:
 918 (A) eyeglasses; or
 919 (B) contact lenses.
 920 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 921 commission may by rule define what constitutes medical equipment or supplies.
 922 (35) (a) "Drug" means a compound, substance, or preparation, or a component of a
 923 compound, substance, or preparation that is:
 924 (i) recognized in:

- 925 (A) the official United States Pharmacopoeia;
926 (B) the official Homeopathic Pharmacopoeia of the United States;
927 (C) the official National Formulary; or
928 (D) a supplement to a publication listed in Subsections (35)(a)(i)(A) through (C);
929 (ii) intended for use in the:
930 (A) diagnosis of disease;
931 (B) cure of disease;
932 (C) mitigation of disease;
933 (D) treatment of disease; or
934 (E) prevention of disease; or
935 (iii) intended to affect:
936 (A) the structure of the body; or
937 (B) any function of the body.
938 (b) "Drug" does not include:
939 (i) food and food ingredients;
940 (ii) a dietary supplement;
941 (iii) an alcoholic beverage; or
942 (iv) a prosthetic device.
943 (36) (a) Except as provided in Subsection (36)(c), "durable medical equipment" means
944 equipment that:
945 (i) can withstand repeated use;
946 (ii) is primarily and customarily used to serve a medical purpose;
947 (iii) generally is not useful to a person in the absence of illness or injury; and
948 (iv) is not worn in or on the body.
949 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
950 equipment described in Subsection (36)(a).
951 (c) Notwithstanding Subsection (36)(a), "durable medical equipment" does not include
952 mobility enhancing equipment.
953 (37) "Electronic" means:
954 (a) relating to technology; and
955 (b) having:

- 956 (i) electrical capabilities;
957 (ii) digital capabilities;
958 (iii) magnetic capabilities;
959 (iv) wireless capabilities;
960 (v) optical capabilities;
961 (vi) electromagnetic capabilities; or
962 (vii) capabilities similar to Subsections (37)(b)(i) through (vi).
963 (38) "Employee" is as defined in Section 59-10-401.
964 (39) "Fixed guideway" means a public transit facility that uses and occupies:
965 (a) rail for the use of public transit; or
966 (b) a separate right-of-way for the use of public transit.
967 (40) "Fixed wing turbine powered aircraft" means an aircraft that:
968 (a) is powered by turbine engines;
969 (b) operates on jet fuel; and
970 (c) has wings that are permanently attached to the fuselage of the aircraft.
971 (41) "Fixed wireless service" means a telecommunications service that provides radio
972 communication between fixed points.
973 (42) (a) "Food and food ingredients" means substances:
974 (i) regardless of whether the substances are in:
975 (A) liquid form;
976 (B) concentrated form;
977 (C) solid form;
978 (D) frozen form;
979 (E) dried form; or
980 (F) dehydrated form; and
981 (ii) that are:
982 (A) sold for:
983 (I) ingestion by humans; or
984 (II) chewing by humans; and
985 (B) consumed for the substance's:
986 (I) taste; or

987 (II) nutritional value.

988 (b) "Food and food ingredients" includes an item described in Subsection (78)(b)(iii).

989 (c) "Food and food ingredients" does not include:

990 (i) an alcoholic beverage;

991 (ii) tobacco; or

992 (iii) prepared food.

993 (43) (a) "Fundraising sales" means sales:

994 (i) (A) made by a school; or

995 (B) made by a school student;

996 (ii) that are for the purpose of raising funds for the school to purchase equipment,
997 materials, or provide transportation; and

998 (iii) that are part of an officially sanctioned school activity.

999 (b) For purposes of Subsection (43)(a)(iii), "officially sanctioned school activity"
1000 means a school activity:

1001 (i) that is conducted in accordance with a formal policy adopted by the school or school
1002 district governing the authorization and supervision of fundraising activities;

1003 (ii) that does not directly or indirectly compensate an individual teacher or other
1004 educational personnel by direct payment, commissions, or payment in kind; and

1005 (iii) the net or gross revenues from which are deposited in a dedicated account
1006 controlled by the school or school district.

1007 (44) "Geothermal energy" means energy contained in heat that continuously flows
1008 outward from the earth that is used as the sole source of energy to produce electricity.

1009 (45) "Governing board of the agreement" means the governing board of the agreement
1010 that is:

1011 (a) authorized to administer the agreement; and

1012 (b) established in accordance with the agreement.

1013 (46) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1014 (i) the executive branch of the state, including all departments, institutions, boards,
1015 divisions, bureaus, offices, commissions, and committees;

1016 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1017 Office of the Court Administrator, and similar administrative units in the judicial branch;

1018 (iii) the legislative branch of the state, including the House of Representatives, the
1019 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1020 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1021 Analyst;

1022 (iv) the National Guard;

1023 (v) an independent entity as defined in Section 63E-1-102; or

1024 (vi) a political subdivision as defined in Section 17B-1-102.

1025 (b) "Governmental entity" does not include the state systems of public and higher
1026 education, including:

1027 (i) a college campus of the Utah College of Applied Technology;

1028 (ii) a school;

1029 (iii) the State Board of Education;

1030 (iv) the State Board of Regents; or

1031 (v) a state institution of higher education as defined in Section 53B-3-102.

1032 (47) "Hydroelectric energy" means water used as the sole source of energy to produce
1033 electricity.

1034 (48) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
1035 other fuels:

1036 (a) in mining or extraction of minerals;

1037 (b) in agricultural operations to produce an agricultural product up to the time of
1038 harvest or placing the agricultural product into a storage facility, including:

1039 (i) commercial greenhouses;

1040 (ii) irrigation pumps;

1041 (iii) farm machinery;

1042 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
1043 registered under Title 41, Chapter 1a, Part 2, Registration; and

1044 (v) other farming activities;

1045 (c) in manufacturing tangible personal property at an establishment described in SIC
1046 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
1047 Executive Office of the President, Office of Management and Budget;

1048 (d) by a scrap recycler if:

1049 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1050 one or more of the following items into prepared grades of processed materials for use in new
1051 products:

- 1052 (A) iron;
- 1053 (B) steel;
- 1054 (C) nonferrous metal;
- 1055 (D) paper;
- 1056 (E) glass;
- 1057 (F) plastic;
- 1058 (G) textile; or
- 1059 (H) rubber; and

1060 (ii) the new products under Subsection (48)(d)(i) would otherwise be made with
1061 nonrecycled materials; or

1062 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
1063 cogeneration facility as defined in Section 54-2-1.

1064 (49) (a) Except as provided in Subsection (49)(b), "installation charge" means a charge
1065 for installing:

- 1066 (i) tangible personal property; or
- 1067 (ii) a product transferred electronically.
- 1068 (b) "Installation charge" does not include a charge for repairs or renovations of:
- 1069 (i) tangible personal property; or
- 1070 (ii) a product transferred electronically.

1071 (50) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1072 personal property or a product transferred electronically for:

- 1073 (i) (A) a fixed term; or
- 1074 (B) an indeterminate term; and
- 1075 (ii) consideration.

1076 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1077 amount of consideration may be increased or decreased by reference to the amount realized
1078 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1079 Code.

1080 (c) "Lease" or "rental" does not include:
1081 (i) a transfer of possession or control of property under a security agreement or
1082 deferred payment plan that requires the transfer of title upon completion of the required
1083 payments;
1084 (ii) a transfer of possession or control of property under an agreement that requires the
1085 transfer of title:
1086 (A) upon completion of required payments; and
1087 (B) if the payment of an option price does not exceed the greater of:
1088 (I) \$100; or
1089 (II) 1% of the total required payments; or
1090 (iii) providing tangible personal property along with an operator for a fixed period of
1091 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1092 designed.
1093 (d) For purposes of Subsection (50)(c)(iii), an operator is necessary for equipment to
1094 perform as designed if the operator's duties exceed the:
1095 (i) set-up of tangible personal property;
1096 (ii) maintenance of tangible personal property; or
1097 (iii) inspection of tangible personal property.
1098 (51) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1099 if the tangible storage media is not physically transferred to the purchaser.
1100 (52) "Local taxing jurisdiction" means a:
1101 (a) county that is authorized to impose an agreement sales and use tax;
1102 (b) city that is authorized to impose an agreement sales and use tax; or
1103 (c) town that is authorized to impose an agreement sales and use tax.
1104 (53) "Manufactured home" is as defined in Section 58-56-3.
1105 (54) For purposes of Section 59-12-104, "manufacturing facility" means:
1106 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
1107 Industrial Classification Manual of the federal Executive Office of the President, Office of
1108 Management and Budget;
1109 (b) a scrap recycler if:
1110 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1111 one or more of the following items into prepared grades of processed materials for use in new
1112 products:

1113 (A) iron;

1114 (B) steel;

1115 (C) nonferrous metal;

1116 (D) paper;

1117 (E) glass;

1118 (F) plastic;

1119 (G) textile; or

1120 (H) rubber; and

1121 (ii) the new products under Subsection (54)(b)(i) would otherwise be made with
1122 nonrecycled materials; or

1123 (c) a cogeneration facility as defined in Section 54-2-1.

1124 (55) "Member of the immediate family of the producer" means a person who is related
1125 to a producer described in Subsection 59-12-104(20)(a) as a:

1126 (a) child or stepchild, regardless of whether the child or stepchild is:

1127 (i) an adopted child or adopted stepchild; or

1128 (ii) a foster child or foster stepchild;

1129 (b) grandchild or stepgrandchild;

1130 (c) grandparent or stepgrandparent;

1131 (d) nephew or stepnephew;

1132 (e) niece or stepniece;

1133 (f) parent or stepparent;

1134 (g) sibling or stepsibling;

1135 (h) spouse;

1136 (i) person who is the spouse of a person described in Subsections (55)(a) through (g);

1137 or

1138 (j) person similar to a person described in Subsections (55)(a) through (i) as

1139 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1140 Administrative Rulemaking Act.

1141 (56) "Mobile home" is as defined in Section 58-56-3.

1142 (57) "Mobile telecommunications service" is as defined in the Mobile
1143 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1144 (58) (a) "Mobile wireless service" means a telecommunications service, regardless of
1145 the technology used, if:

- 1146 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1147 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1148 (iii) the origination point described in Subsection (58)(a)(i) and the termination point
1149 described in Subsection (58)(a)(ii) are not fixed.

1150 (b) "Mobile wireless service" includes a telecommunications service that is provided
1151 by a commercial mobile radio service provider.

1152 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1153 commission may by rule define "commercial mobile radio service provider."

1154 (59) (a) Except as provided in Subsection (59)(c), "mobility enhancing equipment"
1155 means equipment that is:

- 1156 (i) primarily and customarily used to provide or increase the ability to move from one
1157 place to another;
- 1158 (ii) appropriate for use in a:
 - 1159 (A) home; or
 - 1160 (B) motor vehicle; and
- 1161 (iii) not generally used by persons with normal mobility.

1162 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1163 the equipment described in Subsection (59)(a).

1164 (c) Notwithstanding Subsection (59)(a), "mobility enhancing equipment" does not
1165 include:

- 1166 (i) a motor vehicle;
- 1167 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1168 vehicle manufacturer;
- 1169 (iii) durable medical equipment; or
- 1170 (iv) a prosthetic device.

1171 (60) "Model 1 seller" means a seller registered under the agreement that has selected a
1172 certified service provider as the seller's agent to perform all of the seller's sales and use tax

1173 functions for agreement sales and use taxes other than the seller's obligation under Section
1174 59-12-124 to remit a tax on the seller's own purchases.

1175 (61) "Model 2 seller" means a seller registered under the agreement that:

1176 (a) except as provided in Subsection (61)(b), has selected a certified automated system
1177 to perform the seller's sales tax functions for agreement sales and use taxes; and

1178 (b) notwithstanding Subsection (61)(a), retains responsibility for remitting all of the
1179 sales tax:

1180 (i) collected by the seller; and

1181 (ii) to the appropriate local taxing jurisdiction.

1182 (62) (a) Subject to Subsection (62)(b), "model 3 seller" means a seller registered under
1183 the agreement that has:

1184 (i) sales in at least five states that are members of the agreement;

1185 (ii) total annual sales revenues of at least \$500,000,000;

1186 (iii) a proprietary system that calculates the amount of tax:

1187 (A) for an agreement sales and use tax; and

1188 (B) due to each local taxing jurisdiction; and

1189 (iv) entered into a performance agreement with the governing board of the agreement.

1190 (b) For purposes of Subsection (62)(a), "model 3 seller" includes an affiliated group of
1191 sellers using the same proprietary system.

1192 (63) "Model 4 seller" means a seller that is registered under the agreement and is not a
1193 model 1 seller, model 2 seller, or model 3 seller.

1194 (64) "Modular home" means a modular unit as defined in Section 58-56-3.

1195 (65) "Motor vehicle" is as defined in Section 41-1a-102.

1196 (66) "Oil shale" means a group of fine black to dark brown shales containing
1197 bituminous material that yields petroleum upon distillation.

1198 (67) (a) "Other fuels" means products that burn independently to produce heat or
1199 energy.

