

Senator Howard A. Stephenson proposes the following substitute bill:

SALES AND USE TAX AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Daniel McCay

Cosponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill creates sales and use tax exemptions relating to a purchase or lease of machinery, equipment, normal operating repair or replacement parts, and materials.

Highlighted Provisions:

This bill:

- ▶ amends sales and use tax definitions;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of materials, except office equipment and office supplies, by a manufacturing facility, certain mining establishments, or a web search portal that are used or consumed in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except office



25 equipment or office supplies, by a medical laboratory;

26 ▶ makes the expansion of the exemption for a manufacturing facility, certain mining
27 operations, or a web search portal and the new exemption for a medical laboratory
28 effective upon the state collecting a certain amount of revenue from remote sales;

29 ▶ modifies the use of revenue in the Remote Sales Restricted Account; and
30 ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill provides a special effective date.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 10-1-405, as last amended by Laws of Utah 2012, Chapter 424

38 19-6-714, as last amended by Laws of Utah 2011, Chapter 297

39 19-6-808, as last amended by Laws of Utah 2011, Chapter 309

40 59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

41 59-12-103.1, as last amended by Laws of Utah 2016, Chapter 135

42 59-12-103.2, as last amended by Laws of Utah 2013, Chapter 150

43 59-12-104.5, as last amended by Laws of Utah 2017, Chapter 268

44 59-12-106, as last amended by Laws of Utah 2011, Chapter 285

45 59-12-107, as last amended by Laws of Utah 2017, Chapter 430

46 59-12-204, as last amended by Laws of Utah 2014, Chapter 258

47 59-12-401, as last amended by Laws of Utah 2017, Chapter 422

48 59-12-402, as last amended by Laws of Utah 2017, Chapter 422

49 59-12-402.1, as last amended by Laws of Utah 2017, Chapter 422

50 59-12-703, as last amended by Laws of Utah 2017, Chapters 181 and 422

51 59-12-802, as last amended by Laws of Utah 2017, Chapter 422

52 59-12-804, as last amended by Laws of Utah 2017, Chapter 422

53 59-12-1102, as last amended by Laws of Utah 2016, Chapter 364

54 59-12-1302, as last amended by Laws of Utah 2017, Chapter 422

55 59-12-1402, as last amended by Laws of Utah 2017, Chapter 422

56 [59-12-1802](#), as last amended by Laws of Utah 2008, Chapter 384
 57 [59-12-2003](#), as last amended by Laws of Utah 2017, Chapter 422
 58 [59-12-2103](#), as last amended by Laws of Utah 2017, Chapter 422
 59 [59-12-2204](#), as last amended by Laws of Utah 2017, Chapter 422
 60 [63I-2-210](#), as last amended by Laws of Utah 2017, Chapters 181 and further amended
 61 by Revisor Instructions, Laws of Utah 2017, Chapters 448, 448, 452 and last
 62 amended by Coordination Clause, Laws of Utah 2017, Chapter 448
 63 [63I-2-259](#), as last amended by Laws of Utah 2017, Chapter 181

64 ENACTS:

65 [59-12-104.8](#), Utah Code Annotated 1953

66 REPEALS:

67 [59-12-104.7](#), as enacted by Laws of Utah 2017, Chapter 268

68 [63N-1-302](#), as enacted by Laws of Utah 2017, Chapter 268



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

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

72 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
 73 **Administrative charge -- Rulemaking authority.**

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

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

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

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

81 (A) except for:

82 (I) Subsection [59-12-103\(2\)\(i\)](#);

83 (II) Section [59-12-104](#);

84 (III) Section [59-12-104.1](#);

85 (IV) Section [59-12-104.2](#);

86 (V) Section [59-12-104.3](#);

87 (VI) Section 59-12-104.8;

88 [~~(VI)~~] (VII) Section 59-12-107.1; and

89 [~~(VII)~~] (VIII) Section 59-12-123; and

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

93 (b) a uniform interlocal agreement between the municipality that imposes the
94 municipal telecommunications license tax and the commission:

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

96 (ii) that complies with Subsection (2)(a); and

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

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

100 (i) transmit money collected under this part monthly by electronic funds transfer by the
101 commission to the municipality;

102 (ii) conduct audits of the municipal telecommunications license tax;

103 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306
104 from revenues the commission collects from a tax under this part; and

105 (iv) collect, enforce, and administer the municipal telecommunications license tax
106 authorized under this part pursuant to the same procedures used in the administration,
107 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

108 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
109 commission shall develop a uniform interlocal agreement that meets the requirements of this
110 section.

111 (3) If a telecommunications provider pays a municipal telecommunications license tax
112 to the commission, the telecommunications provider shall pay the municipal
113 telecommunications license tax to the commission:

114 (a) monthly on or before the last day of the month immediately following the last day
115 of the previous month if:

116 (i) the telecommunications provider is required to file a sales and use tax return with
117 the commission monthly under Section 59-12-108; or

118 (ii) the telecommunications provider is not required to file a sales and use tax return
119 under Title 59, Chapter 12, Sales and Use Tax Act; or

120 (b) quarterly on or before the last day of the month immediately following the last day
121 of the previous quarter if the telecommunications provider is required to file a sales and use tax
122 return with the commission quarterly under Section 59-12-108.

123 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
124 telecommunications license tax under this part at a rate that exceeds 3.5%:

125 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
126 shall collect the municipal telecommunications license tax:

127 (i) within the municipality;

128 (ii) at a rate of 3.5%; and

129 (iii) from a telecommunications provider required to pay the municipal
130 telecommunications license tax on or after July 1, 2007; and

131 (b) the commission shall collect a municipal telecommunications license tax within the
132 municipality at the rate imposed by the municipality if:

133 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
134 telecommunications license tax under this part at a rate of up to 3.5%;

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

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

140 Section 2. Section 19-6-714 is amended to read:

141 **19-6-714. Recycling fee on sale of oil.**

142 (1) On and after October 1, 1993, a recycling fee of \$.04 per quart or \$.16 per gallon is
143 imposed upon the first sale in Utah by a lubricating oil vendor of lubricating oil. The
144 lubricating oil vendor shall collect the fee at the time the lubricating oil is sold.

145 (2) A fee under this section may not be collected on sales of lubricating oil:

146 (a) shipped outside the state;

147 (b) purchased in five-gallon or smaller containers and used solely in underground
148 mining operations; or

149 (c) in bulk containers of 55 gallons or more.

150 (3) This fee is in addition to all other state, county, or municipal fees and taxes
151 imposed on the sale of lubricating oil.

152 (4) (a) The exemptions from sales and use tax provided in Section 59-12-104 do not
153 apply to this part.

154 (b) The exemptions from sales and use tax provided in Section 59-12-104.8 do not
155 apply to this part.

156 (5) The commission may make rules to implement and enforce the provisions of this
157 section.

158 Section 3. Section 19-6-808 is amended to read:

159 **19-6-808. Payment of recycling fee -- Administrative charge.**

160 (1) A tire retailer shall pay the recycling fee to the commission:

161 (a) monthly on or before the last day of the month immediately following the last day
162 of the previous month if:

163 (i) the tire retailer is required to file a sales and use tax return with the commission
164 monthly under Section 59-12-108; or

165 (ii) the tire retailer is not required to file a sales and use tax return under Title 59,
166 Chapter 12, Sales and Use Tax Act; or

167 (b) quarterly on or before the last day of the month immediately following the last day
168 of the previous quarter if the tire retailer is required to file a sales and use tax return with the
169 commission quarterly under Section 59-12-108.

170 (2) The payment shall be accompanied by a form prescribed by the commission.

171 (3) (a) The proceeds of the fee shall be transferred by the commission to the fund for
172 payment of partial reimbursement.

173 (b) The commission shall retain and deposit an administrative charge in accordance
174 with Section 59-1-306 from the revenues the commission collects from a fee under Section
175 19-6-805.

176 (4) (a) The commission shall administer, collect, and enforce the fee authorized under
177 this part in accordance with the same procedures used in the administration, collection, and
178 enforcement of the state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
179 and Title 59, Chapter 1, General Taxation Policies.

180 (b) A tire retailer may retain 2-1/2% of the recycling fee collected under this part for
181 the cost of collecting the fee.

182 (c) (i) The exemptions provided in Section 59-12-104 do not apply to this part.

183 (ii) The exemptions from sales and use tax provided in Section 59-12-104.8 do not
184 apply to this part.

185 (5) The fee imposed by this part is in addition to all other state, county, or municipal
186 fees and taxes imposed on the sale of new tires.

187 Section 4. Section 59-12-102 is amended to read:

188 **59-12-102. Definitions.**

189 As used in this chapter:

190 (1) "800 service" means a telecommunications service that:

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

192 (b) is typically marketed:

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

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

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

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

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

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

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

201 (i) a subscriber purchases;

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

204 (A) prerecorded announcement; or

205 (B) live service; and

206 (iii) is typically marketed:

207 (A) under the name 900 service; or

208 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
209 Communications Commission.

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

- 211 (i) a collection service a seller of a telecommunications service provides to a
212 subscriber; or
- 213 (ii) the following a subscriber sells to the subscriber's customer:
- 214 (A) a product; or
- 215 (B) a service.
- 216 (3) (a) "Admission or user fees" includes season passes.
- 217 (b) "Admission or user fees" does not include annual membership dues to private
218 organizations.
- 219 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
220 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
221 Agreement after November 12, 2002.
- 222 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 223 (a) listed under Subsection (6); and
- 224 (b) that are imposed within a local taxing jurisdiction.
- 225 (6) "Agreement sales and use tax" means a tax imposed under:
- 226 (a) Subsection 59-12-103(2)(a)(i)(A);
- 227 (b) Subsection 59-12-103(2)(b)(i);
- 228 (c) Subsection 59-12-103(2)(c)(i);
- 229 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 230 (e) Section 59-12-204;
- 231 (f) Section 59-12-401;
- 232 (g) Section 59-12-402;
- 233 (h) Section 59-12-402.1;
- 234 (i) Section 59-12-703;
- 235 (j) Section 59-12-802;
- 236 (k) Section 59-12-804;
- 237 (l) Section 59-12-1102;
- 238 (m) Section 59-12-1302;
- 239 (n) Section 59-12-1402;
- 240 (o) Section 59-12-1802;
- 241 (p) Section 59-12-2003;

- 242 (q) Section 59-12-2103;
- 243 (r) Section 59-12-2213;
- 244 (s) Section 59-12-2214;
- 245 (t) Section 59-12-2215;
- 246 (u) Section 59-12-2216;
- 247 (v) Section 59-12-2217;
- 248 (w) Section 59-12-2218; or
- 249 (x) Section 59-12-2219.
- 250 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 251 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 252 (a) except for:
- 253 (i) an airline as defined in Section 59-2-102; or
- 254 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 255 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 256 state, of an airline; and
- 257 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 258 whether the business entity performs the following in this state:
- 259 (i) check, diagnose, overhaul, and repair:
- 260 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 261 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 262 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 263 engine;
- 264 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 265 aircraft:
- 266 (A) an inspection;
- 267 (B) a repair, including a structural repair or modification;
- 268 (C) changing landing gear; and
- 269 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 270 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 271 completely apply new paint to the fixed wing turbine powered aircraft; and
- 272 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

273 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
274 authority that certifies the fixed wing turbine powered aircraft.

275 (9) "Alcoholic beverage" means a beverage that:

- 276 (a) is suitable for human consumption; and
- 277 (b) contains .5% or more alcohol by volume.

278 (10) "Alternative energy" means:

- 279 (a) biomass energy;
- 280 (b) geothermal energy;
- 281 (c) hydroelectric energy;
- 282 (d) solar energy;
- 283 (e) wind energy; or
- 284 (f) energy that is derived from:
 - 285 (i) coal-to-liquids;
 - 286 (ii) nuclear fuel;
 - 287 (iii) oil-impregnated diatomaceous earth;
 - 288 (iv) oil sands;
 - 289 (v) oil shale;
 - 290 (vi) petroleum coke; or
 - 291 (vii) waste heat from:
 - 292 (A) an industrial facility; or
 - 293 (B) a power station in which an electric generator is driven through a process in which
 - 294 water is heated, turns into steam, and spins a steam turbine.

295 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
296 facility" means a facility that:

- 297 (i) uses alternative energy to produce electricity; and
- 298 (ii) has a production capacity of two megawatts or greater.
- 299 (b) A facility is an alternative energy electricity production facility regardless of
300 whether the facility is:

- 301 (i) connected to an electric grid; or
- 302 (ii) located on the premises of an electricity consumer.

303 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

304 provision of telecommunications service.

305 (b) "Ancillary service" includes:

306 (i) a conference bridging service;

307 (ii) a detailed communications billing service;

308 (iii) directory assistance;

309 (iv) a vertical service; or

310 (v) a voice mail service.

311 (13) "Area agency on aging" means the same as that term is defined in Section

312 [62A-3-101](#).

313 (14) "Assisted amusement device" means an amusement device, skill device, or ride
314 device that is started and stopped by an individual:

315 (a) who is not the purchaser or renter of the right to use or operate the amusement
316 device, skill device, or ride device; and

317 (b) at the direction of the seller of the right to use the amusement device, skill device,
318 or ride device.

319 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
320 washing of tangible personal property if the cleaning or washing labor is primarily performed
321 by an individual:

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

324 (b) at the direction of the seller of the cleaning or washing of the tangible personal
325 property.

326 (16) "Authorized carrier" means:

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

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

332 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
333 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
334 stock in more than one state.

335 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
336 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

340 (B) animal waste;

341 (C) waste vegetable oil;

342 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
343 wastewater residuals, or through the conversion of a waste material through a nonincineration,
344 thermal conversion process;

345 (E) aquatic plants; and

346 (F) agricultural products.

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

348 (i) black liquor; or

349 (ii) treated woods.

350 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
351 property, products, or services if the tangible personal property, products, or services are:

352 (i) distinct and identifiable; and

353 (ii) sold for one nonitemized price.

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

355 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
356 the basis of the selection by the purchaser of the items of tangible personal property included in
357 the transaction;

358 (ii) the sale of real property;

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

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

361 (A) the tangible personal property:

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

363 (II) is provided exclusively in connection with the service; and

364 (B) the service is the true object of the transaction;

365 (v) the retail sale of two services if:

- 366 (A) one service is provided that is essential to the use or receipt of a second service;
- 367 (B) the first service is provided exclusively in connection with the second service; and
- 368 (C) the second service is the true object of the transaction;

369 (vi) a transaction that includes tangible personal property or a product subject to
370 taxation under this chapter and tangible personal property or a product that is not subject to
371 taxation under this chapter if the:

372 (A) seller's purchase price of the tangible personal property or product subject to
373 taxation under this chapter is de minimis; or

374 (B) seller's sales price of the tangible personal property or product subject to taxation
375 under this chapter is de minimis; and

376 (vii) the retail sale of tangible personal property that is not subject to taxation under
377 this chapter and tangible personal property that is subject to taxation under this chapter if:

378 (A) that retail sale includes:

379 (I) food and food ingredients;

380 (II) a drug;

381 (III) durable medical equipment;

382 (IV) mobility enhancing equipment;

383 (V) an over-the-counter drug;

384 (VI) a prosthetic device; or

385 (VII) a medical supply; and

386 (B) subject to Subsection (18)(f):

387 (I) the seller's purchase price of the tangible personal property subject to taxation under
388 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

389 (II) the seller's sales price of the tangible personal property subject to taxation under
390 this chapter is 50% or less of the seller's total sales price of that retail sale.

391 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
392 service that is distinct and identifiable does not include:

393 (A) packaging that:

394 (I) accompanies the sale of the tangible personal property, product, or service; and

395 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
396 service;

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

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

401 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
402 product, or a service is provided free of charge with the purchase of another item of tangible
403 personal property, a product, or a service if the sales price of the purchased item of tangible
404 personal property, product, or service does not vary depending on the inclusion of the tangible
405 personal property, product, or service provided free of charge.

406 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
407 does not include a price that is separately identified by tangible personal property, product, or
408 service on the following, regardless of whether the following is in paper format or electronic
409 format:

410 (A) a binding sales document; or

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

412 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
413 supporting sales-related document that is available to a purchaser includes:

414 (A) a bill of sale;

415 (B) a contract;

416 (C) an invoice;

417 (D) a lease agreement;

418 (E) a periodic notice of rates and services;

419 (F) a price list;

420 (G) a rate card;

421 (H) a receipt; or

422 (I) a service agreement.

423 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
424 property or a product subject to taxation under this chapter is de minimis if:

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

427 (B) the seller's sales price of the tangible personal property or product is 10% or less of

428 the seller's total sales price of the bundled transaction.

429 (ii) For purposes of Subsection (18)(b)(vi), a seller:

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

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

436 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
437 contract to determine if the sales price of tangible personal property or a product is de minimis.

438 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
439 the seller's purchase price and the seller's sales price to determine if tangible personal property
440 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
441 price of that retail sale.

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

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

446 (i) on a transaction; and

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

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

450 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

451 (20) "Certified service provider" means an agent certified:

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

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

456 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
457 suitable for general use.

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

459 commission shall make rules:

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

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

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

464 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
465 fuels that does not constitute industrial use under Subsection (56) or residential use under
466 Subsection (106).

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

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

472 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
473 Utah Administrative Rulemaking Act, the commission may make rules defining what
474 constitutes a person's place of employment.

475 (c) "Common carrier" does not include a person that provides transportation network
476 services, as defined in Section [13-51-102](#).

477 (25) "Component part" includes:

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

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

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

483 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

491 (28) "Computer software maintenance contract" means a contract that obligates a seller
492 of computer software to provide a customer with:

493 (a) future updates or upgrades to computer software;

494 (b) support services with respect to computer software; or

495 (c) a combination of Subsections (28)(a) and (b).

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

498 (b) "Conference bridging service" may include providing a telephone number as part of
499 the ancillary service described in Subsection (29)(a).