1200 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1201 personal property.

1202 (68) (a) "Paging service" means a telecommunications service that provides
1203 transmission of a coded radio signal for the purpose of activating a specific pager.

1204 (b) For purposes of Subsection (68)(a), the transmission of a coded radio signal
 1205 includes a transmission by message or sound.

1206 (69) "Pawnbroker" is as defined in Section 13-32a-102.

1207 (70) "Pawn transaction" is as defined in Section 13-32a-102.

1208 (71) (a) "Permanently attached to real property" means that for tangible personal
 1209 property attached to real property:

1210 (i) the attachment of the tangible personal property to the real property:

1211 (A) is essential to the use of the tangible personal property; and

1212 (B) suggests that the tangible personal property will remain attached to the real
 1213 property in the same place over the useful life of the tangible personal property; or

1214 (ii) if the tangible personal property is detached from the real property, the detachment
 1215 would:

1216 (A) cause substantial damage to the tangible personal property; or

1217 (B) require substantial alteration or repair of the real property to which the tangible
 1218 personal property is attached.

1219 (b) "Permanently attached to real property" includes:

1220 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1221 (A) essential to the operation of the tangible personal property; and

1222 (B) attached only to facilitate the operation of the tangible personal property;

1223 (ii) a temporary detachment of tangible personal property from real property for a
 1224 repair or renovation if the repair or renovation is performed where the tangible personal
 1225 property and real property are located; or

1226 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
 1227 Subsection (71)(c)(iii) or (iv).

1228 (c) "Permanently attached to real property" does not include:

1229 (i) the attachment of portable or movable tangible personal property to real property if
 1230 that portable or movable tangible personal property is attached to real property only for:

1231 (A) convenience;

1232 (B) stability; or

1233 (C) for an obvious temporary purpose;

1234 (ii) the detachment of tangible personal property from real property except for the

1235 detachment described in Subsection (71)(b)(ii);

1236 (iii) an attachment of the following tangible personal property to real property if the

1237 attachment to real property is only through a line that supplies water, electricity, gas,

1238 telecommunications, cable, or supplies a similar item as determined by the commission by rule

1239 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1240 (A) a computer;

1241 (B) a telephone;

1242 (C) a television; or

1243 (D) tangible personal property similar to Subsections (71)(c)(iii)(A) through (C) as

1244 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

1245 Administrative Rulemaking Act; or

1246 (iv) an item listed in Subsection (111)(c).

1247 (72) "Person" includes any individual, firm, partnership, joint venture, association,

1248 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

1249 municipality, district, or other local governmental entity of the state, or any group or

1250 combination acting as a unit.

1251 (73) "Place of primary use":

1252 (a) for telecommunications service other than mobile telecommunications service,

1253 means the street address representative of where the customer's use of the telecommunications

1254 service primarily occurs, which shall be:

1255 (i) the residential street address of the customer; or

1256 (ii) the primary business street address of the customer; or

1257 (b) for mobile telecommunications service, is as defined in the Mobile

1258 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1259 (74) (a) "Postpaid calling service" means a telecommunications service a person

1260 obtains by making a payment on a call-by-call basis:

1261 (i) through the use of a:

1262 (A) bank card;

1263 (B) credit card;

1264 (C) debit card; or

1265 (D) travel card; or

1266 (ii) by a charge made to a telephone number that is not associated with the origination
1267 or termination of the telecommunications service.

1268 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1269 service, that would be a prepaid wireless calling service if the service were exclusively a
1270 telecommunications service.

1271 (75) "Postproduction" means an activity related to the finishing or duplication of a
1272 medium described in Subsection 59-12-104(54)(a).

1273 (76) "Prepaid calling service" means a telecommunications service:

1274 (a) that allows a purchaser access to telecommunications service that is exclusively
1275 telecommunications service;

1276 (b) that:

1277 (i) is paid for in advance; and

1278 (ii) enables the origination of a call using an:

1279 (A) access number; or

1280 (B) authorization code;

1281 (c) that is dialed:

1282 (i) manually; or

1283 (ii) electronically; and

1284 (d) sold in predetermined units or dollars that decline:

1285 (i) by a known amount; and

1286 (ii) with use.

1287 (77) "Prepaid wireless calling service" means a telecommunications service:

1288 (a) that provides the right to utilize:

1289 (i) mobile wireless service; and

1290 (ii) other service that is not a telecommunications service, including:

1291 (A) the download of a product transferred electronically;

1292 (B) a content service; or

1293 (C) an ancillary service;

1294 (b) that:

1295 (i) is paid for in advance; and

1296 (ii) enables the origination of a call using an:

- 1297 (A) access number; or
1298 (B) authorization code;
1299 (c) that is dialed:
1300 (i) manually; or
1301 (ii) electronically; and
1302 (d) sold in predetermined units or dollars that decline:
1303 (i) by a known amount; and
1304 (ii) with use.
1305 (78) (a) "Prepared food" means:
1306 (i) food:
1307 (A) sold in a heated state; or
1308 (B) heated by a seller;
1309 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1310 item; or
1311 (iii) except as provided in Subsection (78)(c), food sold with an eating utensil provided
1312 by the seller, including a:
1313 (A) plate;
1314 (B) knife;
1315 (C) fork;
1316 (D) spoon;
1317 (E) glass;
1318 (F) cup;
1319 (G) napkin; or
1320 (H) straw.
1321 (b) "Prepared food" does not include:
1322 (i) food that a seller only:
1323 (A) cuts;
1324 (B) repackages; or
1325 (C) pasteurizes; or
1326 (ii) (A) the following:
1327 (I) raw egg;

1328 (II) raw fish;
1329 (III) raw meat;
1330 (IV) raw poultry; or
1331 (V) a food containing an item described in Subsections (78)(b)(ii)(A)(I) through (IV);
1332 and
1333 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1334 Food and Drug Administration's Food Code that a consumer cook the items described in
1335 Subsection (78)(b)(ii)(A) to prevent food borne illness; or
1336 (iii) the following if sold without eating utensils provided by the seller:
1337 (A) food and food ingredients sold by a seller if the seller's proper primary
1338 classification under the 2002 North American Industry Classification System of the federal
1339 Executive Office of the President, Office of Management and Budget, is manufacturing in
1340 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1341 Manufacturing;
1342 (B) food and food ingredients sold in an unheated state:
1343 (I) by weight or volume; and
1344 (II) as a single item; or
1345 (C) a bakery item, including:
1346 (I) a bagel;
1347 (II) a bar;
1348 (III) a biscuit;
1349 (IV) bread;
1350 (V) a bun;
1351 (VI) a cake;
1352 (VII) a cookie;
1353 (VIII) a croissant;
1354 (IX) a danish;
1355 (X) a donut;
1356 (XI) a muffin;
1357 (XII) a pastry;
1358 (XIII) a pie;

1359 (XIV) a roll;
1360 (XV) a tart;
1361 (XVI) a torte; or
1362 (XVII) a tortilla.
1363 (c) Notwithstanding Subsection (78)(a)(iii), an eating utensil provided by the seller
1364 does not include the following used to transport the food:
1365 (i) a container; or
1366 (ii) packaging.
1367 (79) "Prescription" means an order, formula, or recipe that is issued:
1368 (a) (i) orally;
1369 (ii) in writing;
1370 (iii) electronically; or
1371 (iv) by any other manner of transmission; and
1372 (b) by a licensed practitioner authorized by the laws of a state.
1373 (80) (a) Except as provided in Subsection (80)(b)(ii) or (iii), "prewritten computer
1374 software" means computer software that is not designed and developed:
1375 (i) by the author or other creator of the computer software; and
1376 (ii) to the specifications of a specific purchaser.
1377 (b) "Prewritten computer software" includes:
1378 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1379 software is not designed and developed:
1380 (A) by the author or other creator of the computer software; and
1381 (B) to the specifications of a specific purchaser;
1382 (ii) notwithstanding Subsection (80)(a), computer software designed and developed by
1383 the author or other creator of the computer software to the specifications of a specific purchaser
1384 if the computer software is sold to a person other than the purchaser; or
1385 (iii) notwithstanding Subsection (80)(a) and except as provided in Subsection (80)(c),
1386 prewritten computer software or a prewritten portion of prewritten computer software:
1387 (A) that is modified or enhanced to any degree; and
1388 (B) if the modification or enhancement described in Subsection (80)(b)(iii)(A) is
1389 designed and developed to the specifications of a specific purchaser.

1390 (c) Notwithstanding Subsection (80)(b)(iii), "prewritten computer software" does not
1391 include a modification or enhancement described in Subsection (80)(b)(iii) if the charges for
1392 the modification or enhancement are:

1393 (i) reasonable; and

1394 (ii) separately stated on the invoice or other statement of price provided to the
1395 purchaser.

1396 (81) (a) "Private communication service" means a telecommunications service:

1397 (i) that entitles a customer to exclusive or priority use of one or more communications
1398 channels between or among termination points; and

1399 (ii) regardless of the manner in which the one or more communications channels are
1400 connected.

1401 (b) "Private communications service" includes the following provided in connection
1402 with the use of one or more communications channels:

1403 (i) an extension line;

1404 (ii) a station;

1405 (iii) switching capacity; or

1406 (iv) another associated service that is provided in connection with the use of one or
1407 more communications channels as defined in Section 59-12-215.

1408 (82) (a) "Prosthetic device" means a device that is worn on or in the body to:

1409 (i) artificially replace a missing portion of the body;

1410 (ii) prevent or correct a physical deformity or physical malfunction; or

1411 (iii) support a weak or deformed portion of the body.

1412 (b) "Prosthetic device" includes:

1413 (i) parts used in the repairs or renovation of a prosthetic device;

1414 (ii) replacement parts for a prosthetic device;

1415 (iii) a dental prosthesis; or

1416 (iv) a hearing aid.

1417 (c) "Prosthetic device" does not include:

1418 (i) corrective eyeglasses; or

1419 (ii) contact lenses.

1420 (83) (a) "Protective equipment" means an item:

- 1421 (i) for human wear; and
1422 (ii) that is:
1423 (A) designed as protection:
1424 (I) to the wearer against injury or disease; or
1425 (II) against damage or injury of other persons or property; and
1426 (B) not suitable for general use.
1427 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1428 commission shall make rules:
1429 (i) listing the items that constitute "protective equipment"; and
1430 (ii) that are consistent with the list of items that constitute "protective equipment"
1431 under the agreement.
1432 (84) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1433 printed matter, other than a photocopy:
1434 (i) regardless of:
1435 (A) characteristics;
1436 (B) copyright;
1437 (C) form;
1438 (D) format;
1439 (E) method of reproduction; or
1440 (F) source; and
1441 (ii) made available in printed or electronic format.
1442 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1443 commission may by rule define the term "photocopy."
1444 (85) (a) "Purchase price" and "sales price" mean the total amount of consideration:
1445 (i) valued in money; and
1446 (ii) for which tangible personal property, a product transferred electronically, or
1447 services are:
1448 (A) sold;
1449 (B) leased; or
1450 (C) rented.
1451 (b) "Purchase price" and "sales price" include:

1452 (i) the seller's cost of the tangible personal property, a product transferred
1453 electronically, or services sold;

1454 (ii) expenses of the seller, including:

1455 (A) the cost of materials used;

1456 (B) a labor cost;

1457 (C) a service cost;

1458 (D) interest;

1459 (E) a loss;

1460 (F) the cost of transportation to the seller; or

1461 (G) a tax imposed on the seller;

1462 (iii) a charge by the seller for any service necessary to complete the sale; or

1463 (iv) consideration a seller receives from a person other than the purchaser if:

1464 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1465 and

1466 (II) the consideration described in Subsection (85)(b)(iv)(A)(I) is directly related to a
1467 price reduction or discount on the sale;

1468 (B) the seller has an obligation to pass the price reduction or discount through to the
1469 purchaser;

1470 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1471 the seller at the time of the sale to the purchaser; and

1472 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1473 seller to claim a price reduction or discount; and

1474 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1475 coupon, or other documentation with the understanding that the person other than the seller
1476 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1477 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1478 organization allowed a price reduction or discount, except that a preferred customer card that is
1479 available to any patron of a seller does not constitute membership in a group or organization
1480 allowed a price reduction or discount; or

1481 (III) the price reduction or discount is identified as a third party price reduction or
1482 discount on the:

- 1483 (Aa) invoice the purchaser receives; or
1484 (Bb) certificate, coupon, or other documentation the purchaser presents.
1485 (c) "Purchase price" and "sales price" do not include:
1486 (i) a discount:
1487 (A) in a form including:
1488 (I) cash;
1489 (II) term; or
1490 (III) coupon;
1491 (B) that is allowed by a seller;
1492 (C) taken by a purchaser on a sale; and
1493 (D) that is not reimbursed by a third party; or
1494 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1495 provided to the purchaser:
1496 (A) the following from credit extended on the sale of tangible personal property or
1497 services:
1498 (I) a carrying charge;
1499 (II) a financing charge; or
1500 (III) an interest charge;
1501 (B) a delivery charge;
1502 (C) an installation charge;
1503 (D) a manufacturer rebate on a motor vehicle; or
1504 (E) a tax or fee legally imposed directly on the consumer.
1505 (86) "Purchaser" means a person to whom:
1506 (a) a sale of tangible personal property is made;
1507 (b) a product is transferred electronically; or
1508 (c) a service is furnished.
1509 (87) "Regularly rented" means:
1510 (a) rented to a guest for value three or more times during a calendar year; or
1511 (b) advertised or held out to the public as a place that is regularly rented to guests for
1512 value.
1513 (88) "Renewable energy" means:

- 1514 (a) biomass energy;
1515 (b) hydroelectric energy;
1516 (c) geothermal energy;
1517 (d) solar energy; or
1518 (e) wind energy.
- 1519 (89) (a) "Renewable energy production facility" means a facility that:
1520 (i) uses renewable energy to produce electricity; and
1521 (ii) has a production capacity of 20 kilowatts or greater.
- 1522 (b) A facility is a renewable energy production facility regardless of whether the
1523 facility is:
1524 (i) connected to an electric grid; or
1525 (ii) located on the premises of an electricity consumer.
- 1526 (90) "Rental" is as defined in Subsection (50).
- 1527 (91) "Repairs or renovations of tangible personal property" means:
1528 (a) a repair or renovation of tangible personal property that is not permanently attached
1529 to real property; or
1530 (b) attaching tangible personal property or a product that is transferred electronically to
1531 other tangible personal property if the other tangible personal property to which the tangible
1532 personal property or product that is transferred electronically is attached is not permanently
1533 attached to real property.
- 1534 (92) "Research and development" means the process of inquiry or experimentation
1535 aimed at the discovery of facts, devices, technologies, or applications and the process of
1536 preparing those devices, technologies, or applications for marketing.
- 1537 (93) (a) "Residential telecommunications services" means a telecommunications
1538 service or an ancillary service that is provided to an individual for personal use:
1539 (i) at a residential address; or
1540 (ii) at an institution, including a nursing home or a school, if the telecommunications
1541 service or ancillary service is provided to and paid for by the individual residing at the
1542 institution rather than the institution.
- 1543 (b) For purposes of Subsection (93)(a), a residential address includes an:
1544 (i) apartment; or

- 1545 (ii) other individual dwelling unit.
- 1546 (94) "Residential use" means the use in or around a home, apartment building, sleeping
1547 quarters, and similar facilities or accommodations.
- 1548 (95) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1549 than:
- 1550 (a) resale;
- 1551 (b) sublease; or
- 1552 (c) subrent.
- 1553 (96) (a) "Retailer" means any person engaged in a regularly organized business in
1554 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1555 who is selling to the user or consumer and not for resale.
- 1556 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1557 engaged in the business of selling to users or consumers within the state.
- 1558 (97) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1559 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1560 Subsection 59-12-103(1), for consideration.
- 1561 (b) "Sale" includes:
- 1562 (i) installment and credit sales;
- 1563 (ii) any closed transaction constituting a sale;
- 1564 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1565 chapter;
- 1566 (iv) any transaction if the possession of property is transferred but the seller retains the
1567 title as security for the payment of the price; and
- 1568 (v) any transaction under which right to possession, operation, or use of any article of
1569 tangible personal property is granted under a lease or contract and the transfer of possession
1570 would be taxable if an outright sale were made.
- 1571 (98) "Sale at retail" is as defined in Subsection (95).
- 1572 (99) "Sale-leaseback transaction" means a transaction by which title to tangible
1573 personal property or a product transferred electronically that is subject to a tax under this
1574 chapter is transferred:
- 1575 (a) by a purchaser-lessee;

1576 (b) to a lessor;
1577 (c) for consideration; and
1578 (d) if:
1579 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1580 of the tangible personal property or product transferred electronically;
1581 (ii) the sale of the tangible personal property or product transferred electronically to the
1582 lessor is intended as a form of financing:
1583 (A) for the tangible personal property or product transferred electronically; and
1584 (B) to the purchaser-lessee; and
1585 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1586 is required to:
1587 (A) capitalize the tangible personal property or product transferred electronically for
1588 financial reporting purposes; and
1589 (B) account for the lease payments as payments made under a financing arrangement.
1590 (100) "Sales price" is as defined in Subsection (85).
1591 (101) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1592 amounts charged by a school:
1593 (i) sales that are directly related to the school's educational functions or activities
1594 including:
1595 (A) the sale of:
1596 (I) textbooks;
1597 (II) textbook fees;
1598 (III) laboratory fees;
1599 (IV) laboratory supplies; or
1600 (V) safety equipment;
1601 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1602 that:
1603 (I) a student is specifically required to wear as a condition of participation in a
1604 school-related event or school-related activity; and
1605 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1606 place of ordinary clothing;

1607 (C) sales of the following if the net or gross revenues generated by the sales are
1608 deposited into a school district fund or school fund dedicated to school meals:
1609 (I) food and food ingredients; or
1610 (II) prepared food; or
1611 (D) transportation charges for official school activities; or
1612 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1613 event or school-related activity.
1614 (b) "Sales relating to schools" does not include:
1615 (i) bookstore sales of items that are not educational materials or supplies;
1616 (ii) except as provided in Subsection (101)(a)(i)(B):
1617 (A) clothing;
1618 (B) clothing accessories or equipment;
1619 (C) protective equipment; or
1620 (D) sports or recreational equipment; or
1621 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1622 event or school-related activity if the amounts paid or charged are passed through to a person:
1623 (A) other than a:
1624 (I) school;
1625 (II) nonprofit organization authorized by a school board or a governing body of a
1626 private school to organize and direct a competitive secondary school activity; or
1627 (III) nonprofit association authorized by a school board or a governing body of a
1628 private school to organize and direct a competitive secondary school activity; and
1629 (B) that is required to collect sales and use taxes under this chapter.
1630 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1631 commission may make rules defining the term "passed through."
1632 (102) For purposes of this section and Section 59-12-104, "school":
1633 (a) means:
1634 (i) an elementary school or a secondary school that:
1635 (A) is a:
1636 (I) public school; or
1637 (II) private school; and

1638 (B) provides instruction for one or more grades kindergarten through 12; or
1639 (ii) a public school district; and
1640 (b) includes the Electronic High School as defined in Section 53A-15-1002.
1641 (103) "Seller" means a person that makes a sale, lease, or rental of:
1642 (a) tangible personal property;
1643 (b) a product transferred electronically; or
1644 (c) a service.
1645 (104) (a) "Semiconductor fabricating, processing, research, or development materials"
1646 means tangible personal property or a product transferred electronically if the tangible personal
1647 property or product transferred electronically is:
1648 (i) used primarily in the process of:
1649 (A) (I) manufacturing a semiconductor;
1650 (II) fabricating a semiconductor; or
1651 (III) research or development of a:
1652 (Aa) semiconductor; or
1653 (Bb) semiconductor manufacturing process; or
1654 (B) maintaining an environment suitable for a semiconductor; or
1655 (ii) consumed primarily in the process of:
1656 (A) (I) manufacturing a semiconductor;
1657 (II) fabricating a semiconductor; or
1658 (III) research or development of a:
1659 (Aa) semiconductor; or
1660 (Bb) semiconductor manufacturing process; or
1661 (B) maintaining an environment suitable for a semiconductor.
1662 (b) "Semiconductor fabricating, processing, research, or development materials"
1663 includes:
1664 (i) parts used in the repairs or renovations of tangible personal property or a product
1665 transferred electronically described in Subsection (104)(a); or
1666 (ii) a chemical, catalyst, or other material used to:
1667 (A) produce or induce in a semiconductor a:
1668 (I) chemical change; or

1669 (II) physical change;
1670 (B) remove impurities from a semiconductor; or
1671 (C) improve the marketable condition of a semiconductor.
1672 (105) "Senior citizen center" means a facility having the primary purpose of providing
1673 services to the aged as defined in Section 62A-3-101.
1674 (106) "Simplified electronic return" means the electronic return:
1675 (a) described in Section 318(C) of the agreement; and
1676 (b) approved by the governing board of the agreement.
1677 (107) "Solar energy" means the sun used as the sole source of energy for producing
1678 electricity.
1679 (108) (a) "Sports or recreational equipment" means an item:
1680 (i) designed for human use; and
1681 (ii) that is:
1682 (A) worn in conjunction with:
1683 (I) an athletic activity; or
1684 (II) a recreational activity; and
1685 (B) not suitable for general use.
1686 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1687 commission shall make rules:
1688 (i) listing the items that constitute "sports or recreational equipment"; and
1689 (ii) that are consistent with the list of items that constitute "sports or recreational
1690 equipment" under the agreement.
1691 (109) "State" means the state of Utah, its departments, and agencies.
1692 (110) "Storage" means any keeping or retention of tangible personal property or any
1693 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1694 sale in the regular course of business.
1695 (111) (a) Except as provided in Subsection (111)(d) or (e), "tangible personal property"
1696 means personal property that:
1697 (i) may be:
1698 (A) seen;
1699 (B) weighed;

1700 (C) measured;
1701 (D) felt; or
1702 (E) touched; or
1703 (ii) is in any manner perceptible to the senses.
1704 (b) "Tangible personal property" includes:
1705 (i) electricity;
1706 (ii) water;
1707 (iii) gas;
1708 (iv) steam; or
1709 (v) prewritten computer software.
1710 (c) "Tangible personal property" includes the following regardless of whether the item
1711 is attached to real property:
1712 (i) a dishwasher;
1713 (ii) a dryer;
1714 (iii) a freezer;
1715 (iv) a microwave;
1716 (v) a refrigerator;
1717 (vi) a stove;
1718 (vii) a washer; or
1719 (viii) an item similar to Subsections (111)(c)(i) through (vii) as determined by the
1720 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1721 Rulemaking Act.
1722 (d) "Tangible personal property" does not include a product that is transferred
1723 electronically.
1724 (e) "Tangible personal property" does not include the following if attached to real
1725 property, regardless of whether the attachment to real property is only through a line that
1726 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1727 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1728 Rulemaking Act:
1729 (i) a hot water heater;
1730 (ii) a water filtration system; or

1731 (iii) a water softener system.

1732 (112) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1733 and require further processing other than mechanical blending before becoming finished
1734 petroleum products.

1735 (113) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1736 software" means an item listed in Subsection (113)(b) if that item is purchased or leased
1737 primarily to enable or facilitate one or more of the following to function:

1738 (i) telecommunications switching or routing equipment, machinery, or software; or

1739 (ii) telecommunications transmission equipment, machinery, or software.

1740 (b) The following apply to Subsection (113)(a):

1741 (i) a pole;

1742 (ii) software;

1743 (iii) a supplementary power supply;

1744 (iv) temperature or environmental equipment or machinery;

1745 (v) test equipment;

1746 (vi) a tower; or

1747 (vii) equipment, machinery, or software that functions similarly to an item listed in
1748 Subsections (113)(b)(i) through (vi) as determined by the commission by rule made in
1749 accordance with Subsection (113)(c).

1750 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1751 commission may by rule define what constitutes equipment, machinery, or software that
1752 functions similarly to an item listed in Subsections (113)(b)(i) through (vi).

1753 (114) "Telecommunications equipment, machinery, or software required for 911
1754 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1755 Sec. 20.18.

1756 (115) "Telecommunications maintenance or repair equipment, machinery, or software"
1757 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1758 one or more of the following, regardless of whether the equipment, machinery, or software is
1759 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1760 following:

1761 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1762 (b) telecommunications switching or routing equipment, machinery, or software; or
1763 (c) telecommunications transmission equipment, machinery, or software.
1764 (116) (a) "Telecommunications service" means the electronic conveyance, routing, or
1765 transmission of audio, data, video, voice, or any other information or signal to a point, or
1766 among or between points.
1767 (b) "Telecommunications service" includes:
1768 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1769 processing application is used to act:
1770 (A) on the code, form, or protocol of the content;
1771 (B) for the purpose of electronic conveyance, routing, or transmission; and
1772 (C) regardless of whether the service:
1773 (I) is referred to as voice over Internet protocol service; or
1774 (II) is classified by the Federal Communications Commission as enhanced or value
1775 added;
1776 (ii) an 800 service;
1777 (iii) a 900 service;
1778 (iv) a fixed wireless service;
1779 (v) a mobile wireless service;
1780 (vi) a postpaid calling service;
1781 (vii) a prepaid calling service;
1782 (viii) a prepaid wireless calling service; or
1783 (ix) a private communications service.
1784 (c) "Telecommunications service" does not include:
1785 (i) advertising, including directory advertising;
1786 (ii) an ancillary service;
1787 (iii) a billing and collection service provided to a third party;
1788 (iv) a data processing and information service if:
1789 (A) the data processing and information service allows data to be:
1790 (I) (Aa) acquired;
1791 (Bb) generated;
1792 (Cc) processed;

1793 (Dd) retrieved; or
1794 (Ee) stored; and
1795 (II) delivered by an electronic transmission to a purchaser; and
1796 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1797 or information;
1798 (v) installation or maintenance of the following on a customer's premises:
1799 (A) equipment; or
1800 (B) wiring;
1801 (vi) Internet access service;
1802 (vii) a paging service;
1803 (viii) a product transferred electronically, including:
1804 (A) music;
1805 (B) reading material;
1806 (C) a ring tone;
1807 (D) software; or
1808 (E) video;
1809 (ix) a radio and television audio and video programming service:
1810 (A) regardless of the medium; and
1811 (B) including:
1812 (I) furnishing conveyance, routing, or transmission of a television audio and video
1813 programming service by a programming service provider;
1814 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
1815 (III) audio and video programming services delivered by a commercial mobile radio
1816 service provider as defined in 47 C.F.R. Sec. 20.3;
1817 (x) a value-added nonvoice data service; or
1818 (xi) tangible personal property.
1819 (117) (a) "Telecommunications service provider" means a person that:
1820 (i) owns, controls, operates, or manages a telecommunications service; and
1821 (ii) engages in an activity described in Subsection (117)(a)(i) for the shared use with or
1822 resale to any person of the telecommunications service.
1823 (b) A person described in Subsection (117)(a) is a telecommunications service provider

1824 whether or not the Public Service Commission of Utah regulates:

1825 (i) that person; or

1826 (ii) the telecommunications service that the person owns, controls, operates, or
1827 manages.