500 (c) "Conference bridging service" does not include a telecommunications service used
501 to reach the ancillary service described in Subsection (29)(a).

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

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

506 (32) (a) "Delivery charge" means a charge:

507 (i) by a seller of:

508 (A) tangible personal property;

509 (B) a product transferred electronically; or

510 (C) services; and

511 (ii) for preparation and delivery of the tangible personal property, product transferred
512 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
513 purchaser.

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

515 (i) transportation;

516 (ii) shipping;

517 (iii) postage;

518 (iv) handling;

519 (v) crating; or

520 (vi) packing.

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

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

524 (a) is intended to supplement the diet;

525 (b) contains one or more of the following dietary ingredients:

526 (i) a vitamin;

527 (ii) a mineral;

528 (iii) an herb or other botanical;

529 (iv) an amino acid;

530 (v) a dietary substance for use by humans to supplement the diet by increasing the total
531 dietary intake; or

532 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
533 described in Subsections (34)(b)(i) through (v);

534 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

535 (A) tablet form;

536 (B) capsule form;

537 (C) powder form;

538 (D) softgel form;

539 (E) gelcap form; or

540 (F) liquid form; or

541 (ii) if the product is not intended for ingestion in a form described in Subsections
542 (34)(c)(i)(A) through (F), is not represented:

543 (A) as conventional food; and

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

545 (I) a meal; or

546 (II) the diet; and

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

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

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

550 (35) "Digital audio-visual work" means a series of related images which, when shown
551 in succession, imparts an impression of motion, together with accompanying sounds, if any.

552 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
553 musical, spoken, or other sounds.

554 (b) "Digital audio work" includes a ringtone.

555 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
556 sense as a book.

557 (38) (a) "Direct mail" means printed material delivered or distributed by United States
558 mail or other delivery service:

559 (i) to:

560 (A) a mass audience; or

561 (B) addressees on a mailing list provided:

562 (I) by a purchaser of the mailing list; or

563 (II) at the discretion of the purchaser of the mailing list; and

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

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

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

569 (39) "Directory assistance" means an ancillary service of providing:

570 (a) address information; or

571 (b) telephone number information.

572 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
573 or supplies that:

574 (i) cannot withstand repeated use; and

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

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

577 (B) a health care provider as defined in Section 78B-3-403;

578 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

579 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

581 (i) a drug;

582 (ii) durable medical equipment;

- 583 (iii) a hearing aid;
- 584 (iv) a hearing aid accessory;
- 585 (v) mobility enhancing equipment; or
- 586 (vi) tangible personal property used to correct impaired vision, including:
- 587 (A) eyeglasses; or
- 588 (B) contact lenses.
- 589 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 590 commission may by rule define what constitutes medical equipment or supplies.
- 591 (41) "Drilling equipment manufacturer" means a facility:
- 592 (a) located in the state;
- 593 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 594 consist of manufacturing component parts of drilling equipment;
- 595 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 596 manufacturing process; and
- 597 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 598 manufacturing process.
- 599 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 600 compound, substance, or preparation that is:
- 601 (i) recognized in:
- 602 (A) the official United States Pharmacopoeia;
- 603 (B) the official Homeopathic Pharmacopoeia of the United States;
- 604 (C) the official National Formulary; or
- 605 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 606 (ii) intended for use in the:
- 607 (A) diagnosis of disease;
- 608 (B) cure of disease;
- 609 (C) mitigation of disease;
- 610 (D) treatment of disease; or
- 611 (E) prevention of disease; or
- 612 (iii) intended to affect:
- 613 (A) the structure of the body; or

614 (B) any function of the body.

615 (b) "Drug" does not include:

616 (i) food and food ingredients;

617 (ii) a dietary supplement;

618 (iii) an alcoholic beverage; or

619 (iv) a prosthetic device.

620 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
621 equipment that:

622 (i) can withstand repeated use;

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

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

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

626 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
627 equipment described in Subsection (43)(a).

628 (c) "Durable medical equipment" does not include mobility enhancing equipment.

629 (44) "Electronic" means:

630 (a) relating to technology; and

631 (b) having:

632 (i) electrical capabilities;

633 (ii) digital capabilities;

634 (iii) magnetic capabilities;

635 (iv) wireless capabilities;

636 (v) optical capabilities;

637 (vi) electromagnetic capabilities; or

638 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

639 (45) "Electronic financial payment service" means an establishment:

640 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
641 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
642 federal Executive Office of the President, Office of Management and Budget; and

643 (b) that performs electronic financial payment services.

644 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).

- 645 (47) "Fixed guideway" means a public transit facility that uses and occupies:
646 (a) rail for the use of public transit; or
647 (b) a separate right-of-way for the use of public transit.
- 648 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
649 (a) is powered by turbine engines;
650 (b) operates on jet fuel; and
651 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 652 (49) "Fixed wireless service" means a telecommunications service that provides radio
653 communication between fixed points.
- 654 (50) (a) "Food and food ingredients" means substances:
655 (i) regardless of whether the substances are in:
656 (A) liquid form;
657 (B) concentrated form;
658 (C) solid form;
659 (D) frozen form;
660 (E) dried form; or
661 (F) dehydrated form; and
662 (ii) that are:
663 (A) sold for:
664 (I) ingestion by humans; or
665 (II) chewing by humans; and
666 (B) consumed for the substance's:
667 (I) taste; or
668 (II) nutritional value.
- 669 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
670 (c) "Food and food ingredients" does not include:
671 (i) an alcoholic beverage;
672 (ii) tobacco; or
673 (iii) prepared food.
- 674 (51) (a) "Fundraising sales" means sales:
675 (i) (A) made by a school; or

- 676 (B) made by a school student;
- 677 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 678 materials, or provide transportation; and
- 679 (iii) that are part of an officially sanctioned school activity.
- 680 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 681 means a school activity:
- 682 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 683 district governing the authorization and supervision of fundraising activities;
- 684 (ii) that does not directly or indirectly compensate an individual teacher or other
- 685 educational personnel by direct payment, commissions, or payment in kind; and
- 686 (iii) the net or gross revenues from which are deposited in a dedicated account
- 687 controlled by the school or school district.
- 688 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 689 outward from the earth that is used as the sole source of energy to produce electricity.
- 690 (53) "Governing board of the agreement" means the governing board of the agreement
- 691 that is:
- 692 (a) authorized to administer the agreement; and
- 693 (b) established in accordance with the agreement.
- 694 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 695 (i) the executive branch of the state, including all departments, institutions, boards,
- 696 divisions, bureaus, offices, commissions, and committees;
- 697 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 698 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 699 (iii) the legislative branch of the state, including the House of Representatives, the
- 700 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 701 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 702 Analyst;
- 703 (iv) the National Guard;
- 704 (v) an independent entity as defined in Section 63E-1-102; or
- 705 (vi) a political subdivision as defined in Section 17B-1-102.
- 706 (b) "Governmental entity" does not include the state systems of public and higher

707 education, including:

708 (i) a school;

709 (ii) the State Board of Education;

710 (iii) the State Board of Regents; or

711 (iv) an institution of higher education described in Section 53B-1-102.

712 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
713 electricity.

714 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
715 other fuels:

716 (a) in mining or extraction of minerals;

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

719 (i) commercial greenhouses;

720 (ii) irrigation pumps;

721 (iii) farm machinery;

722 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
723 under Title 41, Chapter 1a, Part 2, Registration; and

724 (v) other farming activities;

725 (c) in manufacturing tangible personal property at an establishment described in:

726 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
727 the federal Executive Office of the President, Office of Management and Budget; or

728 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
729 American Industry Classification System of the federal Executive Office of the President,
730 Office of Management and Budget;

731 (d) by a scrap recycler if:

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

735 (A) iron;

736 (B) steel;

737 (C) nonferrous metal;

738 (D) paper;

739 (E) glass;

740 (F) plastic;

741 (G) textile; or

742 (H) rubber; and

743 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

744 nonrecycled materials; or

745 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a

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

747 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge

748 for installing:

749 (i) tangible personal property; or

750 (ii) a product transferred electronically.

751 (b) "Installation charge" does not include a charge for:

752 (i) repairs or renovations of:

753 (A) tangible personal property; or

754 (B) a product transferred electronically; or

755 (ii) attaching tangible personal property or a product transferred electronically:

756 (A) to other tangible personal property; and

757 (B) as part of a manufacturing or fabrication process.

758 (58) "Institution of higher education" means an institution of higher education listed in

759 Section 53B-2-101.

760 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible

761 personal property or a product transferred electronically for:

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

763 (B) an indeterminate term; and

764 (ii) consideration.

765 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

766 amount of consideration may be increased or decreased by reference to the amount realized

767 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue

768 Code.

- 769 (c) "Lease" or "rental" does not include:
- 770 (i) a transfer of possession or control of property under a security agreement or
771 deferred payment plan that requires the transfer of title upon completion of the required
772 payments;
- 773 (ii) a transfer of possession or control of property under an agreement that requires the
774 transfer of title:
- 775 (A) upon completion of required payments; and
- 776 (B) if the payment of an option price does not exceed the greater of:
- 777 (I) \$100; or
- 778 (II) 1% of the total required payments; or
- 779 (iii) providing tangible personal property along with an operator for a fixed period of
780 time or an indeterminate period of time if the operator is necessary for equipment to perform as
781 designed.
- 782 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
783 perform as designed if the operator's duties exceed the:
- 784 (i) set-up of tangible personal property;
- 785 (ii) maintenance of tangible personal property; or
- 786 (iii) inspection of tangible personal property.
- 787 (60) "Life science establishment" means an establishment in this state that is classified
788 under the following NAICS codes of the 2007 North American Industry Classification System
789 of the federal Executive Office of the President, Office of Management and Budget:
- 790 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 791 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
792 Manufacturing; or
- 793 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 794 (61) "Life science research and development facility" means a facility owned, leased,
795 or rented by a life science establishment if research and development is performed in 51% or
796 more of the total area of the facility.
- 797 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
798 if the tangible storage media is not physically transferred to the purchaser.
- 799 (63) "Local taxing jurisdiction" means a:

- 800 (a) county that is authorized to impose an agreement sales and use tax;
- 801 (b) city that is authorized to impose an agreement sales and use tax; or
- 802 (c) town that is authorized to impose an agreement sales and use tax.
- 803 (64) "Manufactured home" means the same as that term is defined in Section
- 804 [15A-1-302](#).
- 805 (65) "Manufacturing facility" means:
- 806 (a) an establishment described in:
- 807 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 808 the federal Executive Office of the President, Office of Management and Budget; or
- 809 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 810 American Industry Classification System of the federal Executive Office of the President,
- 811 Office of Management and Budget;
- 812 (b) a scrap recycler if:
- 813 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 814 one or more of the following items into prepared grades of processed materials for use in new
- 815 products:
- 816 (A) iron;
- 817 (B) steel;
- 818 (C) nonferrous metal;
- 819 (D) paper;
- 820 (E) glass;
- 821 (F) plastic;
- 822 (G) textile; or
- 823 (H) rubber; and
- 824 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 825 nonrecycled materials; or
- 826 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 827 placed in service on or after May 1, 2006.
- 828 (66) "Member of the immediate family of the producer" means a person who is related
- 829 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 830 (a) child or stepchild, regardless of whether the child or stepchild is:

- 831 (i) an adopted child or adopted stepchild; or
- 832 (ii) a foster child or foster stepchild;
- 833 (b) grandchild or stepgrandchild;
- 834 (c) grandparent or stepgrandparent;
- 835 (d) nephew or stepnephew;
- 836 (e) niece or stepniece;
- 837 (f) parent or stepparent;
- 838 (g) sibling or stepsibling;
- 839 (h) spouse;
- 840 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

841 or

- 842 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 843 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 844 Administrative Rulemaking Act.

845 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

846 (68) "Mobile telecommunications service" is as defined in the Mobile

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

848 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of

849 the technology used, if:

- 850 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 851 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 852 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
- 853 described in Subsection (69)(a)(ii) are not fixed.

854 (b) "Mobile wireless service" includes a telecommunications service that is provided

855 by a commercial mobile radio service provider.

856 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

857 commission may by rule define "commercial mobile radio service provider."

858 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"

859 means equipment that is:

- 860 (i) primarily and customarily used to provide or increase the ability to move from one
- 861 place to another;

- 862 (ii) appropriate for use in a:
- 863 (A) home; or
- 864 (B) motor vehicle; and
- 865 (iii) not generally used by persons with normal mobility.
- 866 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 867 the equipment described in Subsection (70)(a).
- 868 (c) "Mobility enhancing equipment" does not include:
- 869 (i) a motor vehicle;
- 870 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 871 vehicle manufacturer;
- 872 (iii) durable medical equipment; or
- 873 (iv) a prosthetic device.
- 874 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
- 875 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 876 functions for agreement sales and use taxes other than the seller's obligation under Section
- 877 [59-12-124](#) to remit a tax on the seller's own purchases.
- 878 (72) "Model 2 seller" means a seller registered under the agreement that:
- 879 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 880 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 881 (b) retains responsibility for remitting all of the sales tax:
- 882 (i) collected by the seller; and
- 883 (ii) to the appropriate local taxing jurisdiction.
- 884 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 885 the agreement that has:
- 886 (i) sales in at least five states that are members of the agreement;
- 887 (ii) total annual sales revenues of at least \$500,000,000;
- 888 (iii) a proprietary system that calculates the amount of tax:
- 889 (A) for an agreement sales and use tax; and
- 890 (B) due to each local taxing jurisdiction; and
- 891 (iv) entered into a performance agreement with the governing board of the agreement.
- 892 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of

893 sellers using the same proprietary system.

894 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
895 model 1 seller, model 2 seller, or model 3 seller.

896 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

897 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

898 (77) "Oil sands" means impregnated bituminous sands that:

899 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
900 other hydrocarbons, or otherwise treated;

901 (b) yield mixtures of liquid hydrocarbon; and

902 (c) require further processing other than mechanical blending before becoming finished
903 petroleum products.

904 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
905 material that yields petroleum upon heating and distillation.

906 (79) "Optional computer software maintenance contract" means a computer software
907 maintenance contract that a customer is not obligated to purchase as a condition to the retail
908 sale of computer software.

909 (80) (a) "Other fuels" means products that burn independently to produce heat or
910 energy.

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

913 (81) (a) "Paging service" means a telecommunications service that provides
914 transmission of a coded radio signal for the purpose of activating a specific pager.

915 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
916 includes a transmission by message or sound.

917 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

918 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

919 (84) (a) "Permanently attached to real property" means that for tangible personal
920 property attached to real property:

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

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

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

- 924 property in the same place over the useful life of the tangible personal property; or
- 925 (ii) if the tangible personal property is detached from the real property, the detachment
- 926 would:
- 927 (A) cause substantial damage to the tangible personal property; or
- 928 (B) require substantial alteration or repair of the real property to which the tangible
- 929 personal property is attached.
- 930 (b) "Permanently attached to real property" includes:
- 931 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 932 (A) essential to the operation of the tangible personal property; and
- 933 (B) attached only to facilitate the operation of the tangible personal property;
- 934 (ii) a temporary detachment of tangible personal property from real property for a
- 935 repair or renovation if the repair or renovation is performed where the tangible personal
- 936 property and real property are located; or
- 937 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 938 Subsection (84)(c)(iii) or (iv).
- 939 (c) "Permanently attached to real property" does not include:
- 940 (i) the attachment of portable or movable tangible personal property to real property if
- 941 that portable or movable tangible personal property is attached to real property only for:
- 942 (A) convenience;
- 943 (B) stability; or
- 944 (C) for an obvious temporary purpose;
- 945 (ii) the detachment of tangible personal property from real property except for the
- 946 detachment described in Subsection (84)(b)(ii);
- 947 (iii) an attachment of the following tangible personal property to real property if the
- 948 attachment to real property is only through a line that supplies water, electricity, gas,
- 949 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 950 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 951 (A) a computer;
- 952 (B) a telephone;
- 953 (C) a television; or
- 954 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as

955 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
956 Administrative Rulemaking Act; or

957 (iv) an item listed in Subsection (125)(c).

958 (85) "Person" includes any individual, firm, partnership, joint venture, association,
959 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
960 municipality, district, or other local governmental entity of the state, or any group or
961 combination acting as a unit.

962 (86) "Place of primary use":

963 (a) for telecommunications service other than mobile telecommunications service,
964 means the street address representative of where the customer's use of the telecommunications
965 service primarily occurs, which shall be:

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

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

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

970 (87) (a) "Postpaid calling service" means a telecommunications service a person
971 obtains by making a payment on a call-by-call basis:

972 (i) through the use of a:

973 (A) bank card;

974 (B) credit card;

975 (C) debit card; or

976 (D) travel card; or

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

979 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
980 service, that would be a prepaid wireless calling service if the service were exclusively a
981 telecommunications service.

982 (88) "Postproduction" means an activity related to the finishing or duplication of a
983 medium described in Subsection [59-12-104\(54\)\(a\)](#).