1828 (118) (a) "Telecommunications switching or routing equipment, machinery, or
1829 software" means an item listed in Subsection (118)(b) if that item is purchased or leased
1830 primarily for switching or routing:

1831 (i) an ancillary service;

1832 (ii) data communications;

1833 (iii) voice communications; or

1834 (iv) telecommunications service.

1835 (b) The following apply to Subsection (118)(a):

1836 (i) a bridge;

1837 (ii) a computer;

1838 (iii) a cross connect;

1839 (iv) a modem;

1840 (v) a multiplexer;

1841 (vi) plug in circuitry;

1842 (vii) a router;

1843 (viii) software;

1844 (ix) a switch; or

1845 (x) equipment, machinery, or software that functions similarly to an item listed in
1846 Subsections (118)(b)(i) through (ix) as determined by the commission by rule made in
1847 accordance with Subsection (118)(c).

1848 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1849 commission may by rule define what constitutes equipment, machinery, or software that
1850 functions similarly to an item listed in Subsections (118)(b)(i) through (ix).

1851 (119) (a) "Telecommunications transmission equipment, machinery, or software"
1852 means an item listed in Subsection (119)(b) if that item is purchased or leased primarily for
1853 sending, receiving, or transporting:

1854 (i) an ancillary service;

1855 (ii) data communications;
1856 (iii) voice communications; or
1857 (iv) telecommunications service.
1858 (b) The following apply to Subsection (119)(a):
1859 (i) an amplifier;
1860 (ii) a cable;
1861 (iii) a closure;
1862 (iv) a conduit;
1863 (v) a controller;
1864 (vi) a duplexer;
1865 (vii) a filter;
1866 (viii) an input device;
1867 (ix) an input/output device;
1868 (x) an insulator;
1869 (xi) microwave machinery or equipment;
1870 (xii) an oscillator;
1871 (xiii) an output device;
1872 (xiv) a pedestal;
1873 (xv) a power converter;
1874 (xvi) a power supply;
1875 (xvii) a radio channel;
1876 (xviii) a radio receiver;
1877 (xix) a radio transmitter;
1878 (xx) a repeater;
1879 (xxi) software;
1880 (xxii) a terminal;
1881 (xxiii) a timing unit;
1882 (xxiv) a transformer;
1883 (xxv) a wire; or
1884 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1885 Subsections (119)(b)(i) through (xxv) as determined by the commission by rule made in

1886 accordance with Subsection (119)(c).

1887 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1888 commission may by rule define what constitutes equipment, machinery, or software that
1889 functions similarly to an item listed in Subsections (119)(b)(i) through (xxv).

1890 (120) "Tobacco" means:

1891 (a) a cigarette;

1892 (b) a cigar;

1893 (c) chewing tobacco;

1894 (d) pipe tobacco; or

1895 (e) any other item that contains tobacco.

1896 (121) "Unassisted amusement device" means an amusement device, skill device, or
1897 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1898 the amusement device, skill device, or ride device.

1899 (122) (a) "Use" means the exercise of any right or power over tangible personal
1900 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1901 incident to the ownership or the leasing of that tangible personal property, product transferred
1902 electronically, or service.

1903 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1904 property, a product transferred electronically, or a service in the regular course of business and
1905 held for resale.

1906 (123) "Value-added nonvoice data service" means a service:

1907 (a) that otherwise meets the definition of a telecommunications service except that a
1908 computer processing application is used to act primarily for a purpose other than conveyance,
1909 routing, or transmission; and

1910 (b) with respect to which a computer processing application is used to act on data or
1911 information:

1912 (i) code;

1913 (ii) content;

1914 (iii) form; or

1915 (iv) protocol.

1916 (124) (a) Subject to Subsection (124)(b), "vehicle" means the following that are

1917 required to be titled, registered, or titled and registered:

1918 (i) an aircraft as defined in Section 72-10-102;

1919 (ii) a vehicle as defined in Section 41-1a-102;

1920 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1921 (iv) a vessel as defined in Section 41-1a-102.

1922 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1923 (i) a vehicle described in Subsection (124)(a); or

1924 (ii) (A) a locomotive;

1925 (B) a freight car;

1926 (C) railroad work equipment; or

1927 (D) other railroad rolling stock.

1928 (125) "Vehicle dealer" means a person engaged in the business of buying, selling, or

1929 exchanging a vehicle as defined in Subsection (124).

1930 (126) (a) "Vertical service" means an ancillary service that:

1931 (i) is offered in connection with one or more telecommunications services; and

1932 (ii) offers an advanced calling feature that allows a customer to:

1933 (A) identify a caller; and

1934 (B) manage multiple calls and call connections.

1935 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

1936 conference bridging service.

1937 (127) (a) "Voice mail service" means an ancillary service that enables a customer to

1938 receive, send, or store a recorded message.

1939 (b) "Voice mail service" does not include a vertical service that a customer is required

1940 to have in order to utilize a voice mail service.

1941 (128) (a) Except as provided in Subsection (128)(b), "waste energy facility" means a

1942 facility that generates electricity:

1943 (i) using as the primary source of energy waste materials that would be placed in a

1944 landfill or refuse pit if it were not used to generate electricity, including:

1945 (A) tires;

1946 (B) waste coal; or

1947 (C) oil shale; and

1948 (ii) in amounts greater than actually required for the operation of the facility.

1949 (b) "Waste energy facility" does not include a facility that incinerates:

1950 (i) municipal solid waste;

1951 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1952 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1953 (129) "Watercraft" means a vessel as defined in Section 73-18-2.

1954 (130) "Wind energy" means wind used as the sole source of energy to produce

1955 electricity.

1956 (131) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic

1957 location by the United States Postal Service.

1958 Section 7. Section **59-12-103** is amended to read:

1959 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**

1960 **tax revenues.**

1961 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

1962 charged for the following transactions:

1963 (a) retail sales of tangible personal property made within the state;

1964 (b) amounts paid for:

1965 (i) telecommunications service, other than mobile telecommunications service, that

1966 originates and terminates within the boundaries of this state;

1967 (ii) mobile telecommunications service that originates and terminates within the

1968 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1969 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1970 (iii) an ancillary service associated with a:

1971 (A) telecommunications service described in Subsection (1)(b)(i); or

1972 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1973 (c) sales of the following for commercial use:

1974 (i) gas;

1975 (ii) electricity;

1976 (iii) heat;

1977 (iv) coal;

1978 (v) fuel oil; or

1979 (vi) other fuels;
1980 (d) sales of the following for residential use:
1981 (i) gas;
1982 (ii) electricity;
1983 (iii) heat;
1984 (iv) coal;
1985 (v) fuel oil; or
1986 (vi) other fuels;
1987 (e) sales of prepared food;
1988 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1989 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1990 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1991 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1992 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1993 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1994 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1995 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1996 exhibition, cultural, or athletic activity;
1997 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1998 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
1999 (i) the tangible personal property; and
2000 (ii) parts used in the repairs or renovations of the tangible personal property described
2001 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
2002 of that tangible personal property;
2003 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2004 assisted cleaning or washing of tangible personal property;
2005 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2006 accommodations and services that are regularly rented for less than 30 consecutive days;
2007 (j) amounts paid or charged for laundry or dry cleaning services;
2008 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2009 this state the tangible personal property is:

2010 (i) stored;
2011 (ii) used; or
2012 (iii) otherwise consumed;
2013 (l) amounts paid or charged for tangible personal property if within this state the
2014 tangible personal property is:
2015 (i) stored;
2016 (ii) used; or
2017 (iii) consumed; and
2018 (m) amounts paid or charged for a sale:
2019 (i) (A) of a product that:
2020 (I) is transferred electronically; and
2021 (II) would be subject to a tax under this chapter if the product was transferred in a
2022 manner other than electronically; or
2023 (B) of a repair or renovation of a product that:
2024 (I) is transferred electronically; and
2025 (II) would be subject to a tax under this chapter if the product was transferred in a
2026 manner other than electronically; and
2027 (ii) regardless of whether the sale provides:
2028 (A) a right of permanent use of the product; or
2029 (B) a right to use the product that is less than a permanent use, including a right:
2030 (I) for a definite or specified length of time; and
2031 (II) that terminates upon the occurrence of a condition.
2032 (2) (a) Except as provided in [~~Subsections (2)(b) through (c)~~] Subsection (2)(b) or (c),
2033 a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the
2034 sum of:
2035 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
2036 (A) [~~4.70%~~] beginning on January 1, 2009, and ending on June 30, 2011, 4.70%, and
2037 beginning on July 1, 2011, 4.39%; and
2038 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2039 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2040 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

2041 State Sales and Use Tax Act; and

2042 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2043 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2044 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2045 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2046 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2047 transaction under this chapter other than this part.

2048 (b) Except as provided in Subsection (2)~~[(d) or (e)]~~(c), a state tax and a local tax is
2049 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2050 (i) a state tax imposed on the transaction at a tax rate of 2%; and

2051 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2052 transaction under this chapter other than this part.

2053 ~~[(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is
2054 imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

2055 ~~[(i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2056 a tax rate of 1.75%; and]~~

2057 ~~[(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2058 amounts paid or charged for food and food ingredients under this chapter other than this part:]~~

2059 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and
2060 tangible personal property other than food and food ingredients, a state tax and a local tax is
2061 imposed on the entire bundled transaction equal to the sum of:]~~

2062 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

2063 ~~[(F) the tax rate described in Subsection (2)(a)(i)(A); and]~~

2064 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2065 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2066 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18;
2067 Additional State Sales and Use Tax Act; and]~~

2068 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2069 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2070 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2071 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

2072 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates~~
2073 ~~described in Subsection (2)(a)(ii).]~~

2074 ~~[(ii)]~~ (c) (i) Subject to Subsection (2)~~[(d)(iii)]~~(c)(ii), for a bundled transaction ~~[other~~
2075 ~~than a bundled transaction described in Subsection (2)(d)(i)]:~~

2076 (A) if the sales price of the bundled transaction is attributable to tangible personal
2077 property, a product, or a service that is subject to taxation under this chapter and tangible
2078 personal property, a product, or service that is not subject to taxation under this chapter, the
2079 entire bundled transaction is subject to taxation under this chapter unless:

2080 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2081 personal property, product, or service that is not subject to taxation under this chapter from the
2082 books and records the seller keeps in the seller's regular course of business; or

2083 (II) state or federal law provides otherwise; or

2084 (B) if the sales price of a bundled transaction is attributable to two or more items of
2085 tangible personal property, products, or services that are subject to taxation under this chapter
2086 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2087 higher tax rate unless:

2088 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2089 personal property, product, or service that is subject to taxation under this chapter at the lower
2090 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2091 (II) state or federal law provides otherwise.

2092 ~~[(iii)]~~ (ii) For purposes of Subsection (2)~~[(d)(ii)]~~(c)(i), books and records that a seller
2093 keeps in the seller's regular course of business includes books and records the seller keeps in
2094 the regular course of business for nontax purposes.

2095 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f) and (g)]~~(e) and (f), a tax rate repeal or tax rate
2096 change for a tax rate imposed under the following shall take effect on the first day of a calendar
2097 quarter:

2098 (i) Subsection (2)(a)(i)(A); or

2099 (ii) Subsection (2)(b)(i)[;].

2100 ~~[(iii) Subsection (2)(c)(i); or]~~

2101 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

2102 ~~[(f)]~~ (e) (i) A tax rate increase shall take effect on the first day of the first billing period

2103 that begins after the effective date of the tax rate increase if the billing period for the
 2104 transaction begins before the effective date of a tax rate increase imposed under:

2105 (A) Subsection (2)(a)(i)(A); or
 2106 (B) Subsection (2)(b)(i)[;].
 2107 [~~(C) Subsection (2)(c)(i); or~~]
 2108 [~~(D) Subsection (2)(d)(i)(A)(I).~~]

2109 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
 2110 billing period that began before the effective date of the repeal of the tax or the tax rate
 2111 decrease if the billing period for the transaction begins before the effective date of the repeal of
 2112 the tax or the tax rate decrease imposed under:

2113 (A) Subsection (2)(a)(i)(A); or
 2114 (B) Subsection (2)(b)(i)[;].
 2115 [~~(C) Subsection (2)(c)(i); or~~]
 2116 [~~(D) Subsection (2)(d)(i)(A)(I).~~]

2117 [~~(g)~~] (f) (i) For a tax rate described in Subsection (2)[~~(g)~~](f)(ii), if a tax due on a
 2118 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 2119 tax rate repeal or change in a tax rate takes effect:

2120 (A) on the first day of a calendar quarter; and
 2121 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2122 (ii) Subsection (2)[~~(g)~~](f)(i) applies to the tax rates described in the following:

2123 (A) Subsection (2)(a)(i)(A); or
 2124 (B) Subsection (2)(b)(i)[;].
 2125 [~~(C) Subsection (2)(c)(i); or~~]
 2126 [~~(D) Subsection (2)(d)(i)(A)(I).~~]

2127 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 2128 the commission may by rule define the term "catalogue sale."

2129 (3) (a) The following state taxes shall be deposited into the General Fund:

2130 (i) the tax imposed by Subsection (2)(a)(i)(A); and
 2131 (ii) the tax imposed by Subsection (2)(b)(i)[;].
 2132 [~~(iii) the tax imposed by Subsection (2)(c)(i); or~~]
 2133 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).~~]

2134 (b) The following local taxes shall be distributed to a county, city, or town as provided
2135 in this chapter:

- 2136 (i) the tax imposed by Subsection (2)(a)(ii); and
2137 (ii) the tax imposed by Subsection (2)(b)(ii)[;].
2138 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]
2139 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B).~~]

2140 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2141 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
2142 through (g):

- 2143 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
2144 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
2145 (B) for the fiscal year; or
2146 (ii) \$17,500,000.

2147 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2148 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2149 Department of Natural Resources to:

2150 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2151 protect sensitive plant and animal species; or

2152 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2153 act, to political subdivisions of the state to implement the measures described in Subsections
2154 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2155 (ii) Money transferred to the Department of Natural Resources under Subsection
2156 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2157 person to list or attempt to have listed a species as threatened or endangered under the
2158 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2159 (iii) At the end of each fiscal year:

2160 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2161 Conservation and Development Fund created in Section 73-10-24;

2162 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2163 Program Subaccount created in Section 73-10c-5; and

2164 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

2165 Program Subaccount created in Section 73-10c-5.

2166 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2167 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2168 created in Section 4-18-6.

2169 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2170 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2171 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2172 water rights.

2173 (ii) At the end of each fiscal year:

2174 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2175 Conservation and Development Fund created in Section 73-10-24;

2176 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2177 Program Subaccount created in Section 73-10c-5; and

2178 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2179 Program Subaccount created in Section 73-10c-5.

2180 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2181 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2182 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2183 (ii) In addition to the uses allowed of the Water Resources Conservation and
2184 Development Fund under Section 73-10-24, the Water Resources Conservation and
2185 Development Fund may also be used to:

2186 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2187 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2188 quantifying surface and ground water resources and describing the hydrologic systems of an
2189 area in sufficient detail so as to enable local and state resource managers to plan for and
2190 accommodate growth in water use without jeopardizing the resource;

2191 (B) fund state required dam safety improvements; and

2192 (C) protect the state's interest in interstate water compact allocations, including the
2193 hiring of technical and legal staff.

2194 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2195 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount

2196 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2197 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2198 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2199 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2200 (i) provide for the installation and repair of collection, treatment, storage, and
2201 distribution facilities for any public water system, as defined in Section 19-4-102;

2202 (ii) develop underground sources of water, including springs and wells; and

2203 (iii) develop surface water sources.

2204 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2205 2006, the difference between the following amounts shall be expended as provided in this
2206 Subsection (5), if that difference is greater than \$1:

2207 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2208 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2209 (ii) \$17,500,000.

2210 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2211 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2212 credits; and

2213 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2214 restoration.

2215 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2216 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2217 created in Section 73-10-24.

2218 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2219 remaining difference described in Subsection (5)(a) shall be:

2220 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2221 credits; and

2222 (B) expended by the Division of Water Resources for cloud-seeding projects
2223 authorized by Title 73, Chapter 15, Modification of Weather.

2224 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2225 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2226 created in Section 73-10-24.

2227 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2228 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2229 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2230 Division of Water Resources for:

2231 (i) preconstruction costs:

2232 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2233 26, Bear River Development Act; and

2234 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2235 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2236 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2237 Chapter 26, Bear River Development Act;

2238 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2239 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2240 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2241 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2242 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2243 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2244 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2245 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2246 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2247 incurred for employing additional technical staff for the administration of water rights.

2248 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2249 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2250 Fund created in Section 73-10-24.

2251 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2252 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2253 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2254 the Transportation Fund created by Section 72-2-102.

2255 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
2256 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
2257 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed

2258 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
2259 transactions under Subsection (1).

2260 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
2261 have been paid off and the highway projects completed that are intended to be paid from
2262 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
2263 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
2264 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2265 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2266 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2267 ~~[(8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in~~
2268 ~~Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into~~
2269 ~~the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the~~
2270 ~~taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the~~
2271 ~~following taxes, which represents a portion of the approximately 17% of sales and use tax~~
2272 ~~revenues generated annually by the sales and use tax on vehicles and vehicle-related products:]~~

2273 ~~[(i) the tax imposed by Subsection (2)(a)(i)(A);]~~

2274 ~~[(ii) the tax imposed by Subsection (2)(b)(i);]~~

2275 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~

2276 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

2277 ~~[(b)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
2278 Subsection (7)(a), and until Subsection (8)~~[(c)]~~(b) applies, for a fiscal year beginning on or
2279 after July 1, 2011, the Division of Finance shall deposit into the Centennial Highway Fund
2280 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
2281 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
2282 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
2283 and use tax on vehicles and vehicle-related products:

2284 (i) the tax imposed by Subsection (2)(a)(i)(A); and

2285 (ii) the tax imposed by Subsection (2)(b)(i);].

2286 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~

2287 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

2288 ~~[(c)]~~ (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited

under Subsection (7)(b), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(i) the tax imposed by Subsection (2)(a)(i)(A); and

(ii) the tax imposed by Subsection (2)(b)(i)[;].

~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~

~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).]~~

(9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal year beginning on or after July 1, 2009, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

(11) (a) ~~[(i)]~~ Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection (11)(a)(ii), and]~~ until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of

2320 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
2321 amount of tax revenue generated by a ~~[-.025%]~~ .022% tax rate on the transactions described in
2322 Subsection (1).

2323 ~~[(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit~~
2324 ~~into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged~~
2325 ~~for food and food ingredients, except for tax revenue generated by a bundled transaction~~
2326 ~~attributable to food and food ingredients and tangible personal property other than food and~~
2327 ~~food ingredients described in Subsection (2)(e).]~~

2328 (b) ~~[(i)]~~ Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection~~
2329 ~~(11)(b)(ii),]~~ and in addition to any amounts deposited under Subsections (7), (9), and (10),
2330 when the general obligation bonds authorized by Section 63B-16-101 have been paid off and
2331 the highway projects completed that are included in the prioritized project list under Subsection
2332 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance
2333 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2334 amount of tax revenue generated by a ~~[-.025%]~~ .022% tax rate on the transactions described in
2335 Subsection (1).

2336 ~~[(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit~~
2337 ~~into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~
2338 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~
2339 ~~transaction attributable to food and food ingredients and tangible personal property other than~~
2340 ~~food and food ingredients described in Subsection (2)(e).]~~

2341 (12) ~~[(a)]~~ Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~
2342 ~~(12)(b),]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the
2343 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
2344 ~~[-.025%]~~ .022% tax rate on the transactions described in Subsection (1) to be expended to
2345 address chokepoints in construction management.

2346 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~
2347 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~
2348 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~
2349 ~~and food ingredients and tangible personal property other than food and food ingredients~~
2350 ~~described in Subsection (2)(e).]~~

2351 Section 8. Section **59-12-104.2** is amended to read:

2352 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
2353 **Nation.**

2354 (1) As used in this section "tribal taxing area" means the geographical area that:

2355 (a) is subject to the taxing authority of the Navajo Nation; and

2356 (b) consists of:

2357 (i) notwithstanding the issuance of a patent, all land:

2358 (A) within the limits of an Indian reservation under the jurisdiction of the federal

2359 government; and

2360 (B) including any rights-of-way running through the reservation; and

2361 (ii) all Indian allotments the Indian titles to which have not been extinguished,

2362 including any rights-of-way running through an Indian allotment.

2363 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
2364 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
2365 imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(i)~~] to the extent permitted under
2366 Subsection (2)(b) if:

2367 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
2368 provided within:

2369 (A) the state; and

2370 (B) a tribal taxing area;

2371 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
2372 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

2373 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
2374 regard to whether or not the purchaser that pays or is charged for the accommodations and
2375 services is an enrolled member of the Navajo Nation; and

2376 (iv) the requirements of Subsection (4) are met.

2377 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
2378 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
2379 Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(i)~~]:

2380 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
2381 if that difference is greater than \$0; and

2382 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
2383 if the difference described in Subsection (3) is equal to or less than \$0.

2384 (3) The difference described in Subsection (2)(b) is equal to the difference between:

2385 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~]
2386 on the amounts paid by or charged to a purchaser for accommodations and services described
2387 in Subsection 59-12-103(1)(i); less

2388 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
2389 charged to a purchaser for the accommodations and services described in Subsection
2390 59-12-103(1)(i).

2391 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
2392 imposed on amounts paid by or charged to a purchaser for accommodations and services
2393 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
2394 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
2395 calendar quarter after a 90-day period beginning on the date the commission receives notice
2396 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2397 (b) The notice described in Subsection (4)(a) shall state:

2398 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
2399 amounts paid by or charged to a purchaser for accommodations and services described in
2400 Subsection 59-12-103(1)(i);

2401 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
2402 and

2403 (iii) the new rate of the tax described in Subsection (4)(b)(i).

2404 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

2405 (a) shall review the exemption provided for in this section one or more times every five
2406 years;

2407 (b) shall determine on or before the November interim meeting of the year in which the
2408 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
2409 whether the exemption should be:

2410 (i) continued;

2411 (ii) modified; or

2412 (iii) repealed; and

2413 (c) may review any other issue related to the exemption provided for in this section as
2414 determined by the Revenue and Taxation Interim Committee.

2415 Section 9. Section **59-12-108** is amended to read:

2416 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
2417 **Certain amounts allocated to local taxing jurisdictions.**

2418 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
2419 chapter of \$50,000 or more for the previous calendar year shall:

2420 (i) file a return with the commission:

2421 (A) monthly on or before the last day of the month immediately following the month
2422 for which the seller collects a tax under this chapter; and

2423 (B) for the month for which the seller collects a tax under this chapter; and

2424 (ii) except as provided in Subsection (1)(b), remit with the return required by
2425 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
2426 fee, or charge described in Subsection (1)(c):

2427 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2428 than \$96,000, by any method permitted by the commission; or

2429 (B) if that seller's tax liability under this chapter for the previous calendar year is
2430 \$96,000 or more, by electronic funds transfer.

2431 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
2432 the amount the seller is required to remit to the commission for each tax, fee, or charge
2433 described in Subsection (1)(c) if that seller:

2434 (i) is required by Section 59-12-107 to file the return electronically; or

2435 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

2436 (B) files a simplified electronic return.

2437 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2438 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2439 (ii) a fee under Section 19-6-716;

2440 (iii) a fee under Section 19-6-805;

2441 (iv) a charge under Section 69-2-5;

2442 (v) a charge under Section 69-2-5.5;

2443 (vi) a charge under Section 69-2-5.6; or

2444 (vii) a tax under this chapter.

2445 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
2446 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
2447 for making same-day payments other than by electronic funds transfer if making payments by
2448 electronic funds transfer fails.

2449 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2450 commission shall establish by rule procedures and requirements for determining the amount a
2451 seller is required to remit to the commission under this Subsection (1).

2452 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
2453 seller described in Subsection (4) may retain each month the amount allowed by this
2454 Subsection (2).

2455 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
2456 each month 1.31% of any amounts the seller is required to remit to the commission:

2457 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
2458 and a local tax imposed in accordance with the following, for the month for which the seller is
2459 filing a return in accordance with Subsection (1):

2460 (A) Subsection 59-12-103(2)(a); and

2461 (B) Subsection 59-12-103(2)(b); and

2462 ~~[(C) Subsection 59-12-103(2)(d); and]~~

2463 (ii) for an agreement sales and use tax.