984 (89) "Prepaid calling service" means a telecommunications service:

985 (a) that allows a purchaser access to telecommunications service that is exclusively

- 986 telecommunications service;
- 987 (b) that:
- 988 (i) is paid for in advance; and
- 989 (ii) enables the origination of a call using an:
- 990 (A) access number; or
- 991 (B) authorization code;
- 992 (c) that is dialed:
- 993 (i) manually; or
- 994 (ii) electronically; and
- 995 (d) sold in predetermined units or dollars that decline:
- 996 (i) by a known amount; and
- 997 (ii) with use.
- 998 (90) "Prepaid wireless calling service" means a telecommunications service:
- 999 (a) that provides the right to utilize:
- 1000 (i) mobile wireless service; and
- 1001 (ii) other service that is not a telecommunications service, including:
- 1002 (A) the download of a product transferred electronically;
- 1003 (B) a content service; or
- 1004 (C) an ancillary service;
- 1005 (b) that:
- 1006 (i) is paid for in advance; and
- 1007 (ii) enables the origination of a call using an:
- 1008 (A) access number; or
- 1009 (B) authorization code;
- 1010 (c) that is dialed:
- 1011 (i) manually; or
- 1012 (ii) electronically; and
- 1013 (d) sold in predetermined units or dollars that decline:
- 1014 (i) by a known amount; and
- 1015 (ii) with use.
- 1016 (91) (a) "Prepared food" means:

- 1017 (i) food:
- 1018 (A) sold in a heated state; or
- 1019 (B) heated by a seller;
- 1020 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1021 item; or
- 1022 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 1023 by the seller, including a:
- 1024 (A) plate;
- 1025 (B) knife;
- 1026 (C) fork;
- 1027 (D) spoon;
- 1028 (E) glass;
- 1029 (F) cup;
- 1030 (G) napkin; or
- 1031 (H) straw.
- 1032 (b) "Prepared food" does not include:
- 1033 (i) food that a seller only:
- 1034 (A) cuts;
- 1035 (B) repackages; or
- 1036 (C) pasteurizes; or
- 1037 (ii) (A) the following:
- 1038 (I) raw egg;
- 1039 (II) raw fish;
- 1040 (III) raw meat;
- 1041 (IV) raw poultry; or
- 1042 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1043 and
- 1044 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1045 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1046 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1047 (iii) the following if sold without eating utensils provided by the seller:

1048 (A) food and food ingredients sold by a seller if the seller's proper primary
1049 classification under the 2002 North American Industry Classification System of the federal
1050 Executive Office of the President, Office of Management and Budget, is manufacturing in
1051 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1052 Manufacturing;

1053 (B) food and food ingredients sold in an unheated state:

1054 (I) by weight or volume; and

1055 (II) as a single item; or

1056 (C) a bakery item, including:

1057 (I) a bagel;

1058 (II) a bar;

1059 (III) a biscuit;

1060 (IV) bread;

1061 (V) a bun;

1062 (VI) a cake;

1063 (VII) a cookie;

1064 (VIII) a croissant;

1065 (IX) a danish;

1066 (X) a donut;

1067 (XI) a muffin;

1068 (XII) a pastry;

1069 (XIII) a pie;

1070 (XIV) a roll;

1071 (XV) a tart;

1072 (XVI) a torte; or

1073 (XVII) a tortilla.

1074 (c) An eating utensil provided by the seller does not include the following used to
1075 transport the food:

1076 (i) a container; or

1077 (ii) packaging.

1078 (92) "Prescription" means an order, formula, or recipe that is issued:

1079 (a) (i) orally;
1080 (ii) in writing;
1081 (iii) electronically; or
1082 (iv) by any other manner of transmission; and
1083 (b) by a licensed practitioner authorized by the laws of a state.
1084 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
1085 software" means computer software that is not designed and developed:
1086 (i) by the author or other creator of the computer software; and
1087 (ii) to the specifications of a specific purchaser.
1088 (b) "Prewritten computer software" includes:
1089 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1090 software is not designed and developed:
1091 (A) by the author or other creator of the computer software; and
1092 (B) to the specifications of a specific purchaser;
1093 (ii) computer software designed and developed by the author or other creator of the
1094 computer software to the specifications of a specific purchaser if the computer software is sold
1095 to a person other than the purchaser; or
1096 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
1097 prewritten portion of prewritten computer software:
1098 (A) that is modified or enhanced to any degree; and
1099 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
1100 designed and developed to the specifications of a specific purchaser.
1101 (c) "Prewritten computer software" does not include a modification or enhancement
1102 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
1103 (i) reasonable; and
1104 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1105 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1106 demonstrated by:
1107 (A) the books and records the seller keeps at the time of the transaction in the regular
1108 course of business, including books and records the seller keeps at the time of the transaction in
1109 the regular course of business for nontax purposes;

1110 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1111 (C) the understanding of all of the parties to the transaction.

1112 (94) (a) "Private communications service" means a telecommunications service:

1113 (i) that entitles a customer to exclusive or priority use of one or more communications

1114 channels between or among termination points; and

1115 (ii) regardless of the manner in which the one or more communications channels are

1116 connected.

1117 (b) "Private communications service" includes the following provided in connection

1118 with the use of one or more communications channels:

1119 (i) an extension line;

1120 (ii) a station;

1121 (iii) switching capacity; or

1122 (iv) another associated service that is provided in connection with the use of one or

1123 more communications channels as defined in Section [59-12-215](#).

1124 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"

1125 means a product transferred electronically that would be subject to a tax under this chapter if

1126 that product was transferred in a manner other than electronically.

1127 (b) "Product transferred electronically" does not include:

1128 (i) an ancillary service;

1129 (ii) computer software; or

1130 (iii) a telecommunications service.

1131 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

1132 (i) artificially replace a missing portion of the body;

1133 (ii) prevent or correct a physical deformity or physical malfunction; or

1134 (iii) support a weak or deformed portion of the body.

1135 (b) "Prosthetic device" includes:

1136 (i) parts used in the repairs or renovation of a prosthetic device;

1137 (ii) replacement parts for a prosthetic device;

1138 (iii) a dental prosthesis; or

1139 (iv) a hearing aid.

1140 (c) "Prosthetic device" does not include:

- 1141 (i) corrective eyeglasses; or
- 1142 (ii) contact lenses.
- 1143 (97) (a) "Protective equipment" means an item:
- 1144 (i) for human wear; and
- 1145 (ii) that is:
- 1146 (A) designed as protection:
- 1147 (I) to the wearer against injury or disease; or
- 1148 (II) against damage or injury of other persons or property; and
- 1149 (B) not suitable for general use.
- 1150 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1151 commission shall make rules:
- 1152 (i) listing the items that constitute "protective equipment"; and
- 1153 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1154 under the agreement.
- 1155 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 1156 printed matter, other than a photocopy:
- 1157 (i) regardless of:
- 1158 (A) characteristics;
- 1159 (B) copyright;
- 1160 (C) form;
- 1161 (D) format;
- 1162 (E) method of reproduction; or
- 1163 (F) source; and
- 1164 (ii) made available in printed or electronic format.
- 1165 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1166 commission may by rule define the term "photocopy."
- 1167 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1168 (i) valued in money; and
- 1169 (ii) for which tangible personal property, a product transferred electronically, or
- 1170 services are:
- 1171 (A) sold;

- 1172 (B) leased; or
- 1173 (C) rented.
- 1174 (b) "Purchase price" and "sales price" include:
- 1175 (i) the seller's cost of the tangible personal property, a product transferred
- 1176 electronically, or services sold;
- 1177 (ii) expenses of the seller, including:
- 1178 (A) the cost of materials used;
- 1179 (B) a labor cost;
- 1180 (C) a service cost;
- 1181 (D) interest;
- 1182 (E) a loss;
- 1183 (F) the cost of transportation to the seller; or
- 1184 (G) a tax imposed on the seller;
- 1185 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1186 (iv) consideration a seller receives from a person other than the purchaser if:
- 1187 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1188 and
- 1189 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 1190 price reduction or discount on the sale;
- 1191 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1192 purchaser;
- 1193 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1194 the seller at the time of the sale to the purchaser; and
- 1195 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1196 seller to claim a price reduction or discount; and
- 1197 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1198 coupon, or other documentation with the understanding that the person other than the seller
- 1199 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1200 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1201 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1202 available to any patron of a seller does not constitute membership in a group or organization

1203 allowed a price reduction or discount; or
1204 (III) the price reduction or discount is identified as a third party price reduction or
1205 discount on the:
1206 (Aa) invoice the purchaser receives; or
1207 (Bb) certificate, coupon, or other documentation the purchaser presents.
1208 (c) "Purchase price" and "sales price" do not include:
1209 (i) a discount:
1210 (A) in a form including:
1211 (I) cash;
1212 (II) term; or
1213 (III) coupon;
1214 (B) that is allowed by a seller;
1215 (C) taken by a purchaser on a sale; and
1216 (D) that is not reimbursed by a third party; or
1217 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1218 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1219 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1220 transaction in the regular course of business, including books and records the seller keeps at the
1221 time of the transaction in the regular course of business for nontax purposes, by a
1222 preponderance of the facts and circumstances at the time of the transaction, and by the
1223 understanding of all of the parties to the transaction:
1224 (A) the following from credit extended on the sale of tangible personal property or
1225 services:
1226 (I) a carrying charge;
1227 (II) a financing charge; or
1228 (III) an interest charge;
1229 (B) a delivery charge;
1230 (C) an installation charge;
1231 (D) a manufacturer rebate on a motor vehicle; or
1232 (E) a tax or fee legally imposed directly on the consumer.
1233 (100) "Purchaser" means a person to whom:

- 1234 (a) a sale of tangible personal property is made;
- 1235 (b) a product is transferred electronically; or
- 1236 (c) a service is furnished.
- 1237 (101) "Qualifying enterprise data center" means an establishment that will:
- 1238 (a) own and operate a data center facility that will house a group of networked server
- 1239 computers in one physical location in order to centralize the dissemination, management, and
- 1240 storage of data and information;
- 1241 (b) be located in the state;
- 1242 (c) be a new operation constructed on or after July 1, 2016;
- 1243 (d) consist of one or more buildings that total 150,000 or more square feet;
- 1244 (e) be owned or leased by:
- 1245 (i) the establishment; or
- 1246 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1247 establishment; and
- 1248 (f) be located on one or more parcels of land that are owned or leased by:
- 1249 (i) the establishment; or
- 1250 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1251 establishment.
- 1252 (102) "Regularly rented" means:
- 1253 (a) rented to a guest for value three or more times during a calendar year; or
- 1254 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1255 value.
- 1256 (103) "Rental" means the same as that term is defined in Subsection (59).
- 1257 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 1258 personal property" means:
- 1259 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1260 to real property; or
- 1261 (ii) attaching tangible personal property or a product transferred electronically to other
- 1262 tangible personal property or detaching tangible personal property or a product transferred
- 1263 electronically from other tangible personal property if:
- 1264 (A) the other tangible personal property to which the tangible personal property or

1265 product transferred electronically is attached or from which the tangible personal property or
1266 product transferred electronically is detached is not permanently attached to real property; and

1267 (B) the attachment of tangible personal property or a product transferred electronically
1268 to other tangible personal property or detachment of tangible personal property or a product
1269 transferred electronically from other tangible personal property is made in conjunction with a
1270 repair or replacement of tangible personal property or a product transferred electronically.

1271 (b) "Repairs or renovations of tangible personal property" does not include:

1272 (i) attaching prewritten computer software to other tangible personal property if the
1273 other tangible personal property to which the prewritten computer software is attached is not
1274 permanently attached to real property; or

1275 (ii) detaching prewritten computer software from other tangible personal property if the
1276 other tangible personal property from which the prewritten computer software is detached is
1277 not permanently attached to real property.

1278 (105) "Research and development" means the process of inquiry or experimentation
1279 aimed at the discovery of facts, devices, technologies, or applications and the process of
1280 preparing those devices, technologies, or applications for marketing.

1281 (106) (a) "Residential telecommunications services" means a telecommunications
1282 service or an ancillary service that is provided to an individual for personal use:

1283 (i) at a residential address; or

1284 (ii) at an institution, including a nursing home or a school, if the telecommunications
1285 service or ancillary service is provided to and paid for by the individual residing at the
1286 institution rather than the institution.

1287 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1288 (i) apartment; or

1289 (ii) other individual dwelling unit.

1290 (107) "Residential use" means the use in or around a home, apartment building,
1291 sleeping quarters, and similar facilities or accommodations.

1292 (108) (a) "Retailer" means any person engaged in a regularly organized business in
1293 tangible personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and
1294 who is selling to the user or consumer and not for resale.

1295 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly

1296 engaged in the business of selling to users or consumers within the state.

1297 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1298 than:

1299 (a) resale;

1300 (b) sublease; or

1301 (c) subrent.

1302 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1303 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1304 Subsection [59-12-103](#)(1), for consideration.

1305 (b) "Sale" includes:

1306 (i) installment and credit sales;

1307 (ii) any closed transaction constituting a sale;

1308 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1309 chapter;

1310 (iv) any transaction if the possession of property is transferred but the seller retains the
1311 title as security for the payment of the price; and

1312 (v) any transaction under which right to possession, operation, or use of any article of
1313 tangible personal property is granted under a lease or contract and the transfer of possession
1314 would be taxable if an outright sale were made.

1315 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1316 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1317 personal property or a product transferred electronically that is subject to a tax under this
1318 chapter is transferred:

1319 (a) by a purchaser-lessee;

1320 (b) to a lessor;

1321 (c) for consideration; and

1322 (d) if:

1323 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1324 of the tangible personal property or product transferred electronically;

1325 (ii) the sale of the tangible personal property or product transferred electronically to the
1326 lessor is intended as a form of financing:

- 1327 (A) for the tangible personal property or product transferred electronically; and
1328 (B) to the purchaser-lessee; and
1329 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1330 is required to:
- 1331 (A) capitalize the tangible personal property or product transferred electronically for
1332 financial reporting purposes; and
1333 (B) account for the lease payments as payments made under a financing arrangement.
- 1334 (113) "Sales price" means the same as that term is defined in Subsection (99).
1335 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1336 amounts charged by a school:
- 1337 (i) sales that are directly related to the school's educational functions or activities
1338 including:
- 1339 (A) the sale of:
1340 (I) textbooks;
1341 (II) textbook fees;
1342 (III) laboratory fees;
1343 (IV) laboratory supplies; or
1344 (V) safety equipment;
1345 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1346 that:
- 1347 (I) a student is specifically required to wear as a condition of participation in a
1348 school-related event or school-related activity; and
1349 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1350 place of ordinary clothing;
- 1351 (C) sales of the following if the net or gross revenues generated by the sales are
1352 deposited into a school district fund or school fund dedicated to school meals:
- 1353 (I) food and food ingredients; or
1354 (II) prepared food; or
1355 (D) transportation charges for official school activities; or
1356 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1357 event or school-related activity.

- 1358 (b) "Sales relating to schools" does not include:
- 1359 (i) bookstore sales of items that are not educational materials or supplies;
- 1360 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1361 (A) clothing;
- 1362 (B) clothing accessories or equipment;
- 1363 (C) protective equipment; or
- 1364 (D) sports or recreational equipment; or
- 1365 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1366 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1367 (A) other than a:
- 1368 (I) school;
- 1369 (II) nonprofit organization authorized by a school board or a governing body of a
- 1370 private school to organize and direct a competitive secondary school activity; or
- 1371 (III) nonprofit association authorized by a school board or a governing body of a
- 1372 private school to organize and direct a competitive secondary school activity; and
- 1373 (B) that is required to collect sales and use taxes under this chapter.
- 1374 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1375 commission may make rules defining the term "passed through."
- 1376 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1377 (a) means:
- 1378 (i) an elementary school or a secondary school that:
- 1379 (A) is a:
- 1380 (I) public school; or
- 1381 (II) private school; and
- 1382 (B) provides instruction for one or more grades kindergarten through 12; or
- 1383 (ii) a public school district; and
- 1384 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1385 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1386 (a) tangible personal property;
- 1387 (b) a product transferred electronically; or
- 1388 (c) a service.

1389 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
1390 means tangible personal property or a product transferred electronically if the tangible personal
1391 property or product transferred electronically is:

1392 (i) used primarily in the process of:

1393 (A) (I) manufacturing a semiconductor;

1394 (II) fabricating a semiconductor; or

1395 (III) research or development of a:

1396 (Aa) semiconductor; or

1397 (Bb) semiconductor manufacturing process; or

1398 (B) maintaining an environment suitable for a semiconductor; or

1399 (ii) consumed primarily in the process of:

1400 (A) (I) manufacturing a semiconductor;

1401 (II) fabricating a semiconductor; or

1402 (III) research or development of a:

1403 (Aa) semiconductor; or

1404 (Bb) semiconductor manufacturing process; or

1405 (B) maintaining an environment suitable for a semiconductor.

1406 (b) "Semiconductor fabricating, processing, research, or development materials"

1407 includes:

1408 (i) parts used in the repairs or renovations of tangible personal property or a product
1409 transferred electronically described in Subsection (117)(a); or

1410 (ii) a chemical, catalyst, or other material used to:

1411 (A) produce or induce in a semiconductor a:

1412 (I) chemical change; or

1413 (II) physical change;

1414 (B) remove impurities from a semiconductor; or

1415 (C) improve the marketable condition of a semiconductor.

1416 (118) "Senior citizen center" means a facility having the primary purpose of providing
1417 services to the aged as defined in Section [62A-3-101](#).

1418 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
1419 means tangible personal property that:

1420 (i) a business that provides accommodations and services described in Subsection
1421 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1422 to a purchaser;

1423 (ii) is intended to be consumed by the purchaser; and

1424 (iii) is:

1425 (A) included in the purchase price of the accommodations and services; and

1426 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1427 to the purchaser.

1428 (b) "Short-term lodging consumable" includes:

1429 (i) a beverage;

1430 (ii) a brush or comb;

1431 (iii) a cosmetic;

1432 (iv) a hair care product;

1433 (v) lotion;

1434 (vi) a magazine;

1435 (vii) makeup;

1436 (viii) a meal;

1437 (ix) mouthwash;

1438 (x) nail polish remover;

1439 (xi) a newspaper;

1440 (xii) a notepad;

1441 (xiii) a pen;

1442 (xiv) a pencil;

1443 (xv) a razor;

1444 (xvi) saline solution;

1445 (xvii) a sewing kit;

1446 (xviii) shaving cream;

1447 (xix) a shoe shine kit;

1448 (xx) a shower cap;

1449 (xxi) a snack item;

1450 (xxii) soap;

1451 (xxiii) toilet paper;
1452 (xxiv) a toothbrush;
1453 (xxv) toothpaste; or
1454 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
1455 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1456 Rulemaking Act.

1457 (c) "Short-term lodging consumable" does not include:

1458 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1459 property to be reused; or

1460 (ii) a product transferred electronically.

1461 (120) "Simplified electronic return" means the electronic return:

1462 (a) described in Section 318(C) of the agreement; and

1463 (b) approved by the governing board of the agreement.

1464 (121) "Solar energy" means the sun used as the sole source of energy for producing
1465 electricity.

1466 (122) (a) "Sports or recreational equipment" means an item:

1467 (i) designed for human use; and

1468 (ii) that is:

1469 (A) worn in conjunction with:

1470 (I) an athletic activity; or

1471 (II) a recreational activity; and

1472 (B) not suitable for general use.

1473 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1474 commission shall make rules:

1475 (i) listing the items that constitute "sports or recreational equipment"; and

1476 (ii) that are consistent with the list of items that constitute "sports or recreational
1477 equipment" under the agreement.

1478 (123) "State" means the state of Utah, its departments, and agencies.

1479 (124) "Storage" means any keeping or retention of tangible personal property or any
1480 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1481 sale in the regular course of business.

1482 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"

1483 means personal property that:

1484 (i) may be:

1485 (A) seen;

1486 (B) weighed;

1487 (C) measured;

1488 (D) felt; or

1489 (E) touched; or

1490 (ii) is in any manner perceptible to the senses.

1491 (b) "Tangible personal property" includes:

1492 (i) electricity;

1493 (ii) water;

1494 (iii) gas;

1495 (iv) steam; or

1496 (v) prewritten computer software, regardless of the manner in which the prewritten

1497 computer software is transferred.

1498 (c) "Tangible personal property" includes the following regardless of whether the item

1499 is attached to real property:

1500 (i) a dishwasher;

1501 (ii) a dryer;

1502 (iii) a freezer;

1503 (iv) a microwave;

1504 (v) a refrigerator;

1505 (vi) a stove;

1506 (vii) a washer; or

1507 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the

1508 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1509 Rulemaking Act.

1510 (d) "Tangible personal property" does not include a product that is transferred

1511 electronically.

1512 (e) "Tangible personal property" does not include the following if attached to real

1513 property, regardless of whether the attachment to real property is only through a line that
1514 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1515 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1516 Rulemaking Act:

- 1517 (i) a hot water heater;
- 1518 (ii) a water filtration system; or
- 1519 (iii) a water softener system.

1520 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1521 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
1522 primarily to enable or facilitate one or more of the following to function:

- 1523 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1524 (ii) telecommunications transmission equipment, machinery, or software.

1525 (b) The following apply to Subsection (126)(a):

- 1526 (i) a pole;
- 1527 (ii) software;
- 1528 (iii) a supplementary power supply;
- 1529 (iv) temperature or environmental equipment or machinery;
- 1530 (v) test equipment;
- 1531 (vi) a tower; or
- 1532 (vii) equipment, machinery, or software that functions similarly to an item listed in

1533 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
1534 accordance with Subsection (126)(c).

1535 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1536 commission may by rule define what constitutes equipment, machinery, or software that
1537 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1538 (127) "Telecommunications equipment, machinery, or software required for 911
1539 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1540 Sec. 20.18.

1541 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
1542 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1543 one or more of the following, regardless of whether the equipment, machinery, or software is

1544 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1545 following:

- 1546 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1547 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1548 (c) telecommunications transmission equipment, machinery, or software.

1549 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
1550 transmission of audio, data, video, voice, or any other information or signal to a point, or
1551 among or between points.

1552 (b) "Telecommunications service" includes:

1553 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1554 processing application is used to act:

1555 (A) on the code, form, or protocol of the content;

1556 (B) for the purpose of electronic conveyance, routing, or transmission; and

1557 (C) regardless of whether the service:

1558 (I) is referred to as voice over Internet protocol service; or

1559 (II) is classified by the Federal Communications Commission as enhanced or value

1560 added;

1561 (ii) an 800 service;

1562 (iii) a 900 service;

1563 (iv) a fixed wireless service;

1564 (v) a mobile wireless service;

1565 (vi) a postpaid calling service;

1566 (vii) a prepaid calling service;

1567 (viii) a prepaid wireless calling service; or

1568 (ix) a private communications service.

1569 (c) "Telecommunications service" does not include:

1570 (i) advertising, including directory advertising;

1571 (ii) an ancillary service;

1572 (iii) a billing and collection service provided to a third party;

1573 (iv) a data processing and information service if:

1574 (A) the data processing and information service allows data to be:

- 1575 (I) (Aa) acquired;
- 1576 (Bb) generated;
- 1577 (Cc) processed;
- 1578 (Dd) retrieved; or
- 1579 (Ee) stored; and
- 1580 (II) delivered by an electronic transmission to a purchaser; and
- 1581 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1582 or information;
- 1583 (v) installation or maintenance of the following on a customer's premises:
- 1584 (A) equipment; or
- 1585 (B) wiring;
- 1586 (vi) Internet access service;
- 1587 (vii) a paging service;
- 1588 (viii) a product transferred electronically, including:
- 1589 (A) music;
- 1590 (B) reading material;
- 1591 (C) a ring tone;
- 1592 (D) software; or
- 1593 (E) video;
- 1594 (ix) a radio and television audio and video programming service:
- 1595 (A) regardless of the medium; and
- 1596 (B) including:
- 1597 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1598 programming service by a programming service provider;
- 1599 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1600 (III) audio and video programming services delivered by a commercial mobile radio
- 1601 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1602 (x) a value-added nonvoice data service; or
- 1603 (xi) tangible personal property.
- 1604 (130) (a) "Telecommunications service provider" means a person that:
- 1605 (i) owns, controls, operates, or manages a telecommunications service; and

1606 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
1607 resale to any person of the telecommunications service.

1608 (b) A person described in Subsection (130)(a) is a telecommunications service provider
1609 whether or not the Public Service Commission of Utah regulates:

1610 (i) that person; or

1611 (ii) the telecommunications service that the person owns, controls, operates, or
1612 manages.

1613 (131) (a) "Telecommunications switching or routing equipment, machinery, or
1614 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
1615 primarily for switching or routing:

1616 (i) an ancillary service;

1617 (ii) data communications;

1618 (iii) voice communications; or

1619 (iv) telecommunications service.

1620 (b) The following apply to Subsection (131)(a):

1621 (i) a bridge;

1622 (ii) a computer;

1623 (iii) a cross connect;

1624 (iv) a modem;

1625 (v) a multiplexer;

1626 (vi) plug in circuitry;

1627 (vii) a router;

1628 (viii) software;

1629 (ix) a switch; or

1630 (x) equipment, machinery, or software that functions similarly to an item listed in
1631 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
1632 accordance with Subsection (131)(c).

1633 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1634 commission may by rule define what constitutes equipment, machinery, or software that
1635 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1636 (132) (a) "Telecommunications transmission equipment, machinery, or software"

1637 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
1638 sending, receiving, or transporting:

- 1639 (i) an ancillary service;
 - 1640 (ii) data communications;
 - 1641 (iii) voice communications; or
 - 1642 (iv) telecommunications service.
- 1643 (b) The following apply to Subsection (132)(a):
- 1644 (i) an amplifier;
 - 1645 (ii) a cable;
 - 1646 (iii) a closure;
 - 1647 (iv) a conduit;
 - 1648 (v) a controller;
 - 1649 (vi) a duplexer;
 - 1650 (vii) a filter;
 - 1651 (viii) an input device;
 - 1652 (ix) an input/output device;
 - 1653 (x) an insulator;
 - 1654 (xi) microwave machinery or equipment;
 - 1655 (xii) an oscillator;
 - 1656 (xiii) an output device;
 - 1657 (xiv) a pedestal;
 - 1658 (xv) a power converter;
 - 1659 (xvi) a power supply;
 - 1660 (xvii) a radio channel;
 - 1661 (xviii) a radio receiver;
 - 1662 (xix) a radio transmitter;
 - 1663 (xx) a repeater;
 - 1664 (xxi) software;
 - 1665 (xxii) a terminal;
 - 1666 (xxiii) a timing unit;
 - 1667 (xxiv) a transformer;

1668 (xxv) a wire; or
1669 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1670 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
1671 accordance with Subsection (132)(c).

1672 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1673 commission may by rule define what constitutes equipment, machinery, or software that
1674 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1675 (133) (a) "Textbook for a higher education course" means a textbook or other printed
1676 material that is required for a course:

- 1677 (i) offered by an institution of higher education; and
- 1678 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1679 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1680 (134) "Tobacco" means:

- 1681 (a) a cigarette;
- 1682 (b) a cigar;
- 1683 (c) chewing tobacco;
- 1684 (d) pipe tobacco; or
- 1685 (e) any other item that contains tobacco.

1686 (135) "Unassisted amusement device" means an amusement device, skill device, or
1687 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1688 the amusement device, skill device, or ride device.

1689 (136) (a) "Use" means the exercise of any right or power over tangible personal
1690 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1691 incident to the ownership or the leasing of that tangible personal property, product transferred
1692 electronically, or service.

1693 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1694 property, a product transferred electronically, or a service in the regular course of business and
1695 held for resale.

1696 (137) "Value-added nonvoice data service" means a service:

- 1697 (a) that otherwise meets the definition of a telecommunications service except that a
1698 computer processing application is used to act primarily for a purpose other than conveyance,

1699 routing, or transmission; and

1700 (b) with respect to which a computer processing application is used to act on data or
1701 information:

- 1702 (i) code;
- 1703 (ii) content;
- 1704 (iii) form; or
- 1705 (iv) protocol.

1706 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
1707 required to be titled, registered, or titled and registered:

- 1708 (i) an aircraft as defined in Section 72-10-102;
- 1709 (ii) a vehicle as defined in Section 41-1a-102;
- 1710 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1711 (iv) a vessel as defined in Section 41-1a-102.

1712 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1713 (i) a vehicle described in Subsection (138)(a); or
- 1714 (ii) (A) a locomotive;
- 1715 (B) a freight car;
- 1716 (C) railroad work equipment; or
- 1717 (D) other railroad rolling stock.

1718 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1719 exchanging a vehicle as defined in Subsection (138).

1720 (140) (a) "Vertical service" means an ancillary service that:

- 1721 (i) is offered in connection with one or more telecommunications services; and
- 1722 (ii) offers an advanced calling feature that allows a customer to:
 - 1723 (A) identify a caller; and
 - 1724 (B) manage multiple calls and call connections.

1725 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1726 conference bridging service.

1727 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
1728 receive, send, or store a recorded message.

1729 (b) "Voice mail service" does not include a vertical service that a customer is required

1730 to have in order to utilize a voice mail service.

1731 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
1732 facility that generates electricity:

1733 (i) using as the primary source of energy waste materials that would be placed in a
1734 landfill or refuse pit if it were not used to generate electricity, including:

1735 (A) tires;

1736 (B) waste coal;

1737 (C) oil shale; or

1738 (D) municipal solid waste; and

1739 (ii) in amounts greater than actually required for the operation of the facility.

1740 (b) "Waste energy facility" does not include a facility that incinerates:

1741 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1742 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1743 (143) "Watercraft" means a vessel as defined in Section 73-18-2.

1744 (144) "Wind energy" means wind used as the sole source of energy to produce
1745 electricity.

1746 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1747 location by the United States Postal Service.

1748 Section 5. Section 59-12-103.1 is amended to read:

1749 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1750 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1751 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**
1752 **Committee -- Revenue and Taxation Interim Committee study -- Division of Finance**
1753 **requirement to make certain deposits.**

1754 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
1755 commission as provided in Section 59-12-107 if:

1756 (a) the Supreme Court of the United States issues a decision authorizing a state to
1757 require the following sellers to collect a sales or use tax:

1758 (i) a seller that does not meet one or more of the criteria described in Subsection
1759 59-12-107(2)(a); or

1760 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes

1761 under Subsection 59-12-107(2)(b); or
1762 (b) Congress permits the state to require the following sellers to collect a sales or use
1763 tax:
1764 (i) a seller that does not meet one or more of the criteria described in Subsection
1765 59-12-107(2)(a); or
1766 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1767 under Subsection 59-12-107(2)(b).
1768 (2) The commission shall:
1769 (a) collect the tax described in Subsection (1) from the seller:
1770 (i) to the extent:
1771 (A) authorized by the Supreme Court of the United States; or
1772 (B) permitted by Congress; and
1773 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and
1774 Taxation Interim Committee; and
1775 (b) make a report to the Revenue and Taxation Interim Committee by electronic
1776 means:
1777 (i) regarding the actions taken by:
1778 (A) the Supreme Court of the United States; or
1779 (B) Congress; and
1780 (ii) (A) stating the amount of state revenue collected at the time of the report, if any;
1781 and
1782 (B) estimating the state sales and use tax rate reduction that would offset the amount of
1783 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and
1784 (c) report to the Revenue and Taxation Interim Committee at:
1785 (i) the Revenue and Taxation Interim Committee meeting immediately following the
1786 day on which the actions of the Supreme Court of the United States or Congress become
1787 effective; and
1788 (ii) any other meeting of the Revenue and Taxation Interim Committee as requested by
1789 the chairs of the committee.
1790 (3) The Revenue and Taxation Interim Committee shall after receiving the
1791 commission's reports under Subsections (2)(b) and (c):

- 1792 (a) review the actions taken by:
- 1793 (i) the Supreme Court of the United States; or
- 1794 (ii) Congress;
- 1795 (b) direct the commission regarding the day on which the commission is required to
- 1796 collect the tax described in Subsection (1); and
- 1797 (c) make recommendations to the Legislative Management Committee:
- 1798 (i) regarding whether as a result of the actions of the Supreme Court of the United
- 1799 States or Congress any provisions of this chapter should be amended or repealed; and
- 1800 (ii) within a one-year period after the day on which the commission makes a report
- 1801 under Subsection (2)(c).
- 1802 (4) The Division of Finance shall deposit a portion of the revenue collected under this
- 1803 section into the Remote Sales Restricted Account as required by Section [59-12-103.2](#).
- 1804 (5) (a) The Division of Finance shall notify the legislative general counsel and the
- 1805 commission once the balance of the qualified state revenue collected from remote sellers, as
- 1806 that term is defined in Section [59-12-103.2](#), in the Remote Sales Restricted Account created in
- 1807 Section [59-12-103.2](#) has a balance of \$55,000,000.
- 1808 (b) The Division of Finance shall review the balance in the Remote Sales Restricted
- 1809 Account at least bi-annually for purposes of providing the notice described in Subsection
- 1810 (5)(a).
- 1811 Section 6. Section [59-12-103.2](#) is amended to read:
- 1812 **59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation --**
- 1813 **Funding for account -- Interest -- Division of Finance accounting.**
- 1814 (1) As used in this section:
- 1815 (a) "Qualified local revenue collected from remote sellers" means the local revenue the
- 1816 commission collects under Section [59-12-103.1](#) for a fiscal year from sellers who obtain a
- 1817 license under Section [59-12-106](#) for the first time on or after the earlier of:
- 1818 (i) the date a decision described in Subsection [59-12-103.1](#)(1)(a) becomes a final,
- 1819 unappealable decision; or
- 1820 (ii) the effective date of the action by Congress described in Subsection
- 1821 [59-12-103.1](#)(1)(b).
- 1822 (b) "Qualified state revenue collected from remote sellers" means the state revenue the

1823 commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a
1824 license under Section 59-12-106 for the first time on or after the earlier of:

1825 (i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final,
1826 unappealable decision; or

1827 (ii) the effective date of the action by Congress described in Subsection
1828 59-12-103.1(1)(b).

1829 (2) There is created within the General Fund a restricted account known as the
1830 "Remote Sales Restricted Account."

1831 (3) The account shall be funded by:

1832 (a) the qualified local revenue collected from remote sellers; and

1833 (b) the qualified state revenue collected from remote sellers.

1834 (4) (a) The account shall earn interest.

1835 (b) The interest described in Subsection (4)(a) shall be deposited into the account.

1836 (5) The Division of Finance shall deposit the revenue described in Subsection (3) into
1837 the account.

1838 (6) The Division of Finance shall separately account for:

1839 (a) (i) the qualified local revenue collected from remote sellers; and

1840 (ii) interest earned on the amount described in Subsection (6)(a)(i); and

1841 (b) (i) the qualified state revenue collected from remote sellers; and

1842 (ii) interest earned on the amount described in Subsection (6)(b)(i).

1843 (7) (a) The revenue and interest described in Subsection (6)(a) may be used to:

1844 (i) lower local sales and use tax rates as the Legislature may provide by statute[-]; and

1845 (ii) fund the sales and use tax exemptions described in Section 59-12-104.8.

1846 (b) The revenue and interest described in Subsection (6)(b) may be used to:

1847 (i) lower state sales and use tax rates as the Legislature may provide by statute[-]; and

1848 (ii) fund the sales and use tax exemptions described in Section 59-12-104.8.

1849 Section 7. Section 59-12-104.5 is amended to read:

1850 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
1851 **taxes.**

1852 (1) The Revenue and Taxation Interim Committee shall:

1853 [(+)] (a) review Subsection 59-12-104(28) before October 1 of the year after the year in

1854 which Congress permits a state to participate in the special supplemental nutrition program
 1855 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
 1856 purchases of food under that program;

1857 ~~[(2)]~~ (b) review Subsection 59-12-104(21) before October 1 of the year after the year in
 1858 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
 1859 even if state or local sales taxes are collected within the state on purchases of food under that
 1860 program; and

1861 ~~[(3)]~~ (c) on or before November 30:

1862 ~~[(a)]~~ (i) require the Governor's Office of Economic Development to provide the report
 1863 described in Section 63N-1-302(2);

1864 ~~[(b)]~~ (ii) review for each exemption described in Subsection 59-12-104(86) and (87):

1865 ~~[(+)]~~ (A) the cost of the exemption;

1866 ~~[(+)]~~ (B) the purpose and effectiveness of the exemption; and

1867 ~~[(+)]~~ (C) the extent to which the state benefits from the exemption; and

1868 ~~[(e)]~~ (iii) make recommendations concerning whether the exemptions described in
 1869 Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.