2464 ~~[(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may~~
2465 ~~retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described~~
2466 ~~in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in~~
2467 ~~accordance with Subsection 59-12-103(2)(c).]~~

2468 ~~[(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount~~
2469 ~~equal to the sum of:]~~

2470 ~~[(A) 1.31% of any amounts the seller is required to remit to the commission for:]~~

2471 ~~[(I) the state tax and the local tax imposed in accordance with Subsection~~
2472 ~~59-12-103(2)(c).]~~

2473 ~~[(H) the month for which the seller is filing a return in accordance with Subsection (1);~~
2474 ~~and]~~

2475 ~~[(Hh) an agreement sales and use tax; and]~~
2476 ~~[(B) 1.31% of the difference between:]~~
2477 ~~[(f) the amounts the seller would have been required to remit to the commission:]~~
2478 ~~[(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been~~
2479 ~~subject to the state tax and the local tax imposed in accordance with Subsection~~
2480 ~~59-12-103(2)(a);]~~
2481 ~~[(Bb) for the month for which the seller is filing a return in accordance with Subsection~~
2482 ~~(1); and]~~
2483 ~~[(Cc) for an agreement sales and use tax; and]~~
2484 ~~[(H) the amounts the seller is required to remit to the commission for:]~~
2485 ~~[(Aa) the state tax and the local tax imposed in accordance with Subsection~~
2486 ~~59-12-103(2)(c);]~~
2487 ~~[(Bb) the month for which the seller is filing a return in accordance with Subsection (1);~~
2488 ~~and]~~
2489 ~~[(Cc) an agreement sales and use tax.]~~
2490 ~~[(d)]~~ (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may
2491 retain each month 1% of any amounts the seller is required to remit to the commission:
2492 (i) for the month for which the seller is filing a return in accordance with Subsection
2493 (1); and
2494 (ii) under:
2495 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
2496 (B) Subsection 59-12-603(1)(a)(i)(A); or
2497 (C) Subsection 59-12-603(1)(a)(i)(B).
2498 (3) A state government entity that is required to remit taxes monthly in accordance
2499 with Subsection (1) may not retain any amount under Subsection (2).
2500 (4) A seller that has a tax liability under this chapter for the previous calendar year of
2501 less than \$50,000 may:
2502 (a) voluntarily meet the requirements of Subsection (1); and
2503 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2504 amounts allowed by Subsection (2).
2505 (5) Penalties for late payment shall be as provided in Section 59-1-401.

(6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the ~~[percentages]~~ percentage listed under ~~[Subsections]~~ Subsection (2)(b) ~~[and (2)(c)(ii)]~~ been 1.5%; and

(ii) the total amount retained for that month by all sellers at the ~~[percentages]~~ percentage listed under ~~[Subsections]~~ Subsection (2)(b) ~~[and (2)(c)(ii)]~~.

(b) The commission shall each month allocate the amount calculated under Subsection (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (6)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

Section 10. Section **59-12-401** is amended to read:

59-12-401. Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1) (a) ~~[In]~~ Except as provided in Subsection (1)(b), in addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax at a tax rate of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) (i) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(a) is a tax rate of up to .97%.

(ii) Notwithstanding the notice requirements of Section 59-12-403, a city or town is not required to provide notice to the commission of a tax rate decrease made in accordance with Subsection (1)(b)(i).

~~[(b)]~~ (c) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under

2537 this section on:

2538 (i) the sale of:

2539 (A) a motor vehicle;

2540 (B) an aircraft;

2541 (C) a watercraft;

2542 (D) a modular home;

2543 (E) a manufactured home; or

2544 (F) a mobile home; or

2545 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2546 are exempt from taxation under Section 59-12-104~~[-and]~~.

2547 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
2548 ~~food ingredients.]~~

2549 ~~[(c)]~~ (d) For purposes of this Subsection (1), the location of a transaction shall be
2550 determined in accordance with Sections 59-12-211 through 59-12-215.

2551 ~~[(d) A city or town imposing a tax under this section shall impose the tax on amounts~~
2552 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
2553 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
2554 ~~property other than food and food ingredients.]~~

2555 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2556 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2557 the state from its collection fees received in connection with the implementation of Subsection
2558 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2559 provided for in Subsection (1).

2560 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2561 those cities and towns according to the amount of revenue the respective cities and towns
2562 generate in that year through imposition of that tax.

2563 (3) (a) Subject to 63H-1-203, the military installation development authority created in
2564 Section 63H-1-201 may impose a tax under this section on the transactions described in
2565 Subsection 59-12-103(1) located within a project area described in a project area plan adopted
2566 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,
2567 as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board as defined in Section 63H-1-102 shall:

(i) count the population;

(ii) adopt a resolution verifying the population number; and

(iii) provide the commission any information required in Section 59-12-405.

Section 11. Section **59-12-402** is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[; and].

~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.]~~

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

2599 ~~[(d) A municipality imposing a tax under this section shall impose the tax on amounts~~
2600 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
2601 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
2602 ~~property other than food and food ingredients.]~~

2603 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2604 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2605 the state from its collection fees received in connection with the implementation of Subsection
2606 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2607 provided for in Subsection (1).

2608 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2609 those cities and towns according to the amount of revenue the respective cities and towns
2610 generate in that year through imposition of that tax.

2611 (3) To impose an additional resort communities sales tax under this section, the
2612 governing body of the municipality shall:

2613 (a) pass a resolution approving the tax; and

2614 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2615 in Subsection (4).

2616 (4) To obtain voter approval for an additional resort communities sales tax under
2617 Subsection (3)(b), a municipality shall:

2618 (a) hold the additional resort communities sales tax election during:

2619 (i) a regular general election; or

2620 (ii) a municipal general election; and

2621 (b) publish notice of the election:

2622 (i) 15 days or more before the day on which the election is held; and

2623 (ii) (A) in a newspaper of general circulation in the municipality; and

2624 (B) as required in Section 45-1-101.

2625 (5) An ordinance approving an additional resort communities sales tax under this
2626 section shall provide an effective date for the tax as provided in Section 59-12-403.

2627 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2628 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2629 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to

2630 Section 10-1-203.

2631 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2632 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2633 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2634 (7) A military installation development authority authorized to impose a resort
2635 communities tax under Section 59-12-401 may not impose an additional resort communities
2636 sales tax under this section.

2637 Section 12. Section **59-12-703** is amended to read:

2638 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
2639 **tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2640 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
2641 that county, by majority vote of all members of the legislative body, so that each resident of the
2642 county, except residents in municipalities that have already imposed a sales and use tax under
2643 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
2644 Organizations or Facilities, has an opportunity to express the resident's opinion on the
2645 imposition of a local sales and use tax of .1% on the transactions described in Subsection
2646 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
2647 cultural, and zoological organizations, and rural radio stations, in that county.

2648 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
2649 tax under this section on:

2650 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2651 are exempt from taxation under Section 59-12-104; or

2652 (B) sales and uses within municipalities that have already imposed a sales and use tax
2653 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
2654 Zoological Organizations or Facilities[~~;~~~~and~~].

2655 [~~(C) except as provided in Subsection (1)(c), amounts paid or charged for food and~~
2656 ~~food ingredients.~~]

2657 (b) For purposes of this Subsection (1), the location of a transaction shall be
2658 determined in accordance with Sections 59-12-211 through 59-12-215.

2659 [~~(c) A county legislative body imposing a tax under this section shall impose the tax on~~
2660 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~

2661 as part of a bundled transaction attributable to food and food ingredients and tangible personal
2662 property other than food and food ingredients.]

2663 ~~[(d)]~~ (c) The election shall follow the procedures outlined in Title 11, Chapter 14,
2664 Local Government Bonding Act.

2665 (2) (a) If the county legislative body determines that a majority of the county's
2666 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2667 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
2668 majority vote of all members of the legislative body on the transactions:

2669 (i) described in Subsection (1); and

2670 (ii) within the county, including the cities and towns located in the county, except those
2671 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
2672 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
2673 Facilities.

2674 (b) A county legislative body may revise county ordinances to reflect statutory changes
2675 to the distribution formula or eligible recipients of revenues generated from a tax imposed
2676 under Subsection (2)(a):

2677 (i) after the county legislative body submits an opinion question to residents of the
2678 county in accordance with Subsection (1) giving them the opportunity to express their opinion
2679 on the proposed revisions to county ordinances; and

2680 (ii) if the county legislative body determines that a majority of those voting on the
2681 opinion question have voted in favor of the revisions.

2682 (3) The money generated from any tax imposed under Subsection (2) shall be used for
2683 funding:

2684 (a) recreational and zoological facilities located within the county or a city or town
2685 located in the county, except a city or town that has already imposed a sales and use tax under
2686 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
2687 Organizations or Facilities; and

2688 (b) ongoing operating expenses of:

2689 (i) recreational facilities described in Subsection (3)(a);

2690 (ii) botanical, cultural, and zoological organizations within the county; and

2691 (iii) rural radio stations within the county.

2692 (4) (a) A tax authorized under this part shall be:
2693 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2694 accordance with:
2695 (A) the same procedures used to administer, collect, and enforce the tax under:
2696 (I) Part 1, Tax Collection; or
2697 (II) Part 2, Local Sales and Use Tax Act; and
2698 (B) Chapter 1, General Taxation Policies; and
2699 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2700 period in accordance with this section.
2701 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
2702 Subsections 59-12-205(2) through (6).
2703 (5) (a) For purposes of this Subsection (5):
2704 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
2705 ~~[Annexation to County]~~ Part 2, County Annexation.
2706 (ii) "Annexing area" means an area that is annexed into a county.
2707 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2708 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
2709 (A) on the first day of a calendar quarter; and
2710 (B) after a 90-day period beginning on the date the commission receives notice meeting
2711 the requirements of Subsection (5)(b)(ii) from the county.
2712 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
2713 (A) that the county will enact or repeal a tax under this part;
2714 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
2715 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
2716 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
2717 tax.
2718 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:
2719 (A) that begins after the effective date of the enactment of the tax; and
2720 (B) if the billing period for the transaction begins before the effective date of the
2721 enactment of the tax under this section.
2722 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

2723 (A) that began before the effective date of the repeal of the tax; and
2724 (B) if the billing period for the transaction begins before the effective date of the repeal
2725 of the tax imposed under this section.

2726 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2727 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2728 Subsection (5)(b)(i) takes effect:

2729 (A) on the first day of a calendar quarter; and
2730 (B) beginning 60 days after the effective date of the enactment or repeal under
2731 Subsection (5)(b)(i).

2732 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2733 commission may by rule define the term "catalogue sale."

2734 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2735 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
2736 part for an annexing area, the enactment or repeal shall take effect:

2737 (A) on the first day of a calendar quarter; and
2738 (B) after a 90-day period beginning on the date the commission receives notice meeting
2739 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

2740 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

2741 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
2742 repeal of a tax under this part for the annexing area;

2743 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
2744 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
2745 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

2746 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

2747 (A) that begins after the effective date of the enactment of the tax; and
2748 (B) if the billing period for the transaction begins before the effective date of the
2749 enactment of the tax under this section.

2750 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

2751 (A) that began before the effective date of the repeal of the tax; and
2752 (B) if the billing period for the transaction begins before the effective date of the repeal
2753 of the tax imposed under this section.

2754 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2755 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2756 Subsection (5)(e)(i) takes effect:

2757 (A) on the first day of a calendar quarter; and

2758 (B) beginning 60 days after the effective date of the enactment or repeal under
2759 Subsection (5)(e)(i).

2760 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2761 commission may by rule define the term "catalogue sale."

2762 Section 13. Section **59-12-802** is amended to read:

2763 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
2764 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**

2765 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
2766 may impose a sales and use tax of up to 1%:

2767 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
2768 and

2769 (ii) subject to Subsection (3), to fund:

2770 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
2771 that county; or

2772 (B) for a county of the sixth class:

2773 (I) emergency medical services in that county;

2774 (II) federally qualified health centers in that county;

2775 (III) freestanding urgent care centers in that county;

2776 (IV) rural county health care facilities in that county;

2777 (V) rural health clinics in that county; or

2778 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

2779 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
2780 tax under this section on:

2781 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2782 are exempt from taxation under Section 59-12-104; or

2783 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
2784 a city that imposes a tax under Section 59-12-804[~~;~~and].

2785 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
2786 ~~food ingredients.]~~

2787 (c) For purposes of this Subsection (1), the location of a transaction shall be
2788 determined in accordance with Sections 59-12-211 through 59-12-215.

2789 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~
2790 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
2791 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
2792 ~~property other than food and food ingredients.]~~

2793 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
2794 obtain approval to impose the tax from a majority of the:

2795 (i) members of the county's legislative body; and

2796 (ii) county's registered voters voting on the imposition of the tax.

2797 (b) The county legislative body shall conduct the election according to the procedures
2798 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

2799 (3) (a) The money generated by a tax imposed under Subsection (1) by a county
2800 legislative body of a county of the third, fourth, or fifth class may only be used for the
2801 financing of:

2802 (i) ongoing operating expenses of a rural county health care facility within that county;

2803 (ii) the acquisition of land for a rural county health care facility within that county; or

2804 (iii) the design, construction, equipping, or furnishing of a rural county health care
2805 facility within that county.