1870 (2) Once the commission implements the sales and use tax exemption described in
 1871 Subsection 59-12-104.8(1), the provisions described in Subsection (1)(c) no longer have effect.

1872 Section 8. Section 59-12-104.8 is enacted to read:

1873 **59-12-104.8. Machinery, equipment, replacement parts, and materials**

1874 **exemptions.**

1875 (1) There is an exemption from the taxes imposed by this chapter for amounts paid or
 1876 charged for a purchase or lease of machinery, equipment, normal operating repair or
 1877 replacement parts, or materials, except for office equipment or office supplies, by:

1878 (a) a manufacturing facility that:

1879 (i) is located in the state; and

1880 (ii) uses or consumes the machinery, equipment, normal operating repair or
 1881 replacement parts, or materials:

1882 (A) in the manufacturing process to manufacture an item sold as tangible personal
 1883 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
 1884 Utah Administrative Rulemaking Act; or

1885 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
1886 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1887 Administrative Rulemaking Act;

1888 (b) an establishment, as the commission defines that term in accordance with Title
1889 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1890 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1891 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1892 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1893 2002 North American Industry Classification System of the federal Executive Office of the
1894 President, Office of Management and Budget;

1895 (ii) is located in the state; and

1896 (iii) uses or consumes the machinery, equipment, normal operating repair or
1897 replacement parts, or materials in:

1898 (A) the production process to produce an item sold as tangible personal property, as the
1899 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1900 Administrative Rulemaking Act;

1901 (B) research and development, as the commission may define that phrase in accordance
1902 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1903 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1904 produced from mining;

1905 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1906 mining; or

1907 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1908 (c) an establishment, as the commission defines that term in accordance with Title
1909 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1910 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1911 American Industry Classification System of the federal Executive Office of the President,
1912 Office of Management and Budget;

1913 (ii) is located in the state; and

1914 (iii) uses or consumes the machinery, equipment, normal operating repair or
1915 replacement parts, or materials in the operation of the web search portal.

1916 (2) There is an exemption from the taxes imposed by this chapter for amounts paid or
 1917 charged for a purchase or lease of machinery, equipment, normal operating repair or
 1918 replacement parts, or materials, except for office equipment or office supplies, by an
 1919 establishment, as the commission defines that term in accordance with Title 63G, Chapter 3,
 1920 Utah Administrative Rulemaking Act, that:

1921 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
 1922 American Industry Classification System of the federal Executive Office of the President,
 1923 Office of Management and Budget;

1924 (b) is located in this state; and

1925 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
 1926 materials in the operation of the establishment.

1927 (3) The sales and use tax exemption in Subsection (1) supersedes the sales and use tax
 1928 exemptions described in Subsections [59-12-104](#)(14), (84), (86), and (87).

1929 Section 9. Section **59-12-106** is amended to read:

1930 **59-12-106. Definitions -- Sales and use tax license requirements -- Penalty --**
 1931 **Application process and requirements -- No fee -- Bonds -- Presumption of taxability --**
 1932 **Exemption certificates -- Exemption certificate license number to accompany contract**
 1933 **bids.**

1934 (1) As used in this section:

1935 (a) "applicant" means a person that:

1936 (i) is required by this section to obtain a license; and

1937 (ii) submits an application:

1938 (A) to the commission; and

1939 (B) for a license under this section;

1940 (b) "application" means an application for a license under this section;

1941 (c) "fiduciary of the applicant" means a person that:

1942 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
 1943 for an applicant; and

1944 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

1945 (B) is a director of the applicant described in Subsection (1)(c)(i);

1946 (C) is an employee of the applicant described in Subsection (1)(c)(i);

1947 (D) is a partner of the applicant described in Subsection (1)(c)(i);
1948 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
1949 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to
1950 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the
1951 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1952 Rulemaking Act;

1953 (d) "fiduciary of the licensee" means a person that:
1954 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
1955 for a licensee; and
1956 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
1957 (B) is a director of the licensee described in Subsection (1)(d)(i);
1958 (C) is an employee of the licensee described in Subsection (1)(d)(i);
1959 (D) is a partner of the licensee described in Subsection (1)(d)(i);
1960 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
1961 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
1962 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
1963 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1964 Rulemaking Act;

1965 (e) "license" means a license under this section; and
1966 (f) "licensee" means a person that is licensed under this section by the commission.

1967 (2) (a) It is unlawful for any person required to collect a tax under this chapter to
1968 engage in business within the state without first having obtained a license to do so.

1969 (b) The license described in Subsection (2)(a):
1970 (i) shall be granted and issued by the commission;
1971 (ii) is not assignable;
1972 (iii) is valid only for the person in whose name the license is issued;
1973 (iv) is valid until:
1974 (A) the person described in Subsection (2)(b)(iii):
1975 (I) ceases to do business; or
1976 (II) changes that person's business address; or
1977 (B) the license is revoked by the commission; and

1978 (v) subject to Subsection (2)(d), shall be granted by the commission only upon an
1979 application that:

1980 (A) states the name and address of the applicant; and

1981 (B) provides other information the commission may require.

1982 (c) At the time an applicant makes an application under Subsection (2)(b)(v), the
1983 commission shall notify the applicant of the responsibilities and liability of a business owner
1984 successor under Section 59-12-112.

1985 (d) The commission shall review an application and determine whether the applicant:

1986 (i) meets the requirements of this section to be issued a license; and

1987 (ii) is required to post a bond with the commission in accordance with Subsections
1988 (2)(e) and (f) before the applicant may be issued a license.

1989 (e) (i) An applicant shall post a bond with the commission before the commission may
1990 issue the applicant a license if:

1991 (A) a license under this section was revoked for a delinquency under this chapter for:

1992 (I) the applicant;

1993 (II) a fiduciary of the applicant; or

1994 (III) a person for which the applicant or the fiduciary of the applicant is required to
1995 collect, truthfully account for, and pay over a tax under this chapter; or

1996 (B) there is a delinquency in paying a tax under this chapter for:

1997 (I) the applicant;

1998 (II) a fiduciary of the applicant; or

1999 (III) a person for which the applicant or the fiduciary of the applicant is required to
2000 collect, truthfully account for, and pay over a tax under this chapter.

2001 (ii) If the commission determines it is necessary to ensure compliance with this
2002 chapter, the commission may require a licensee to:

2003 (A) for a licensee that has not posted a bond under this section with the commission,
2004 post a bond with the commission in accordance with Subsection (2)(f); or

2005 (B) for a licensee that has posted a bond under this section with the commission,
2006 increase the amount of the bond posted with the commission.

2007 (f) (i) A bond required by Subsection (2)(e) shall be:

2008 (A) executed by:

2009 (I) for an applicant, the applicant as principal, with a corporate surety; or
2010 (II) for a licensee, the licensee as principal, with a corporate surety; and
2011 (B) payable to the commission conditioned upon the faithful performance of all of the
2012 requirements of this chapter including:
2013 (I) the payment of any tax under this chapter;
2014 (II) the payment of any:
2015 (Aa) penalty as provided in Section 59-1-401; or
2016 (Bb) interest as provided in Section 59-1-402; or
2017 (III) any other obligation of the:
2018 (Aa) applicant under this chapter; or
2019 (Bb) licensee under this chapter.
2020 (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the
2021 amount of a bond required by Subsection (2)(e) on the basis of:
2022 (A) commission estimates of:
2023 (I) an applicant's tax liability under this chapter; or
2024 (II) a licensee's tax liability under this chapter; and
2025 (B) any amount of a delinquency described in Subsection (2)(f)(iii).
2026 (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection
2027 (2)(f)(ii)(B):
2028 (A) for an applicant, the amount of the delinquency is the sum of:
2029 (I) the amount of any delinquency that served as a basis for revoking the license under
2030 this section of:
2031 (Aa) the applicant;
2032 (Bb) a fiduciary of the applicant; or
2033 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
2034 collect, truthfully account for, and pay over a tax under this chapter; or
2035 (II) the amount of tax that any of the following owe under this chapter:
2036 (Aa) the applicant;
2037 (Bb) a fiduciary of the applicant; and
2038 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
2039 collect, truthfully account for, and pay over a tax under this chapter; or

- 2040 (B) for a licensee, the amount of the delinquency is the sum of:
- 2041 (I) the amount of any delinquency that served as a basis for revoking the license under
- 2042 this section of:
- 2043 (Aa) the licensee;
- 2044 (Bb) a fiduciary of the licensee; or
- 2045 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
- 2046 collect, truthfully account for, and pay over a tax under this chapter; or
- 2047 (II) the amount of tax that any of the following owe under this chapter:
- 2048 (Aa) the licensee;
- 2049 (Bb) a fiduciary of the licensee; and
- 2050 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
- 2051 collect, truthfully account for, and pay over a tax under this chapter.
- 2052 (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection
- 2053 (2)(e) may not:
- 2054 (A) be less than \$25,000; or
- 2055 (B) exceed \$500,000.
- 2056 (g) If business is transacted at two or more separate places by one person, a separate
- 2057 license for each place of business is required.
- 2058 (h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
- 2059 license of any licensee violating any provisions of this chapter.
- 2060 (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the
- 2061 licensee has complied with the requirements of this chapter, including:
- 2062 (A) paying any:
- 2063 (I) tax due under this chapter;
- 2064 (II) penalty as provided in Section 59-1-401; or
- 2065 (III) interest as provided in Section 59-1-402; and
- 2066 (B) posting a bond in accordance with Subsections (2)(e) and (f).
- 2067 (i) Any person required to collect a tax under this chapter within this state without
- 2068 having secured a license to do so is guilty of a criminal violation as provided in Section
- 2069 59-1-401.
- 2070 (j) A license:

2071 (i) is not required for any person engaged exclusively in the business of selling
2072 commodities that are exempt from taxation under this chapter; and
2073 (ii) shall be issued to the person by the commission without a license fee.

2074 (3) (a) For the purpose of the proper administration of this chapter and to prevent
2075 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
2076 property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for
2077 delivery in this state is sold for storage, use, or other consumption in this state unless the
2078 person selling the property, item, or service has taken from the purchaser an exemption
2079 certificate:

2080 (i) bearing the name and address of the purchaser; and
2081 (ii) providing that the property, item, or service was exempted under:
2082 (A) Section 59-12-104[-]; or
2083 (B) Section 59-12-104.8.

2084 (b) An exemption certificate described in Subsection (3)(a):
2085 (i) shall contain information as prescribed by the commission; and
2086 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.

2087 (c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable
2088 to collect a tax under this chapter if the seller or certified service provider obtains within 90
2089 days after a transaction is complete:

2090 (A) an exemption certificate containing the information required by Subsections (3)(a)
2091 and (b); or
2092 (B) the information required by Subsections (3)(a) and (b).

2093 (ii) A seller or certified service provider that does not obtain the exemption certificate
2094 or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120
2095 days after the commission requests the seller or certified service provider to substantiate the
2096 exemption to:

2097 (A) establish that the transaction is not subject to taxation under this chapter by a
2098 means other than providing an exemption certificate containing the information required by
2099 Subsections (3)(a) and (b); or
2100 (B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the
2101 information required by Subsections (3)(a) and (b), taken in good faith.

2102 (iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good
2103 faith if the exemption certificate claims an exemption that:

2104 (A) was allowed by statute on the date of the transaction in the jurisdiction of the
2105 location of the transaction;

2106 (B) could be applicable to that transaction; and

2107 (C) is reasonable for the purchaser's type of business.

2108 (d) Except as provided in Subsection (3)(e), a seller or certified service provider that
2109 takes an exemption certificate from a purchaser in accordance with this Subsection (3) with
2110 respect to a transaction is not liable to collect a tax under this chapter on that transaction.

2111 (e) Subsection (3)(d) does not apply to a seller or certified service provider if the
2112 commission establishes through an audit that the seller or certified service provider:

2113 (i) knew or had reason to know at the time the purchaser provided the seller or certified
2114 service provider the information described in Subsection (3)(a) or (b) that the information
2115 related to the exemption claimed was materially false; or

2116 (ii) otherwise knowingly participated in activity intended to purposefully evade the tax
2117 due on the transaction.

2118 (f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if
2119 there is a recurring business relationship between a seller or certified service provider and a
2120 purchaser, the commission may not require the seller or certified service provider to:

2121 (A) renew an exemption certificate;

2122 (B) update an exemption certificate; or

2123 (C) update a data element of an exemption certificate.

2124 (ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no
2125 more than a 12-month period elapses between transactions between a seller or certified service
2126 provider and a purchaser.

2127 (iii) If there is a recurring business relationship between a seller or certified service
2128 provider and a purchaser, the commission shall require an exemption certificate the seller or
2129 certified service provider takes from the purchaser to meet the requirements of Subsections
2130 (3)(a) and (b).

2131 (4) A person filing a contract bid with the state or a political subdivision of the state for
2132 the sale of tangible personal property or any other taxable transaction under Subsection

2133 59-12-103(1) shall include with the bid the number of the license issued to that person under
2134 Subsection (2).

2135 Section 10. Section 59-12-107 is amended to read:

2136 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
2137 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
2138 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
2139 **Penalties and interest.**

2140 (1) As used in this section:

2141 (a) "Ownership" means direct ownership or indirect ownership through a parent,
2142 subsidiary, or affiliate.

2143 (b) "Related seller" means a seller that:

2144 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

2145 (ii) delivers tangible personal property, a service, or a product transferred electronically
2146 that is sold:

2147 (A) by a seller that does not meet one or more of the criteria described in Subsection
2148 (2)(a)(i); and

2149 (B) to a purchaser in the state.

2150 (c) "Substantial ownership interest" means an ownership interest in a business entity if
2151 that ownership interest is greater than the degree of ownership of equity interest specified in 15
2152 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

2153 (2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section
2154 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales
2155 and use taxes imposed by this chapter if within this state the seller:

2156 (i) has or utilizes:

2157 (A) an office;

2158 (B) a distribution house;

2159 (C) a sales house;

2160 (D) a warehouse;

2161 (E) a service enterprise; or

2162 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

2163 (ii) maintains a stock of goods;

2164 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
2165 state, unless the seller's only activity in the state is:

2166 (A) advertising; or

2167 (B) solicitation by:

2168 (I) direct mail;

2169 (II) electronic mail;

2170 (III) the Internet;

2171 (IV) telecommunications service; or

2172 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

2173 (iv) regularly engages in the delivery of property in the state other than by:

2174 (A) common carrier; or

2175 (B) United States mail; or

2176 (v) regularly engages in an activity directly related to the leasing or servicing of
2177 property located within the state.

2178 (b) A seller is considered to be engaged in the business of selling tangible personal
2179 property, a service, or a product transferred electronically for use in the state, and shall pay or
2180 collect and remit the sales and use taxes imposed by this chapter if:

2181 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
2182 substantial part by, a related seller; and

2183 (ii) (A) the seller sells the same or a substantially similar line of products as the related
2184 seller and does so under the same or a substantially similar business name; or

2185 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
2186 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
2187 to a purchaser.

2188 (c) A seller that does not meet one or more of the criteria provided for in Subsection
2189 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
2190 (2)(b):

2191 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:

2192 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

2193 (B) remit the tax to the commission as provided in this part; or

2194 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described

2195 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

2196 (d) The collection and remittance of a tax under this chapter by a seller that is
2197 registered under the agreement may not be used as a factor in determining whether that seller is
2198 required by Subsection (2) to:

2199 (i) pay a tax, fee, or charge under:

2200 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2201 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

2202 (C) Section 19-6-714;

2203 (D) Section 19-6-805;

2204 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

2205 (F) this title; or

2206 (ii) collect and remit a tax, fee, or charge under:

2207 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2208 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

2209 (C) Section 19-6-714;

2210 (D) Section 19-6-805;

2211 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

2212 (F) this title.

2213 (e) A person shall pay a use tax imposed by this chapter on a transaction described in
2214 Subsection 59-12-103(1) if:

2215 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

2216 (ii) the person:

2217 (A) stores the tangible personal property or product transferred electronically in the
2218 state;

2219 (B) uses the tangible personal property or product transferred electronically in the state;

2220 or

2221 (C) consumes the tangible personal property or product transferred electronically in the
2222 state.

2223 (f) The ownership of property that is located at the premises of a printer's facility with
2224 which the retailer has contracted for printing and that consists of the final printed product,
2225 property that becomes a part of the final printed product, or copy from which the printed

2226 product is produced, shall not result in the retailer being considered to have or maintain an
2227 office, distribution house, sales house, warehouse, service enterprise, or other place of
2228 business, or to maintain a stock of goods, within this state.

2229 (3) (a) Except as provided in Section [59-12-107.1](#), a tax under this chapter shall be
2230 collected from a purchaser.

2231 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
2232 cent, in excess of the tax computed at the rates prescribed by this chapter.

2233 (c) (i) Each seller shall:

2234 (A) give the purchaser a receipt for the tax collected; or

2235 (B) bill the tax as a separate item and declare the name of this state and the seller's
2236 sales and use tax license number on the invoice for the sale.

2237 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
2238 and relieves the purchaser of the liability for reporting the tax to the commission as a
2239 consumer.

2240 (d) A seller is not required to maintain a separate account for the tax collected, but is
2241 considered to be a person charged with receipt, safekeeping, and transfer of public money.

2242 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
2243 benefit of the state and for payment to the commission in the manner and at the time provided
2244 for in this chapter.

2245 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
2246 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
2247 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
2248 excess.

2249 (g) If the accounting methods regularly employed by the seller in the transaction of the
2250 seller's business are such that reports of sales made during a calendar month or quarterly period
2251 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
2252 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
2253 jeopardize collection of the tax.

2254 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
2255 and until such time as the commission accepts specie legal tender for the payment of a tax
2256 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal

2257 tender other than specie legal tender, the seller shall state on the seller's books and records and
2258 on an invoice, bill of sale, or similar document provided to the purchaser:

2259 (A) the purchase price in specie legal tender and in the legal tender the seller is
2260 required to remit to the commission;

2261 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
2262 legal tender and in the legal tender the seller is required to remit to the commission;

2263 (C) the tax rate under this chapter applicable to the purchase; and

2264 (D) the date of the purchase.

2265 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
2266 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
2267 specie legal tender the purchaser paid.

2268 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2269 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
2270 if the London fixing price is not available for a particular day.

2271 (4) (a) Except as provided in Subsections (5) through (7) and Section [59-12-108](#), the
2272 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
2273 before the last day of the month next succeeding each calendar quarterly period.

2274 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
2275 calendar quarterly period, file with the commission a return for the preceding quarterly period.

2276 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
2277 tax required under this chapter to be collected or paid for the period covered by the return.

2278 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
2279 a form the commission prescribes by rule.

2280 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
2281 based on the total nonexempt sales made during the period for which the return is filed,
2282 including both cash and charge sales.

2283 (ii) For a sale that includes the delivery or installation of tangible personal property at a
2284 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
2285 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
2286 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
2287 sale during each period for which the seller receives payment for the sale.

2288 (e) (i) The use tax as computed in the return shall be based on the total amount of
2289 purchases for storage, use, or other consumption in this state made during the period for which
2290 the return is filed, including both cash and charge purchases.

2291 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
2292 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in
2293 accordance with Section 59-12-108, and who converts tangible personal property into real
2294 property.

2295 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
2296 taxes due under this chapter on tangible personal property for which the qualifying purchaser
2297 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
2298 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
2299 for the conversion of the tangible personal property into real property.

2300 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
2301 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
2302 qualifying purchaser's purchase of the tangible personal property that was converted into real
2303 property multiplied by a fraction, the numerator of which is the payment received in the period
2304 for the qualifying purchaser's sale of the tangible personal property that was converted into real
2305 property and the denominator of which is the entire sales price for the qualifying purchaser's
2306 sale of the tangible personal property that was converted into real property.

2307 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
2308 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
2309 the qualifying purchaser's regular course of business identify by reasonable and verifiable
2310 standards that the tangible personal property was converted into real property.

2311 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
2312 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
2313 returns and paying the taxes.

2314 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

2315 (g) The commission may require returns and payment of the tax to be made for other
2316 than quarterly periods if the commission considers it necessary in order to ensure the payment
2317 of the tax imposed by this chapter.

2318 (h) (i) The commission may require a seller that files a simplified electronic return with

2319 the commission to file an additional electronic report with the commission.

2320 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2321 commission may make rules providing:

2322 (A) the information required to be included in the additional electronic report described
2323 in Subsection (4)(h)(i); and

2324 (B) one or more due dates for filing the additional electronic report described in
2325 Subsection (4)(h)(i).

2326 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
2327 seller that is:

2328 (i) registered under the agreement;

2329 (ii) described in Subsection (2)(c); and

2330 (iii) not a:

2331 (A) model 1 seller;

2332 (B) model 2 seller; or

2333 (C) model 3 seller.

2334 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
2335 accordance with Subsection (2)(c) is due and payable:

2336 (A) to the commission;

2337 (B) annually; and

2338 (C) on or before the last day of the month immediately following the last day of each
2339 calendar year.

2340 (ii) The commission may require that a tax a remote seller collects in accordance with
2341 Subsection (2)(c) be due and payable:

2342 (A) to the commission; and

2343 (B) on the last day of the month immediately following any month in which the seller
2344 accumulates a total of at least \$1,000 in agreement sales and use tax.

2345 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
2346 (5)(b), the remote seller shall file a return:

2347 (A) with the commission;

2348 (B) with respect to the tax;

2349 (C) containing information prescribed by the commission; and

- 2350 (D) on a form prescribed by the commission.
- 2351 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2352 commission shall make rules prescribing:
- 2353 (A) the information required to be contained in a return described in Subsection
2354 (5)(c)(i); and
- 2355 (B) the form described in Subsection (5)(c)(i)(D).
- 2356 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
2357 calculated on the basis of the total amount of taxable transactions under Subsection
2358 59-12-103(1) the remote seller completes, including:
- 2359 (i) a cash transaction; and
- 2360 (ii) a charge transaction.
- 2361 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
2362 electronic return collects in accordance with this chapter is due and payable:
- 2363 (i) monthly on or before the last day of the month immediately following the month for
2364 which the seller collects a tax under this chapter; and
- 2365 (ii) for the month for which the seller collects a tax under this chapter.
- 2366 (b) A tax a remote seller that files a simplified electronic return collects in accordance
2367 with this chapter is due and payable as provided in Subsection (5).
- 2368 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
2369 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
2370 titling or registration under the laws of this state.
- 2371 (b) The commission shall collect the tax described in Subsection (7)(a) when the
2372 vehicle is titled or registered.
- 2373 (8) If any sale of tangible personal property or any other taxable transaction under
2374 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
2375 responsible for the collection or payment of the tax imposed on the sale and the retailer is
2376 responsible for the collection or payment of the tax imposed on the sale if:
- 2377 (a) the retailer represents that the personal property is purchased by the retailer for
2378 resale; and
- 2379 (b) the personal property is not subsequently resold.
- 2380 (9) If any sale of property or service subject to the tax is made to a person prepaying

2381 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
2382 contractor or subcontractor of that person, the person to whom such payment or consideration
2383 is payable is not responsible for the collection or payment of the sales or use tax and the person
2384 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
2385 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
2386 tax has not been fully credited against sales or use tax due and payable under the rules
2387 promulgated by the commission.

2388 (10) (a) For purposes of this Subsection (10):

2389 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section
2390 166, Internal Revenue Code.

2391 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

2392 (A) an amount included in the purchase price of tangible personal property, a product
2393 transferred electronically, or a service that is:

2394 (I) not a transaction described in Subsection [59-12-103\(1\)](#); [or]

2395 (II) exempt under Section [59-12-104](#); or

2396 (III) exempt under Section [59-12-104.8](#);

2397 (B) a financing charge;

2398 (C) interest;

2399 (D) a tax imposed under this chapter on the purchase price of tangible personal
2400 property, a product transferred electronically, or a service;

2401 (E) an uncollectible amount on tangible personal property or a product transferred
2402 electronically that:

2403 (I) is subject to a tax under this chapter; and

2404 (II) remains in the possession of a seller until the full purchase price is paid;

2405 (F) an expense incurred in attempting to collect any debt; or

2406 (G) an amount that a seller does not collect on repossessed property.

2407 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
2408 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
2409 under this chapter is calculated on a return.

2410 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
2411 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on

2412 the qualifying purchaser's purchase of tangible personal property converted into real property to
2413 the extent that:

2414 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
2415 property converted into real property;

2416 (B) the qualifying purchaser's sale of that tangible personal property converted into real
2417 property later becomes bad debt; and

2418 (C) the books and records that the qualifying purchaser keeps in the qualifying
2419 purchaser's regular course of business identify by reasonable and verifiable standards that the
2420 tangible personal property was converted into real property.

2421 (c) A seller may file a refund claim with the commission if:

2422 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
2423 the amount of the seller's sales that are subject to a tax under this chapter for that same time
2424 period; and

2425 (ii) as provided in Section [59-1-1410](#).

2426 (d) A bad debt deduction under this section may not include interest.

2427 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
2428 period during which the bad debt:

2429 (i) is written off as uncollectible in the seller's books and records; and

2430 (ii) would be eligible for a bad debt deduction:

2431 (A) for federal income tax purposes; and

2432 (B) if the seller were required to file a federal income tax return.

2433 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
2434 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
2435 chapter:

2436 (i) on the portion of the bad debt the seller recovers; and

2437 (ii) on a return filed for the time period for which the portion of the bad debt is
2438 recovered.

2439 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
2440 (10)(f), a seller shall apply amounts received on the bad debt in the following order:

2441 (i) in a proportional amount:

2442 (A) to the purchase price of the tangible personal property, product transferred

2443 electronically, or service; and

2444 (B) to the tax due under this chapter on the tangible personal property, product

2445 transferred electronically, or service; and

2446 (ii) to:

2447 (A) interest charges;

2448 (B) service charges; and

2449 (C) other charges.

2450 (h) A seller's certified service provider may make a deduction or claim a refund for bad

2451 debt on behalf of the seller:

2452 (i) in accordance with this Subsection (10); and

2453 (ii) if the certified service provider credits or refunds the entire amount of the bad debt

2454 deduction or refund to the seller.

2455 (i) A seller may allocate bad debt among the states that are members of the agreement

2456 if the seller's books and records support that allocation.

2457 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full

2458 amount of tax required by this chapter.

2459 (b) A violation of this section is punishable as provided in Section 59-1-401.

2460 (c) Each person who fails to pay any tax to the state or any amount of tax required to be

2461 paid to the state, except amounts determined to be due by the commission under Chapter 1,

2462 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time

2463 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in

2464 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

2465 (d) For purposes of prosecution under this section, each quarterly tax period in which a

2466 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the

2467 tax required to be remitted, constitutes a separate offense.

2468 Section 11. Section 59-12-204 is amended to read:

2469 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**

2470 **tax revenues -- Commission requirement to retain an amount to be deposited into the**

2471 **Qualified Emergency Food Agencies Fund.**

2472 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those

2473 transactions listed in Subsection 59-12-103(1).

2474 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax
2475 upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas
2476 contained within the cities and towns located in the county:

2477 (i) at the rate of 1% of the purchase price paid or charged; and

2478 (ii) if the location of the transaction is within the county as determined under Sections
2479 59-12-211 through 59-12-215.

2480 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall
2481 include a provision prohibiting a county, city, or town from imposing a tax under this section
2482 on the sales and uses described in:

2483 (i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2484 Section 59-12-104[-]; or

2485 (ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2486 under Section 59-12-104.8.

2487 (3) Such tax ordinance shall include provisions substantially the same as those
2488 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the
2489 name of the county as the taxing agency shall be substituted for that of the state where
2490 necessary for the purpose of this part and that an additional license is not required if one has
2491 been or is issued under Section 59-12-106.

2492 (4) Such tax ordinance shall include a provision that the county shall contract, prior to
2493 the effective date of the ordinance, with the commission to perform all functions incident to the
2494 administration or operation of the ordinance.

2495 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other
2496 consumption of tangible personal property, the purchase price or the cost of which has been
2497 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this
2498 part by any county, city, or town in any other county in this state, shall be exempt from the tax
2499 due under this ordinance.

2500 (6) Such tax ordinance shall include a provision that any person subject to the
2501 provisions of a city or town sales and use tax shall be exempt from the county sales and use tax
2502 if the city or town sales and use tax is levied under an ordinance including provisions in
2503 substance as follows:

2504 (a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1)

2505 made within the city or town at the rate imposed by the county in which it is situated pursuant
2506 to Subsection (2);

2507 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from
2508 imposing a tax under this section on the sales and uses described in:

2509 (i) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
2510 Section [59-12-104](#); or

2511 (ii) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
2512 under Section [59-12-104.8](#);

2513 (c) provisions substantially the same as those contained in Part 1, Tax Collection,
2514 insofar as they relate to sales and use taxes, except that the name of the city or town as the
2515 taxing agency shall be substituted for that of the state where necessary for the purposes of this
2516 part;

2517 (d) a provision that the city or town shall contract prior to the effective date of the city
2518 or town sales and use tax ordinance with the commission to perform all functions incident to
2519 the administration or operation of the sales and use tax ordinance of the city or town;

2520 (e) a provision that the sale, storage, use, or other consumption of tangible personal
2521 property, the gross receipts from the sale of or the cost of which has been subject to sales or use
2522 tax under a sales and use tax ordinance enacted in accordance with this part by any county
2523 other than the county in which the city or town is located, or city or town in this state, shall be
2524 exempt from the tax; and

2525 (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not
2526 be included as a part of the purchase price paid or charged for a taxable item.

2527 (7) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009,
2528 the commission shall calculate and retain a portion of the sales and use tax collected under this
2529 part as provided in this Subsection (7).

2530 (b) For a city, town, or unincorporated area of a county that imposes a tax under this
2531 part, the commission shall calculate a percentage each month by dividing the sales and use tax
2532 collected under this part for that month within the boundaries of that city, town, or
2533 unincorporated area of a county by the total sales and use tax collected under this part for that
2534 month within the boundaries of all of the cities, towns, and unincorporated areas of the
2535 counties that impose a tax under this part.

2536 (c) For a city, town, or unincorporated area of a county that imposes a tax under this
2537 part, the commission shall retain each month an amount equal to the product of:

2538 (i) the percentage the commission determines for the month under Subsection (7)(b)
2539 for the city, town, or unincorporated area of a county; and

2540 (ii) \$25,417.

2541 (d) The commission shall deposit an amount the commission retains in accordance
2542 with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section
2543 [35A-8-1009](#).

2544 (e) An amount the commission deposits into the Qualified Emergency Food Agencies
2545 Fund shall be expended as provided in Section [35A-8-1009](#).

2546 Section 12. Section **59-12-401** is amended to read:

2547 **59-12-401. Resort communities tax authority for cities, towns, and military**
2548 **installation development authority -- Base -- Rate -- Collection fees.**

2549 (1) (a) In addition to other sales and use taxes, a city or town in which the transient
2550 room capacity as defined in Section [59-12-405](#) is greater than or equal to 66% of the
2551 municipality's permanent census population may impose a sales and use tax of up to 1.1% on
2552 the transactions described in Subsection [59-12-103](#)(1) located within the city or town.

2553 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
2554 section on:

2555 (i) the sale of:

2556 (A) a motor vehicle;

2557 (B) an aircraft;

2558 (C) a watercraft;

2559 (D) a modular home;

2560 (E) a manufactured home; or

2561 (F) a mobile home;

2562 (ii) the sales and uses described in:

2563 (A) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
2564 Section [59-12-104](#); or

2565 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
2566 under Section [59-12-104.8](#); and

2567 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2568 food ingredients.

2569 (c) For purposes of this Subsection (1), the location of a transaction shall be
2570 determined in accordance with Sections 59-12-211 through 59-12-215.

2571 (d) A city or town imposing a tax under this section shall impose the tax on the
2572 purchase price or the sales price for amounts paid or charged for food and food ingredients if
2573 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2574 food ingredients and tangible personal property other than food and food ingredients.

2575 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2576 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2577 the state from its collection fees received in connection with the implementation of Subsection
2578 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2579 provided for in Subsection (1).

2580 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2581 those cities and towns according to the amount of revenue the respective cities and towns
2582 generate in that year through imposition of that tax.

2583 (3) (a) Subject to Section 63H-1-203, the military installation development authority
2584 created in Section 63H-1-201 may impose a tax under this section on the transactions described
2585 in Subsection 59-12-103(1) located within a project area described in a project area plan
2586 adopted by the authority under Title 63H, Chapter 1, Military Installation Development
2587 Authority Act, as though the authority were a city or a town.

2588 (b) For purposes of calculating the permanent census population within a project area,
2589 the board as defined in Section 63H-1-102 shall:

2590 (i) use the actual number of permanent residents within the project area as determined
2591 by the board;

2592 (ii) adopt a resolution verifying the population number; and

2593 (iii) provide the commission any information required in Section 59-12-405.

2594 (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may
2595 impose the sales and use tax under this section if there are no permanent residents.

2596 Section 13. Section 59-12-402 is amended to read:

2597 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**

2598 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
2599 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**
2600 **development authority imposition of tax.**

2601 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
2602 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
2603 66% of the municipality's permanent census population may, in addition to the sales tax
2604 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
2605 amount that is less than or equal to .5% on the transactions described in Subsection
2606 59-12-103(1) located within the municipality.

2607 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
2608 impose a tax under this section on:

2609 (i) the sale of:

2610 (A) a motor vehicle;

2611 (B) an aircraft;

2612 (C) a watercraft;

2613 (D) a modular home;

2614 (E) a manufactured home; or

2615 (F) a mobile home;

2616 (ii) the sales and uses described in:

2617 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2618 Section 59-12-104; or

2619 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2620 under Section 59-12-104.8; and

2621 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
2622 food ingredients.

2623 (c) For purposes of this Subsection (1), the location of a transaction shall be
2624 determined in accordance with Sections 59-12-211 through 59-12-215.

2625 (d) A municipality imposing a tax under this section shall impose the tax on the
2626 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2627 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2628 ingredients and tangible personal property other than food and food ingredients.

2629 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2630 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2631 the state from its collection fees received in connection with the implementation of Subsection
2632 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2633 provided for in Subsection (1).

2634 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2635 those cities and towns according to the amount of revenue the respective cities and towns
2636 generate in that year through imposition of that tax.

2637 (3) To impose an additional resort communities sales tax under this section, the
2638 governing body of the municipality shall:

2639 (a) pass a resolution approving the tax; and

2640 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2641 in Subsection (4).

2642 (4) To obtain voter approval for an additional resort communities sales tax under
2643 Subsection (3)(b), a municipality shall:

2644 (a) hold the additional resort communities sales tax election during:

2645 (i) a regular general election; or

2646 (ii) a municipal general election; and

2647 (b) publish notice of the election:

2648 (i) 15 days or more before the day on which the election is held; and

2649 (ii) (A) in a newspaper of general circulation in the municipality; and

2650 (B) as required in Section [45-1-101](#).

2651 (5) An ordinance approving an additional resort communities sales tax under this
2652 section shall provide an effective date for the tax as provided in Section [59-12-403](#).

2653 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2654 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2655 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
2656 Section [10-1-203](#).

2657 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2658 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2659 one class of businesses based on gross receipts pursuant to Section [10-1-203](#).

2660 (7) A military installation development authority authorized to impose a resort
2661 communities tax under Section 59-12-401 may not impose an additional resort communities
2662 sales tax under this section.