2806 (b) The money generated by a tax imposed under Subsection (1) by a county of the
2807 sixth class may only be used for the financing of:

2808 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
2809 (1)(a)(ii)(B) within that county;

2810 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
2811 (1)(a)(ii)(B) within that county;

2812 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
2813 described in Subsection (1)(a)(ii)(B) within that county; or

2814 (iv) the provision of rural emergency medical services within that county.

2815 (4) (a) A tax under this section shall be:

2816 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2817 accordance with:

2818 (A) the same procedures used to administer, collect, and enforce the tax under:

2819 (I) Part 1, Tax Collection; or

2820 (II) Part 2, Local Sales and Use Tax Act; and

2821 (B) Chapter 1, General Taxation Policies; and

2822 (ii) levied for a period of 10 years and may be reauthorized at the end of the ~~[ten-year]~~
2823 10-year period by the county legislative body as provided in Subsection (1).

2824 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
2825 Subsections 59-12-205(2) through (6).

2826 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
2827 under this section for the cost of administering this tax.

2828 Section 14. Section **59-12-804** is amended to read:

2829 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
2830 **collection, and enforcement of tax.**

2831 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

2832 (i) on the transactions described in Subsection 59-12-103(1) located within the city;
2833 and

2834 (ii) to fund rural city hospitals in that city.

2835 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
2836 under this section on~~[-(i)]~~ the sales and uses described in Section 59-12-104 to the extent the
2837 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

2838 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
2839 ~~food ingredients.]~~

2840 (c) For purposes of this Subsection (1), the location of a transaction shall be
2841 determined in accordance with Sections 59-12-211 through 59-12-215.

2842 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on~~
2843 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
2844 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
2845 ~~property other than food and food ingredients.]~~

2846 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall

2847 obtain approval to impose the tax from a majority of the:

2848 (i) members of the city legislative body; and

2849 (ii) city's registered voters voting on the imposition of the tax.

2850 (b) The city legislative body shall conduct the election according to the procedures and
2851 requirements of Title 11, Chapter 14, Local Government Bonding Act.

2852 (3) The money generated by a tax imposed under Subsection (1) may only be used for
2853 the financing of:

2854 (a) ongoing operating expenses of a rural city hospital;

2855 (b) the acquisition of land for a rural city hospital; or

2856 (c) the design, construction, equipping, or furnishing of a rural city hospital.

2857 (4) (a) A tax under this section shall be:

2858 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2859 accordance with:

2860 (A) the same procedures used to administer, collect, and enforce the tax under:

2861 (I) Part 1, Tax Collection; or

2862 (II) Part 2, Local Sales and Use Tax Act; and

2863 (B) Chapter 1, General Taxation Policies; and

2864 (ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten-year~~]
2865 10-year period by the city legislative body as provided in Subsection (1).

2866 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
2867 Subsections 59-12-205(2) through (6).

2868 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
2869 under this section for the cost of administering the tax.

2870 Section 15. Section **59-12-1302** is amended to read:

2871 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
2872 **rate change -- Effective date -- Notice requirements.**

2873 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
2874 tax as provided in this part in an amount that does not exceed 1%.

2875 (2) A town may impose a tax as provided in this part if the town imposed a license fee
2876 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
2877 1996.

2878 (3) A town imposing a tax under this section shall:
2879 (a) except as provided in Subsection (4), impose the tax on the transactions described
2880 in Subsection 59-12-103(1) located within the town; and
2881 (b) provide an effective date for the tax as provided in Subsection (5).
2882 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
2883 section on~~[(+)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and
2884 uses are exempt from taxation under Section 59-12-104~~[-, and]~~.
2885 ~~[(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and~~
2886 ~~food ingredients.]~~
2887 (b) For purposes of this Subsection (4), the location of a transaction shall be
2888 determined in accordance with Sections 59-12-211 through 59-12-215.
2889 ~~[(c) A town imposing a tax under this section shall impose the tax on amounts paid or~~
2890 ~~charged for food and food ingredients if the food and food ingredients are sold as part of a~~
2891 ~~bundled transaction attributable to food and food ingredients and tangible personal property~~
2892 ~~other than food and food ingredients.]~~
2893 (5) (a) For purposes of this Subsection (5):
2894 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
2895 Annexation.
2896 (ii) "Annexing area" means an area that is annexed into a town.
2897 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2898 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
2899 or change shall take effect:
2900 (A) on the first day of a calendar quarter; and
2901 (B) after a 90-day period beginning on the date the commission receives notice meeting
2902 the requirements of Subsection (5)(b)(ii) from the town.
2903 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
2904 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;
2905 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
2906 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
2907 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
2908 (5)(b)(ii)(A), the rate of the tax.

2909 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
2910 the first billing period:

2911 (A) that begins after the effective date of the enactment of the tax or the tax rate
2912 increase; and

2913 (B) if the billing period for the transaction begins before the effective date of the
2914 enactment of the tax or the tax rate increase imposed under Subsection (1).

2915 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2916 billing period:

2917 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2918 and

2919 (B) if the billing period for the transaction begins before the effective date of the repeal
2920 of the tax or the tax rate decrease imposed under Subsection (1).

2921 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2922 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
2923 a tax described in Subsection (5)(b)(i) takes effect:

2924 (A) on the first day of a calendar quarter; and

2925 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2926 rate of the tax under Subsection (5)(b)(i).

2927 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2928 commission may by rule define the term "catalogue sale."

2929 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2930 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
2931 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2932 effect:

2933 (A) on the first day of a calendar quarter; and

2934 (B) after a 90-day period beginning on the date the commission receives notice meeting
2935 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

2936 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

2937 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
2938 repeal, or change in the rate of a tax under this part for the annexing area;

2939 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

2940 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
2941 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
2942 (5)(e)(ii)(A), the rate of the tax.

2943 (f) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
2944 the first billing period:

2945 (A) that begins after the effective date of the enactment of the tax or the tax rate
2946 increase; and

2947 (B) if the billing period for the transaction begins before the effective date of the
2948 enactment of the tax or the tax rate increase imposed under Subsection (1).

2949 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2950 billing period:

2951 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2952 and

2953 (B) if the billing period for the transaction begins before the effective date of the repeal
2954 of the tax or the tax rate decrease imposed under Subsection (1).

2955 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2956 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
2957 a tax described in Subsection (5)(e)(i) takes effect:

2958 (A) on the first day of a calendar quarter; and

2959 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2960 rate of the tax under Subsection (5)(e)(i).

2961 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2962 commission may by rule define the term "catalogue sale."

2963 (6) The commission shall:

2964 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
2965 under this section to the town imposing the tax;

2966 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
2967 authorized under this section in accordance with:

2968 (i) the same procedures used to administer, collect, and enforce the tax under:

2969 (A) Part 1, Tax Collection; or

2970 (B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies; and

(c) deduct from the distribution under Subsection (6)(a) an administrative charge for collecting the tax as provided in Section 59-12-206.

(7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

Section 16. Section **59-12-1402** is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to fund recreational and zoological facilities and botanical, cultural, and zoological organizations in that city or town.

(ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not impose a tax under this section:

(A) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104[~~;~~and].

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

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

~~[(c) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.]~~

~~[(d)]~~ (c) The election shall be held at a regular general election or a municipal general

election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in Subsection (6).

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) The money generated from any tax imposed under Subsection (2) shall be used for financing:

(a) recreational and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational or zoological facilities; and

(b) ongoing operating expenses of botanical, cultural, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical, cultural, or zoological organizations.

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

3033 (ii) "Annexing area" means an area that is annexed into a city or town.

3034 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city

3035 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3036 (A) on the first day of a calendar quarter; and

3037 (B) after a 90-day period beginning on the date the commission receives notice meeting

3038 the requirements of Subsection (5)(b)(ii) from the city or town.

3039 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3040 (A) that the city or town will enact or repeal a tax under this part;

3041 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3042 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3043 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of

3044 the tax.

3045 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3046 (A) that begins after the effective date of the enactment of the tax; and

3047 (B) if the billing period for the transaction begins before the effective date of the

3048 enactment of the tax under this section.

3049 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3050 (A) that began before the effective date of the repeal of the tax; and

3051 (B) if the billing period for the transaction begins before the effective date of the repeal

3052 of the tax imposed under this section.

3053 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

3054 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

3055 Subsection (5)(b)(i) takes effect:

3056 (A) on the first day of a calendar quarter; and

3057 (B) beginning 60 days after the effective date of the enactment or repeal under

3058 Subsection (5)(b)(i).

3059 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3060 commission may by rule define the term "catalogue sale."

3061 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs

3062 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

3063 part for an annexing area, the enactment or repeal shall take effect:

3064 (A) on the first day of a calendar quarter; and

3065 (B) after a 90-day period beginning on the date the commission receives notice meeting

3066 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3067 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3068 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or

3069 repeal a tax under this part for the annexing area;

3070 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3071 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3072 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3073 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3074 (A) that begins after the effective date of the enactment of the tax; and

3075 (B) if the billing period for the transaction begins before the effective date of the

3076 enactment of the tax under this section.

3077 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3078 (A) that began before the effective date of the repeal of the tax; and

3079 (B) if the billing period for the transaction begins before the effective date of the repeal

3080 of the tax imposed under this section.

3081 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

3082 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in

3083 Subsection (5)(e)(i) takes effect:

3084 (A) on the first day of a calendar quarter; and

3085 (B) beginning 60 days after the effective date of the enactment or repeal under

3086 Subsection (5)(e)(i).

3087 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3088 commission may by rule define the term "catalogue sale."

3089 (6) (a) Before a city or town legislative body submits an opinion question to the

3090 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

3091 (i) submit to the county legislative body in which the city or town is located a written

3092 notice of the intent to submit the opinion question to the residents of the city or town; and

3093 (ii) receive from the county legislative body:

3094 (A) a written resolution passed by the county legislative body stating that the county

3095 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
3096 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3097 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
3098 opinion question submitted to the residents of the county under Part 7, County Option Funding
3099 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
3100 or town legislative body to submit the opinion question to the residents of the city or town in
3101 accordance with this part.

3102 (b) (i) Within 60 days after the day the county legislative body receives from a city or
3103 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
3104 opinion question to the residents of the city or town, the county legislative body shall provide
3105 the city or town legislative body:

3106 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

3107 (B) written notice that the county legislative body will submit an opinion question to
3108 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
3109 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
3110 that part.

3111 (ii) If the county legislative body provides the city or town legislative body the written
3112 notice that the county legislative body will submit an opinion question as provided in
3113 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
3114 later than, from the date the county legislative body sends the written notice, the later of:

3115 (A) a 12-month period;

3116 (B) the next regular primary election; or

3117 (C) the next regular general election.

3118 (iii) Within 30 days of the date of the canvass of the election at which the opinion
3119 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
3120 city or town legislative body described in Subsection (6)(a) written results of the opinion
3121 question submitted by the county legislative body under Part 7, County Option Funding for
3122 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

3123 (A) (I) the city or town legislative body may not impose a tax under this part because a
3124 majority of the county's registered voters voted in favor of the county imposing the tax and the
3125 county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

Section 17. Section **59-12-2003** is amended to read:

59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public transit districts.

(1) Subject to the other provisions of this section and except as provided in Subsection (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated area of a county of the first or second class if, on January 1, 2008, there is a public transit district within any portion of that county of the first or second class.

(2) The state may not impose a tax under this part within a county of the first or second class if within all of the cities, towns, and the unincorporated area of the county of the first or second class there is imposed on and after July 1, 2011, a sales and use tax of:

(a) [~~.30%~~] .27% under Section 59-12-2213;

(b) [~~.30%~~] .27% under Section 59-12-2215; or

(c) [~~.30%~~] .27% under Section 59-12-2216.

(3) (a) Subject to Subsection (3)(b), beginning on July 1, 2011, if the state imposes a

3157 tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a
3158 county of the first or second class is a percentage equal to the difference between:

3159 (i) [~~.30%~~;] .27% and

3160 (ii) (A) for a city within the county of the first or second class, the highest tax rate
3161 imposed within that city under:

3162 (I) Section 59-12-2213;

3163 (II) Section 59-12-2215; or

3164 (III) Section 59-12-2216;

3165 (B) for a town within the county of the first or second class, the highest tax rate
3166 imposed within that town under:

3167 (I) Section 59-12-2213;

3168 (II) Section 59-12-2215; or

3169 (III) Section 59-12-2216; or

3170 (C) for the unincorporated area of the county of the first or second class, the highest tax
3171 rate imposed within that unincorporated area under:

3172 (I) Section 59-12-2213;

3173 (II) Section 59-12-2215; or

3174 (III) Section 59-12-2216.

3175 (b) For purposes of Subsection (3)(a), if, on and after July 1, 2011, for a city, town, or
3176 the unincorporated area of a county of the first or second class, the highest tax rate imposed
3177 under Section 59-12-2213, 59-12-2215, or 59-12-2216 within that city, town, or
3178 unincorporated area of the county of the first or second class is [~~.30%~~] .27%, the state may not
3179 impose a tax under this part within that city, town, or unincorporated area.