2663 Section 14. Section 59-12-402.1 is amended to read:

2664 **59-12-402.1. State correctional facility sales and use tax -- Base -- Rate --**
2665 **Collection fees -- Imposition -- Prohibition of military installation development authority**
2666 **imposition of tax.**

2667 (1) As used in this section, "new state correctional facility" means a new prison in the
2668 state:

- 2669 (a) that is operated by the Department of Corrections;
2670 (b) the construction of which begins on or after May 12, 2015; and
2671 (c) that provides a capacity of 2,500 or more inmate beds.

2672 (2) Subject to the other provisions of this part, a city or town legislative body may
2673 impose a tax under this section if the construction of a new state correctional facility has begun
2674 within the boundaries of the city or town.

2675 (3) For purposes of this section, the tax rate may not exceed .5%.

2676 (4) Except as provided in Subsection (5), a tax under this section shall be imposed on
2677 the transactions described in Subsection 59-12-103(1) within the city or town.

2678 (5) A city or town may not impose a tax under this section on:

- 2679 (a) the sale of:
2680 (i) a motor vehicle;
2681 (ii) an aircraft;
2682 (iii) a watercraft;
2683 (iv) a modular home;
2684 (v) a manufactured home; or
2685 (vi) a mobile home;
2686 (b) the sales and uses described in:
2687 (i) Section 59-12-104 to the extent the sales and uses are exempt under Section
2688 59-12-104; or
2689 (ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2690 under Section 59-12-104.8; and

2691 (c) except as provided in Subsection (7), amounts paid or charged for food and food
2692 ingredients.

2693 (6) For purposes of this section, the location of a transaction shall be determined in
2694 accordance with Sections 59-12-211 through 59-12-215.

2695 (7) A city or town that imposes a tax under this section shall impose the tax on the
2696 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2697 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2698 ingredients and tangible personal property other than food and food ingredients.

2699 (8) A city or town may impose a tax under this section by majority vote of the
2700 members of the city or town legislative body.

2701 (9) A city or town that imposes a tax under this section is not subject to Section
2702 59-12-405.

2703 (10) A military installation development authority may not impose a tax under this
2704 section.

2705 Section 15. Section 59-12-703 is amended to read:

2706 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**
2707 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**
2708 **-- Notice requirements.**

2709 (1) (a) Subject to the other provisions of this section, a county legislative body may
2710 submit an opinion question to the residents of that county, by majority vote of all members of
2711 the legislative body, so that each resident of the county, except residents in municipalities that
2712 have already imposed a sales and use tax under Part 14, City or Town Option Funding for
2713 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
2714 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
2715 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

2716 (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical
2717 organizations, cultural organizations, and zoological organizations, and rural radio stations, in
2718 that county; or

2719 (ii) provide funding for a botanical organization, cultural organization, or zoological
2720 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
2721 furtherance of the botanical organization's, cultural organization's, or zoological organization's

2722 primary purpose.

2723 (b) The opinion question required by this section shall state:

2724 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
2725 use tax for (list the purposes for which the revenue collected from the sales and use tax shall be
2726 expended)?"

2727 (c) A county legislative body may not impose a tax under this section on:

2728 (i) the sales and uses described in:

2729 (A) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under

2730 Section [59-12-104](#); or

2731 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation

2732 under Section [59-12-104.8](#);

2733 (ii) sales and uses within a municipality that has already imposed a sales and use tax
2734 under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and
2735 Zoological Organizations or Facilities; and

2736 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
2737 food ingredients.

2738 (d) For purposes of this Subsection (1), the location of a transaction shall be
2739 determined in accordance with Sections [59-12-211](#) through [59-12-215](#).

2740 (e) A county legislative body imposing a tax under this section shall impose the tax on
2741 the purchase price or sales price for amounts paid or charged for food and food ingredients if
2742 the food and food ingredients are sold as part of a bundled transaction attributable to food and
2743 food ingredients and tangible personal property other than food and food ingredients.

2744 (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
2745 Government Bonding Act.

2746 (2) (a) If the county legislative body determines that a majority of the county's
2747 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2748 the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a
2749 majority vote of all members of the legislative body on the transactions:

2750 (i) described in Subsection (1); and

2751 (ii) within the county, including the cities and towns located in the county, except those
2752 cities and towns that have already imposed a sales and use tax under Part 14, City or Town

2753 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
2754 Facilities.

2755 (b) A county legislative body may revise county ordinances to reflect statutory changes
2756 to the distribution formula or eligible recipients of revenue generated from a tax imposed under
2757 Subsection (2)(a) without submitting an opinion question to residents of the county.

2758 (3) Subject to Section [59-12-704](#), revenue collected from a tax imposed under
2759 Subsection (2) shall be expended:

2760 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
2761 within the county or a city or town located in the county, except a city or town that has already
2762 imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical,
2763 Cultural, Recreational, and Zoological Organizations or Facilities;

2764 (b) to fund ongoing operating expenses of:

2765 (i) recreational facilities described in Subsection (3)(a);

2766 (ii) botanical organizations, cultural organizations, and zoological organizations within
2767 the county; and

2768 (iii) rural radio stations within the county; and

2769 (c) as stated in the opinion question described in Subsection (1).

2770 (4) (a) A tax authorized under this part shall be:

2771 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2772 accordance with:

2773 (A) the same procedures used to administer, collect, and enforce the tax under:

2774 (I) Part 1, Tax Collection; or

2775 (II) Part 2, Local Sales and Use Tax Act; and

2776 (B) Chapter 1, General Taxation Policies; and

2777 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2778 period in accordance with this section.

2779 (b) A tax under this part is not subject to Subsections [59-12-205](#)(2) through (7).

2780 (5) (a) For purposes of this Subsection (5):

2781 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
2782 County Annexation.

2783 (ii) "Annexing area" means an area that is annexed into a county.

- 2784 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2785 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 2786 (A) on the first day of a calendar quarter; and
2787 (B) after a 90-day period beginning on the date the commission receives notice meeting
2788 the requirements of Subsection (5)(b)(ii) from the county.
- 2789 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 2790 (A) that the county will enact or repeal a tax under this part;
2791 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
2792 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
2793 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
2794 tax.
- 2795 (c) (i) If the billing period for a transaction begins before the effective date of the
2796 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2797 the first billing period that begins on or after the effective date of the enactment of the tax.
- 2798 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2799 period is produced on or after the effective date of the repeal of the tax imposed under this
2800 section.
- 2801 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2802 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2803 Subsection (5)(b)(i) takes effect:
- 2804 (A) on the first day of a calendar quarter; and
2805 (B) beginning 60 days after the effective date of the enactment or repeal under
2806 Subsection (5)(b)(i).
- 2807 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2808 commission may by rule define the term "catalogue sale."
- 2809 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2810 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
2811 part for an annexing area, the enactment or repeal shall take effect:
- 2812 (A) on the first day of a calendar quarter; and
2813 (B) after a 90-day period beginning on the date the commission receives notice meeting
2814 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

2815 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
2816 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
2817 repeal of a tax under this part for the annexing area;
2818 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
2819 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
2820 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
2821 (f) (i) If the billing period for a transaction begins before the effective date of the
2822 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
2823 the first billing period that begins on or after the effective date of the enactment of the tax.
2824 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
2825 period is produced on or after the effective date of the repeal of the tax imposed under this
2826 section.
2827 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2828 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2829 Subsection (5)(e)(i) takes effect:
2830 (A) on the first day of a calendar quarter; and
2831 (B) beginning 60 days after the effective date of the enactment or repeal under
2832 Subsection (5)(e)(i).
2833 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2834 commission may by rule define the term "catalogue sale."
2835 Section 16. Section **59-12-802** is amended to read:
2836 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
2837 **tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax --**
2838 **Administrative charge.**
2839 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
2840 may impose a sales and use tax of up to 1% on the transactions described in Subsection
2841 **59-12-103**(1) located within the county.
2842 (b) Subject to Subsection (3), the money collected from a tax under this section may be
2843 used to fund:
2844 (i) for a county of the third or fourth class, rural county health care facilities in that
2845 county; or

- 2846 (ii) for a county of the fifth or sixth class:
- 2847 (A) rural emergency medical services in that county;
- 2848 (B) federally qualified health centers in that county;
- 2849 (C) freestanding urgent care centers in that county;
- 2850 (D) rural county health care facilities in that county;
- 2851 (E) rural health clinics in that county; or
- 2852 (F) a combination of Subsections (1)(b)(ii)(A) through (E).
- 2853 (c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
- 2854 under this section on:
- 2855 (i) (A) the sales and uses described in Section 59-12-104 to the extent the sales and
- 2856 uses are exempt from taxation under Section 59-12-104; or
- 2857 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
- 2858 under Section 59-12-104.8;
- 2859 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
- 2860 a city that imposes a tax under Section 59-12-804; and
- 2861 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
- 2862 food ingredients.
- 2863 (d) For purposes of this Subsection (1), the location of a transaction shall be
- 2864 determined in accordance with Sections 59-12-211 through 59-12-215.
- 2865 (e) A county legislative body imposing a tax under this section shall impose the tax on
- 2866 the purchase price or sales price for amounts paid or charged for food and food ingredients if
- 2867 the food and food ingredients are sold as part of a bundled transaction attributable to food and
- 2868 food ingredients and tangible personal property other than food and food ingredients.
- 2869 (2) (a) Before imposing a tax under Subsection (1), a county legislative body shall
- 2870 obtain approval to impose the tax from a majority of the:
- 2871 (i) members of the county's legislative body; and
- 2872 (ii) county's registered voters voting on the imposition of the tax.
- 2873 (b) The county legislative body shall conduct the election according to the procedures
- 2874 and requirements of Title 11, Chapter 14, Local Government Bonding Act.
- 2875 (3) (a) The money collected from a tax imposed under Subsection (1) by a county
- 2876 legislative body of a county of the third or fourth class may only be used for the financing of:

2877 (i) ongoing operating expenses of a rural county health care facility within that county;
2878 (ii) the acquisition of land for a rural county health care facility within that county; or
2879 (iii) the design, construction, equipping, or furnishing of a rural county health care
2880 facility within that county.

2881 (b) The money collected from a tax imposed under Subsection (1) by a county of the
2882 fifth or sixth class may only be used to fund:

2883 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
2884 (1)(b)(ii) within that county;

2885 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
2886 (1)(b)(ii) within that county;

2887 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
2888 described in Subsection (1)(b)(ii) within that county; or

2889 (iv) rural emergency medical services within that county.

2890 (4) (a) A tax under this section shall be:

2891 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2892 accordance with:

2893 (A) the same procedures used to administer, collect, and enforce the tax under:

2894 (I) Part 1, Tax Collection; or

2895 (II) Part 2, Local Sales and Use Tax Act; and

2896 (B) Chapter 1, General Taxation Policies; and

2897 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2898 period by the county legislative body as provided in Subsection (1).

2899 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

2900 (c) A county legislative body shall distribute money collected from a tax under this
2901 section quarterly.

2902 (5) The commission shall retain and deposit an administrative charge in accordance
2903 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

2904 Section 17. Section 59-12-804 is amended to read:

2905 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
2906 **collection, and enforcement of tax -- Administrative charge.**

2907 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

- 2908 (i) on the transactions described in Subsection 59-12-103(1) located within the city;
2909 and
2910 (ii) to fund rural city hospitals in that city.
- 2911 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
2912 under this section on:
- 2913 (i) the sales and uses described in:
- 2914 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2915 Section 59-12-104; or
- 2916 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2917 under Section 59-12-104.8; and
- 2918 (ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
2919 ingredients.
- 2920 (c) For purposes of this Subsection (1), the location of a transaction shall be
2921 determined in accordance with Sections 59-12-211 through 59-12-215.
- 2922 (d) A city legislative body imposing a tax under this section shall impose the tax on the
2923 purchase price or sales price for amounts paid or charged for food and food ingredients if the
2924 food and food ingredients are sold as part of a bundled transaction attributable to food and food
2925 ingredients and tangible personal property other than food and food ingredients.
- 2926 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
2927 obtain approval to impose the tax from a majority of the:
- 2928 (i) members of the city legislative body; and
2929 (ii) city's registered voters voting on the imposition of the tax.
- 2930 (b) The city legislative body shall conduct the election according to the procedures and
2931 requirements of Title 11, Chapter 14, Local Government Bonding Act.
- 2932 (3) The money collected from a tax imposed under Subsection (1) may only be used to
2933 fund:
- 2934 (a) ongoing operating expenses of a rural city hospital;
2935 (b) the acquisition of land for a rural city hospital; or
2936 (c) the design, construction, equipping, or furnishing of a rural city hospital.
- 2937 (4) (a) A tax under this section shall be:
2938 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

2939 accordance with:

2940 (A) the same procedures used to administer, collect, and enforce the tax under:

2941 (I) Part 1, Tax Collection; or

2942 (II) Part 2, Local Sales and Use Tax Act; and

2943 (B) Chapter 1, General Taxation Policies; and

2944 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2945 period by the city legislative body as provided in Subsection (1).

2946 (b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

2947 (5) The commission shall retain and deposit an administrative charge in accordance
2948 with Section 59-1-306 from the revenue the commission collects from a tax under this section.

2949 Section 18. Section 59-12-1102 is amended to read:

2950 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
2951 **Administration -- Administrative charge -- Commission requirement to retain an amount**
2952 **to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal**
2953 **of tax -- Effective date -- Notice requirements.**

2954 (1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax
2955 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
2956 of .25% upon the transactions described in Subsection 59-12-103(1).

2957 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
2958 section on the sales and uses described in:

2959 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
2960 Section 59-12-104[-]; or

2961 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
2962 under Section 59-12-104.8.

2963 (b) For purposes of this Subsection (1), the location of a transaction shall be
2964 determined in accordance with Sections 59-12-211 through 59-12-215.

2965 (c) The county option sales and use tax under this section shall be imposed:

2966 (i) upon transactions that are located within the county, including transactions that are
2967 located within municipalities in the county; and

2968 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
2969 January:

- 2970 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
2971 ordinance is adopted on or before May 25; or
- 2972 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
2973 ordinance is adopted after May 25.
- 2974 (d) The county option sales and use tax under this section shall be imposed:
- 2975 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
2976 September 4, 1997; or
- 2977 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
2978 but after September 4, 1997.
- 2979 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
2980 county shall hold two public hearings on separate days in geographically diverse locations in
2981 the county.
- 2982 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
2983 time of no earlier than 6 p.m.
- 2984 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
2985 days after the day the first advertisement required by Subsection (2)(c) is published.
- 2986 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
2987 shall advertise:
- 2988 (A) its intent to adopt a county option sales and use tax;
- 2989 (B) the date, time, and location of each public hearing; and
- 2990 (C) a statement that the purpose of each public hearing is to obtain public comments
2991 regarding the proposed tax.
- 2992 (ii) The advertisement shall be published:
- 2993 (A) in a newspaper of general circulation in the county once each week for the two
2994 weeks preceding the earlier of the two public hearings; and
- 2995 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for two weeks
2996 preceding the earlier of the two public hearings.
- 2997 (iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8
2998 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch
2999 border.
- 3000 (iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that

3001 portion of the newspaper where legal notices and classified advertisements appear.

3002 (v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

3003 (A) the advertisement shall appear in a newspaper that is published at least five days a
3004 week, unless the only newspaper in the county is published less than five days a week; and

3005 (B) the newspaper selected shall be one of general interest and readership in the
3006 community, and not one of limited subject matter.

3007 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
3008 to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part
3009 6, Local Referenda - Procedures.

3010 (3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a
3011 county option sales and use tax under Subsection (1) is less than 75% of the state population,
3012 the tax levied under Subsection (1) shall be distributed to the county in which the tax was
3013 collected.

3014 (b) Subject to Subsection (5), if the aggregate population of the counties imposing a
3015 county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state
3016 population:

3017 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
3018 the county in which the tax was collected; and

3019 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
3020 (1) in each county shall be distributed proportionately among all counties imposing the tax,
3021 based on the total population of each county.

3022 (c) Except as provided in Subsection (5), the amount to be distributed annually to a
3023 county under Subsection (3)(b)(ii), when combined with the amount distributed to the county
3024 under Subsection (3)(b)(i), does not equal at least \$75,000, then:

3025 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
3026 be increased so that, when combined with the amount distributed to the county under
3027 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

3028 (ii) the amount to be distributed annually to all other counties under Subsection
3029 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
3030 Subsection (3)(c)(i).

3031 (d) The commission shall establish rules to implement the distribution of the tax under

3032 Subsections (3)(a), (b), and (c).

3033 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
3034 shall be administered, collected, and enforced in accordance with:

3035 (i) the same procedures used to administer, collect, and enforce the tax under:

3036 (A) Part 1, Tax Collection; or

3037 (B) Part 2, Local Sales and Use Tax Act; and

3038 (ii) Chapter 1, General Taxation Policies.

3039 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3040 (c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an
3041 administrative charge in accordance with Section 59-1-306 from the revenue the commission
3042 collects from a tax under this part.

3043 (ii) Notwithstanding Section 59-1-306, the administrative charge described in
3044 Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of
3045 the distribution amounts resulting after:

3046 (A) the applicable distribution calculations under Subsection (3) have been made; and

3047 (B) the commission retains the amount required by Subsection (5).

3048 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion
3049 of the sales and use tax collected under this part as provided in this Subsection (5).

3050 (b) For a county that imposes a tax under this part, the commission shall calculate a
3051 percentage each month by dividing the sales and use tax collected under this part for that
3052 month within the boundaries of that county by the total sales and use tax collected under this
3053 part for that month within the boundaries of all of the counties that impose a tax under this part.

3054 (c) For a county that imposes a tax under this part, the commission shall retain each
3055 month an amount equal to the product of:

3056 (i) the percentage the commission determines for the month under Subsection (5)(b)
3057 for the county; and

3058 (ii) \$6,354.

3059 (d) The commission shall deposit an amount the commission retains in accordance
3060 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section
3061 35A-8-1009.