3180 (4) [~~(a)~~] The state may not impose a tax under this part on[~~:(i)~~] the sales and uses
3181 described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under
3182 Section 59-12-104[~~;-or~~].

3183 [~~(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and~~
3184 ~~food ingredients.~~]

3185 [~~(b) The state shall impose a tax under this part on amounts paid or charged for food~~
3186 ~~and food ingredients if the food and food ingredients are sold as part of a bundled transaction~~
3187 ~~attributable to food and ingredients and tangible personal property other than food and food~~

3188 ingredients.]

3189 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
3190 accordance with Sections 59-12-211 through 59-12-215.

3191 (6) The commission shall distribute the revenues the state collects from the sales and
3192 use tax under this part, after subtracting amounts a seller retains in accordance with Section
3193 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3194 (a) within which the state imposes a tax under this part; and

3195 (b) in proportion to the revenues collected from the sales and use tax under this part
3196 within each city, town, and unincorporated area within which the state imposes a tax under this
3197 part.

3198 Section 18. Section **59-12-2103** is amended to read:

3199 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
3200 **from the tax -- Administration, collection, and enforcement of tax by commission --**
3201 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

3202 (1) (a) Subject to the other provisions of this section and except as provided in
3203 Subsection (2), beginning on January 1, 2009, and ending on June 30, 2016, if a city or town
3204 receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or
3205 town would have received a tax revenue distribution of less than .75% of the taxable sales
3206 within the boundaries of the city or town but for Subsection 59-12-205(3)(a), the city or town
3207 legislative body may impose a sales and use tax of up to .20% on the transactions:

3208 (i) described in Subsection 59-12-103(1); and

3209 (ii) within the city or town.

3210 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
3211 expend the revenues collected from the tax for the same purposes for which the city or town
3212 may expend the city's or town's general fund revenues.

3213 (c) For purposes of this Subsection (1), the location of a transaction shall be
3214 determined in accordance with Sections 59-12-211 through 59-12-215.

3215 (2) ~~[(a)]~~ A city or town legislative body may not impose a tax under this section on[:
3216 ~~(i)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3217 exempt from taxation under Section 59-12-104~~[-and].~~

3218 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~

3219 ~~food ingredients.]~~

3220 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the~~
3221 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
3222 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
3223 ~~personal property other than food and food ingredients.]~~

3224 (3) To impose a tax under this part, a city or town legislative body shall obtain
3225 approval from a majority of the members of the city or town legislative body.

3226 (4) The commission shall transmit revenues collected within a city or town from a tax
3227 under this part:

3228 (a) to the city or town legislative body;

3229 (b) monthly; and

3230 (c) by electronic funds transfer.

3231 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
3232 collect, and enforce a tax under this part in accordance with:

3233 (i) the same procedures used to administer, collect, and enforce the tax under:

3234 (A) Part 1, Tax Collection; or

3235 (B) Part 2, Local Sales and Use Tax Act; and

3236 (ii) Chapter 1, General Taxation Policies.

3237 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

3238 (6) (a) The commission may retain an amount of tax collected under this part of not to
3239 exceed the lesser of:

3240 (i) 1.5%; or

3241 (ii) an amount equal to the cost to the commission of administering this part.

3242 (b) Any amount the commission retains under Subsection (6)(a) shall be:

3243 (i) deposited into the Sales and Use Tax Administrative Fees Account; and

3244 (ii) used as provided in Subsection 59-12-206(2).

3245 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
3246 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
3247 repeal, or change shall take effect:

3248 (A) on the first day of a calendar quarter; and

3249 (B) after a 90-day period beginning on the date the commission receives notice meeting

3250 the requirements of Subsection (7)(a)(~~(i)~~)(ii) from the city or town.

3251 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

3252 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
3253 this part;

3254 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

3255 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

3256 (D) if the city or town enacts the tax or changes the rate of the tax described in
3257 Subsection (7)(a)(ii)(A), the rate of the tax.

3258 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
3259 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
3260 take effect on the first day of the first billing period that begins after the effective date of the
3261 enactment of the tax or the tax rate increase.

3262 (ii) If the billing period for a transaction begins before the effective date of the repeal
3263 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
3264 decrease shall take effect on the first day of the last billing period that began before the
3265 effective date of the repeal of the tax or the tax rate decrease.

3266 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3267 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3268 described in Subsection (7)(a)(i) takes effect:

3269 (A) on the first day of a calendar quarter; and

3270 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3271 rate of the tax under Subsection (7)(a)(i).

3272 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3273 commission may by rule define the term "catalogue sale."

3274 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
3275 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
3276 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3277 effect:

3278 (A) on the first day of a calendar quarter; and

3279 (B) after a 90-day period beginning on the date the commission receives notice meeting
3280 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3281 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3282 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
3283 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3284 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3285 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3286 (D) if the city or town enacts the tax or changes the rate of the tax described in
3287 Subsection (7)(d)(ii)(A), the rate of the tax.

3288 (e) (i) If the billing period for a transaction begins before the effective date of the
3289 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
3290 rate increase shall take effect on the first day of the first billing period that begins after the
3291 effective date of the enactment of the tax or the tax rate increase.

3292 (ii) If the billing period for a transaction begins before the effective date of the repeal
3293 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
3294 decrease shall take effect on the first day of the last billing period that began before the
3295 effective date of the repeal of the tax or the tax rate decrease.

3296 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3297 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3298 described in Subsection (7)(d)(i) takes effect:

3299 (A) on the first day of a calendar quarter; and

3300 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
3301 Subsection (7)(d)(i).

3302 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3303 commission may by rule define the term "catalogue sale".

3304 Section 19. Section **59-12-2204** is amended to read:

3305 **59-12-2204. Transactions that may not be subject to taxation under this part.**

3306 ~~[(1)]~~ A county, city, or town may not impose a sales and use tax under this part on:
3307 ~~(a)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3308 exempt from taxation under Section 59-12-104~~[-and]~~.

3309 ~~[(b) except as provided in Subsection (2), amounts paid or charged for food and food~~
3310 ~~ingredients.]~~

3311 ~~[(2) A county, city, or town imposing a sales and use tax under this part shall impose~~

~~the sales and use tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.]~~

Section 20. Section **59-12-2213** is amended to read:

59-12-2213. County, city, or town option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax under this section of up to:

[(1)] (a) for a county, city, or town other than a county, city, or town described in Subsection [(2)] (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town to fund a system for public transit; or

[(2)] (b) except as provided in Subsection (2), for a county, city, or town within which a tax is not imposed under Section 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a system for public transit.

(2) (a) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(b) is a tax rate of up to .27%.

(b) Notwithstanding the notice requirements of Section 59-12-2209, a county, city, or town is not required to provide notice to the commission of a tax rate decrease made in accordance with Subsection (2)(a).

Section 21. Section **59-12-2215** is amended to read:

59-12-2215. City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.

(1) [Subject] (a) Except as provided in Subsection (1)(b) and subject to the other provisions of this part, a city or town may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) (i) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(a) is a tax rate of up to .27%.

(ii) Notwithstanding the notice requirements of Section 59-12-2209, a city or town is not required to provide notice to the commission of a tax rate decrease made in accordance with Subsection (1)(b)(i).

(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;

(b) to fund a system for public transit; or

(c) for a combination of Subsections (2)(a) and (b).

Section 22. Section **59-12-2216** is amended to read:

59-12-2216. County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.

(1) ~~[Subject]~~ (a) Except as provided in Subsection (1)(b), and subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(b) (i) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(a) is a tax rate of up to .27%.

(ii) Notwithstanding the notice requirements of Section 59-12-2209, a county is not required to provide notice to the commission of a tax rate decrease made in accordance with Subsection (1)(b)(i).

(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:

(a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;

(b) a project or service relating to a system for public transit, except for a fixed guideway, for the portion of the project or service that is performed within the county;

(c) the following relating to a state highway within the county:

(i) a project within the county if the project:

(A) begins on or after the day on which a county legislative body imposes a tax under this section; and

3374 (B) involves an environmental study, an improvement, new construction, or a
3375 renovation;

3376 (ii) debt service on a project described in Subsection (2)(c)(i); or
3377 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or
3378 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
3379 to a highway that is:

3380 (i) a principal arterial highway or minor arterial highway;
3381 (ii) included in a metropolitan planning organization's regional transportation plan; and
3382 (iii) not a state highway.

3383 (3) A county legislative body shall in the resolution described in Subsection (2)
3384 allocate 100% of the revenues the county will receive from the sales and use tax under this
3385 section for one or more of the purposes described in Subsection (2).

3386 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section
3387 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
3388 section.

3389 (5) The revenues collected from a sales and use tax under this section shall be:

3390 (a) allocated in accordance with the allocations specified in the resolution under
3391 Subsection (2); and

3392 (b) expended as provided in this section.

3393 (6) If a county legislative body allocates revenues collected from a sales and use tax
3394 under this section for a state highway project described in Subsection (2)(c)(i), before
3395 beginning the state highway project within the county, the county legislative body shall:

3396 (a) obtain approval from the Transportation Commission to complete the project; and
3397 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter
3398 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

3399 (7) If after a county legislative body imposes a sales and use tax under this section the
3400 county legislative body seeks to change an allocation specified in the resolution under
3401 Subsection (2), the county legislative body may change the allocation by:

3402 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage
3403 of revenues the county will receive from the sales and use tax under this section that will be
3404 allocated to fund one or more of the items described in Subsection (2);

3405 (b) obtaining approval to change the allocation of the sales and use tax by a majority of
3406 all of the members of the county legislative body; and

3407 (c) subject to Subsection (8):

3408 (i) in accordance with Section 59-12-2208, submitting an opinion question to the
3409 county's registered voters voting on changing the allocation so that each registered voter has the
3410 opportunity to express the registered voter's opinion on whether the allocation should be
3411 changed; and

3412 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation
3413 from a majority of the county's registered voters voting on changing the allocation.

3414 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
3415 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
3416 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
3417 (7)(b).

3418 (9) Revenues collected from a sales and use tax under this section that a county
3419 allocates for a purpose described in Subsection (2)(c) shall be:

3420 (a) deposited into the Highway Projects Within Counties Fund created by Section
3421 72-2-121.1; and

3422 (b) expended as provided in Section 72-2-121.1.

3423 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),
3424 revenues collected from a sales and use tax under this section that a county allocates for a
3425 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation
3426 if the transfer of the revenues is required under an interlocal agreement:

3427 (i) entered into on or before January 1, 2010; and

3428 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

3429 (b) The Department of Transportation shall expend the revenues described in
3430 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

3431 **Section 23. Repealer.**

3432 This bill repeals:

3433 **Section 26-9-4, Rural Health Care Facilities Account -- Source of revenues --**

3434 **Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues**

3435 **lapse into the General Fund.**

3436 Section 24. **Effective date.**

3437 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

3438 (2) The amendments to Section 59-10-1025 take effect for a taxable year beginning on

3439 or after January 1, 2012.

FISCAL NOTE

H.B. 282 1st Sub. (Buff)

SHORT TITLE: Sales and Use Tax and Income Tax Amendments

SPONSOR: McIlff, K.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

This bill increases General Fund revenue to by \$15,631,600 in FY 2012 and \$10,491,800 in FY 2013. Due to the 5% nonrefundable Earned Income Tax Credit (EITC), this bill decreases revenue to the Education Fund by \$13,500,000 in FY 2012 and \$14,269,500 in FY 2013. The bill authorizes a transfer to the Education Fund from the General Fund in an amount equal to the EITC revenue impact.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$10,491,800	\$10,491,800
General Fund, One-Time	\$0	\$5,139,800	\$0
Education Fund	\$0	(\$14,269,500)	(\$14,269,500)
Education Fund, One-Time	\$0	\$769,500	\$0
Total Revenue	\$0	\$2,131,600	(\$3,777,700)
Expenditure:			
General Fund	\$0	(\$14,269,500)	(\$14,269,500)
General Fund, One-Time	\$0	\$769,500	\$0
Education Fund	\$0	\$14,269,500	\$14,269,500
Education Fund, One-Time	\$0	(\$769,500)	\$0
Total Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$2,131,600	(\$3,777,700)
Net Impact, General/Education Funds	\$0	\$2,131,600	(\$3,777,700)

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Certain local entities that saw an increase in revenue from the bifurcation of the food/nonfood bases will not see an increase in revenue. Local governments that saw a decrease in revenue from the food/nonfood base bifurcation are expected to see an increase in sales tax revenue of \$17.6 million in FY 2012 and \$18.8 million in FY 2013.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

By decreasing the general sales tax rate and increasing the food tax rate, this bill shifts the tax burden from non-food purchases to food purchases. About 180,000 individuals qualifying for the federal EITC will now qualify for a nonrefundable state EITC equal to 5% of the federal EITC, reducing income tax liability by \$13,500,000 in FY 2012 and \$14,269,500 in FY 2013. Businesses are expected to see a decrease in the cost of complying with the sales tax statute by a minimum of \$1,000,000 annually.