3062 (e) An amount the commission deposits into the Qualified Emergency Food Agencies

3063 Fund shall be expended as provided in Section 35A-8-1009.

3064 (6) (a) For purposes of this Subsection (6):

3065 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
3066 Consolidations and Annexations.

3067 (ii) "Annexing area" means an area that is annexed into a county.

3068 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a
3069 county enacts or repeals a tax under this part:

3070 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

3071 (II) the repeal shall take effect on the first day of a calendar quarter; and

3072 (B) after a 90-day period beginning on the date the commission receives notice meeting
3073 the requirements of Subsection (6)(b)(ii) from the county.

3074 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

3075 (A) that the county will enact or repeal a tax under this part;

3076 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

3077 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

3078 (D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the
3079 tax.

3080 (c) (i) If the billing period for a transaction begins before the effective date of the
3081 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day
3082 of the first billing period that begins on or after the effective date of the enactment of the tax.

3083 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3084 period is produced on or after the effective date of the repeal of the tax imposed under
3085 Subsection (1).

3086 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3087 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3088 Subsection (6)(b)(i) takes effect:

3089 (A) on the first day of a calendar quarter; and

3090 (B) beginning 60 days after the effective date of the enactment or repeal under
3091 Subsection (6)(b)(i).

3092 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3093 commission may by rule define the term "catalogue sale."

3094 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
3095 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3096 part for an annexing area, the enactment or repeal shall take effect:

3097 (A) on the first day of a calendar quarter; and

3098 (B) after a 90-day period beginning on the date the commission receives notice meeting
3099 the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

3100 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

3101 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
3102 repeal of a tax under this part for the annexing area;

3103 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

3104 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

3105 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

3106 (f) (i) If the billing period for a transaction begins before the effective date of the
3107 enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day
3108 of the first billing period that begins on or after the effective date of the enactment of the tax.

3109 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3110 period is produced on or after the effective date of the repeal of the tax imposed under
3111 Subsection (1).

3112 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3113 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3114 Subsection (6)(e)(i) takes effect:

3115 (A) on the first day of a calendar quarter; and

3116 (B) beginning 60 days after the effective date of the enactment or repeal under
3117 Subsection (6)(e)(i).

3118 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3119 commission may by rule define the term "catalogue sale."

3120 Section 19. Section **59-12-1302** is amended to read:

3121 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
3122 **rate change -- Effective date -- Notice requirements -- Administration, collection, and**
3123 **enforcement of tax -- Administrative charge.**

3124 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a

3125 tax as provided in this part in an amount that does not exceed 1%.

3126 (2) A town may impose a tax as provided in this part if the town imposed a license fee
3127 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
3128 1996.

3129 (3) A town imposing a tax under this section shall:

3130 (a) except as provided in Subsection (4), impose the tax on the transactions described
3131 in Subsection 59-12-103(1) located within the town; and

3132 (b) provide an effective date for the tax as provided in Subsection (5).

3133 (4) (a) A town may not impose a tax under this section on:

3134 (i) the sales and uses described in:

3135 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
3136 Section 59-12-104; or

3137 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
3138 under Section 59-12-104.8; and

3139 (ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food
3140 ingredients.

3141 (b) For purposes of this Subsection (4), the location of a transaction shall be
3142 determined in accordance with Sections 59-12-211 through 59-12-215.

3143 (c) A town imposing a tax under this section shall impose the tax on the purchase price
3144 or sales price for amounts paid or charged for food and food ingredients if the food and food
3145 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
3146 and tangible personal property other than food and food ingredients.

3147 (5) (a) For purposes of this Subsection (5):

3148 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
3149 Annexation.

3150 (ii) "Annexing area" means an area that is annexed into a town.

3151 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3152 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
3153 or change shall take effect:

3154 (A) on the first day of a calendar quarter; and

3155 (B) after a 90-day period beginning on the date the commission receives notice meeting

3156 the requirements of Subsection (5)(b)(ii) from the town.

3157 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3158 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

3159 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3160 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3161 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

3162 (5)(b)(ii)(A), the rate of the tax.

3163 (c) (i) If the billing period for the transaction begins before the effective date of the
3164 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
3165 the tax or the tax rate increase takes effect on the first day of the first billing period that begins
3166 on or after the effective date of the enactment of the tax or the tax rate increase.

3167 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3168 statement for the billing period is produced on or after the effective date of the repeal of the tax
3169 or the tax rate decrease imposed under Subsection (1).

3170 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3171 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
3172 a tax described in Subsection (5)(b)(i) takes effect:

3173 (A) on the first day of a calendar quarter; and

3174 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3175 rate of the tax under Subsection (5)(b)(i).

3176 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3177 commission may by rule define the term "catalogue sale."

3178 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3179 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
3180 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3181 effect:

3182 (A) on the first day of a calendar quarter; and

3183 (B) after a 90-day period beginning on the date the commission receives notice meeting
3184 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

3185 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3186 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,

3187 repeal, or change in the rate of a tax under this part for the annexing area;

3188 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3189 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3190 (D) if the town enacts the tax or changes the rate of the tax described in Subsection

3191 (5)(e)(ii)(A), the rate of the tax.

3192 (f) (i) If the billing period for a transaction begins before the effective date of the

3193 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of

3194 the tax or the tax rate increase takes effect on the first day of the first billing period that begins

3195 on or after the effective date of the enactment of the tax or the tax rate increase.

3196 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing

3197 statement for the billing period is produced on or after the effective date of the repeal of the tax

3198 or the tax rate decrease imposed under Subsection (1).

3199 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

3200 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of

3201 a tax described in Subsection (5)(e)(i) takes effect:

3202 (A) on the first day of a calendar quarter; and

3203 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

3204 rate of the tax under Subsection (5)(e)(i).

3205 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3206 commission may by rule define the term "catalogue sale."

3207 (6) The commission shall:

3208 (a) distribute the revenue generated by the tax under this section to the town imposing

3209 the tax; and

3210 (b) except as provided in Subsection (8), administer, collect, and enforce the tax

3211 authorized under this section in accordance with:

3212 (i) the same procedures used to administer, collect, and enforce the tax under:

3213 (A) Part 1, Tax Collection; or

3214 (B) Part 2, Local Sales and Use Tax Act; and

3215 (ii) Chapter 1, General Taxation Policies.

3216 (7) The commission shall retain and deposit an administrative charge in accordance

3217 with Section [59-1-306](#) from the revenue the commission collects from a tax under this part.

3218 (8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3219 Section 20. Section 59-12-1402 is amended to read:

3220 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**

3221 **Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice**

3222 **requirements.**

3223 (1) (a) Subject to the other provisions of this section, a city or town legislative body
3224 subject to this part may submit an opinion question to the residents of that city or town, by
3225 majority vote of all members of the legislative body, so that each resident of the city or town
3226 has an opportunity to express the resident's opinion on the imposition of a local sales and use
3227 tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or
3228 town, to:

3229 (i) fund cultural facilities, recreational facilities, and zoological facilities and botanical
3230 organizations, cultural organizations, and zoological organizations in that city or town; or

3231 (ii) provide funding for a botanical organization, cultural organization, or zoological
3232 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
3233 furtherance of the botanical organization's, cultural organization's, or zoological organization's
3234 primary purpose.

3235 (b) The opinion question required by this section shall state:

3236 "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales
3237 and use tax for (list the purposes for which the revenue collected from the sales and use tax
3238 shall be expended)?"

3239 (c) A city or town legislative body may not impose a tax under this section:

3240 (i) if the county in which the city or town is located imposes a tax under Part 7, County
3241 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
3242 Facilities;

3243 (ii) on the sales and uses described in:

3244 (A) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
3245 Section 59-12-104; or

3246 (B) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation
3247 under Section 59-12-104.8; and

3248 (iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and

3249 food ingredients.

3250 (d) For purposes of this Subsection (1), the location of a transaction shall be
3251 determined in accordance with Sections 59-12-211 through 59-12-215.

3252 (e) A city or town legislative body imposing a tax under this section shall impose the
3253 tax on the purchase price or sales price for amounts paid or charged for food and food
3254 ingredients if the food and food ingredients are sold as part of a bundled transaction attributable
3255 to food and food ingredients and tangible personal property other than food and food
3256 ingredients.

3257 (f) Except as provided in Subsection (6), the election shall be held at a regular general
3258 election or a municipal general election, as those terms are defined in Section 20A-1-102, and
3259 shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

3260 (2) If the city or town legislative body determines that a majority of the city's or town's
3261 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3262 the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by
3263 a majority vote of all members of the legislative body.

3264 (3) Subject to Section 59-12-1403, revenue collected from a tax imposed under
3265 Subsection (2) shall be expended:

3266 (a) to finance cultural facilities, recreational facilities, and zoological facilities within
3267 the city or town or within the geographic area of entities that are parties to an interlocal
3268 agreement, to which the city or town is a party, providing for cultural facilities, recreational
3269 facilities, or zoological facilities;

3270 (b) to finance ongoing operating expenses of:

3271 (i) recreational facilities described in Subsection (3)(a) within the city or town or
3272 within the geographic area of entities that are parties to an interlocal agreement, to which the
3273 city or town is a party, providing for recreational facilities; or

3274 (ii) botanical organizations, cultural organizations, and zoological organizations within
3275 the city or town or within the geographic area of entities that are parties to an interlocal
3276 agreement, to which the city or town is a party, providing for the support of botanical
3277 organizations, cultural organizations, or zoological organizations; and

3278 (c) as stated in the opinion question described in Subsection (1).

3279 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall

3280 be:

3281 (i) administered, collected, and enforced in accordance with:

3282 (A) the same procedures used to administer, collect, and enforce the tax under:

3283 (I) Part 1, Tax Collection; or

3284 (II) Part 2, Local Sales and Use Tax Act; and

3285 (B) Chapter 1, General Taxation Policies; and

3286 (ii) (A) levied for a period of eight years; and

3287 (B) may be reauthorized at the end of the eight-year period in accordance with this

3288 section.

3289 (b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the
3290 tax shall be levied for a period of 10 years.

3291 (ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or
3292 after July 1, 2011, the tax shall be reauthorized for a ten-year period.

3293 (c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

3294 (5) (a) For purposes of this Subsection (5):

3295 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3296 4, Annexation.

3297 (ii) "Annexing area" means an area that is annexed into a city or town.

3298 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3299 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3300 (A) on the first day of a calendar quarter; and

3301 (B) after a 90-day period beginning on the date the commission receives notice meeting
3302 the requirements of Subsection (5)(b)(ii) from the city or town.

3303 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3304 (A) that the city or town will enact or repeal a tax under this part;

3305 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3306 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3307 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
3308 the tax.

3309 (c) (i) If the billing period for a transaction begins before the effective date of the
3310 enactment of the tax under this section, the enactment of the tax takes effect on the first day of

3311 the first billing period that begins on or after the effective date of the enactment of the tax.

3312 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3313 period is produced on or after the effective date of the repeal of the tax imposed under this
3314 section.

3315 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3316 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3317 Subsection (5)(b)(i) takes effect:

3318 (A) on the first day of a calendar quarter; and

3319 (B) beginning 60 days after the effective date of the enactment or repeal under
3320 Subsection (5)(b)(i).

3321 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3322 commission may by rule define the term "catalogue sale."

3323 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3324 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3325 part for an annexing area, the enactment or repeal shall take effect:

3326 (A) on the first day of a calendar quarter; and

3327 (B) after a 90-day period beginning on the date the commission receives notice meeting
3328 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3329 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3330 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3331 repeal a tax under this part for the annexing area;

3332 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3333 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3334 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3335 (f) (i) If the billing period for a transaction begins before the effective date of the
3336 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3337 the first billing period that begins on or after the effective date of the enactment of the tax.

3338 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3339 period is produced on or after the effective date of the repeal of the tax imposed under this
3340 section.

3341 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

3342 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3343 Subsection (5)(e)(i) takes effect:

3344 (A) on the first day of a calendar quarter; and

3345 (B) beginning 60 days after the effective date of the enactment or repeal under

3346 Subsection (5)(e)(i).

3347 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3348 commission may by rule define the term "catalogue sale."

3349 (6) (a) Before a city or town legislative body submits an opinion question to the
3350 residents of the city or town under Subsection (1), the city or town legislative body shall:

3351 (i) submit to the county legislative body in which the city or town is located a written
3352 notice of the intent to submit the opinion question to the residents of the city or town; and

3353 (ii) receive from the county legislative body:

3354 (A) a written resolution passed by the county legislative body stating that the county
3355 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
3356 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3357 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
3358 opinion question submitted to the residents of the county under Part 7, County Option Funding
3359 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
3360 or town legislative body to submit the opinion question to the residents of the city or town in
3361 accordance with this part.

3362 (b) (i) Within 60 days after the day the county legislative body receives from a city or
3363 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
3364 opinion question to the residents of the city or town, the county legislative body shall provide
3365 the city or town legislative body:

3366 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

3367 (B) written notice that the county legislative body will submit an opinion question to
3368 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
3369 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
3370 that part.

3371 (ii) If the county legislative body provides the city or town legislative body the written
3372 notice that the county legislative body will submit an opinion question as provided in

3373 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
3374 later than, from the date the county legislative body sends the written notice, the later of:

- 3375 (A) a 12-month period;
- 3376 (B) the next regular primary election; or
- 3377 (C) the next regular general election.

3378 (iii) Within 30 days of the date of the canvass of the election at which the opinion
3379 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
3380 city or town legislative body described in Subsection (6)(a) written results of the opinion
3381 question submitted by the county legislative body under Part 7, County Option Funding for
3382 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

3383 (A) (I) the city or town legislative body may not impose a tax under this part because a
3384 majority of the county's registered voters voted in favor of the county imposing the tax and the
3385 county legislative body by a majority vote approved the imposition of the tax; or

3386 (II) for at least 12 months from the date the written results are submitted to the city or
3387 town legislative body, the city or town legislative body may not submit to the county legislative
3388 body a written notice of the intent to submit an opinion question under this part because a
3389 majority of the county's registered voters voted against the county imposing the tax and the
3390 majority of the registered voters who are residents of the city or town described in Subsection
3391 (6)(a) voted against the imposition of the county tax; or

3392 (B) the city or town legislative body may submit the opinion question to the residents
3393 of the city or town in accordance with this part because although a majority of the county's
3394 registered voters voted against the county imposing the tax, the majority of the registered voters
3395 who are residents of the city or town voted for the imposition of the county tax.

3396 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
3397 provide a city or town legislative body described in Subsection (6)(a) a written resolution
3398 passed by the county legislative body stating that the county legislative body is not seeking to
3399 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
3400 Zoological Organizations or Facilities, which permits the city or town legislative body to
3401 submit under Subsection (1) an opinion question to the city's or town's residents.

3402 Section 21. Section **59-12-1802** is amended to read:

3403 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**

3404 **General Fund.**

3405 (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax,
3406 a tax shall be imposed within the county under this section by the state:

3407 (a) on the transactions described in Subsection 59-12-103(1);

3408 (b) at a rate of .25%; and

3409 (c) beginning on January 1, 2008, and ending on the day on which the county imposes
3410 a tax under Part 11, County Option Sales and Use Tax.

3411 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
3412 sales and uses described in:

3413 (a) Section 59-12-104 to the extent the sales and uses are exempt from taxation under
3414 Section 59-12-104[-]; or

3415 (b) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under
3416 Section 59-12-104.8.

3417 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
3418 accordance with Sections 59-12-211 through 59-12-215.

3419 (4) Revenues collected from the sales and use tax imposed by this section, after
3420 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
3421 into the General Fund.

3422 Section 22. Section 59-12-2003 is amended to read:

3423 **59-12-2003. Imposition -- Base -- Rate -- Revenue distributed to certain public**
3424 **transit districts.**

3425 (1) Subject to the other provisions of this section and except as provided in Subsection
3426 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
3427 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
3428 area of a county of the first or second class if, on January 1, 2008, there is a public transit
3429 district within any portion of that county of the first or second class.

3430 (2) The state may not impose a tax under this part within a county of the first or second
3431 class if within all of the cities, towns, and the unincorporated area of the county of the first or
3432 second class there is imposed a sales and use tax of:

3433 (a) .30% under Section 59-12-2213;

3434 (b) .30% under Section 59-12-2215; or

3435 (c) .30% under Section 59-12-2216.

3436 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax

3437 rate imposed within a city, town, or the unincorporated area of a county of the first or second

3438 class is a percentage equal to the difference between:

3439 (i) .30%; and

3440 (ii) (A) for a city within the county of the first or second class, the highest tax rate

3441 imposed within that city under:

3442 (I) Section 59-12-2213;

3443 (II) Section 59-12-2215; or

3444 (III) Section 59-12-2216;

3445 (B) for a town within the county of the first or second class, the highest tax rate

3446 imposed within that town under:

3447 (I) Section 59-12-2213;

3448 (II) Section 59-12-2215; or

3449 (III) Section 59-12-2216; or

3450 (C) for the unincorporated area of the county of the first or second class, the highest tax

3451 rate imposed within that unincorporated area under:

3452 (I) Section 59-12-2213;

3453 (II) Section 59-12-2215; or

3454 (III) Section 59-12-2216.

3455 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of

3456 a county of the first or second class, the highest tax rate imposed under Section 59-12-2213,

3457 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the

3458 first or second class is .30%, the state may not impose a tax under this part within that city,

3459 town, or unincorporated area.

3460 (4) (a) The state may not impose a tax under this part on:

3461 (i) (A) the sales and uses described in Section 59-12-104 to the extent the sales and

3462 uses are exempt from taxation under Section 59-12-104; or

3463 (B) the sales and uses described in Section 59-12-104.8 to the extent the sales and uses

3464 are exempt from taxation under Section 59-12-104.8; or

3465 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food

3466 ingredients.

3467 (b) The state shall impose a tax under this part on the purchase price or sales price for
3468 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3469 as part of a bundled transaction attributable to food and ingredients and tangible personal
3470 property other than food and food ingredients.

3471 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
3472 accordance with Sections 59-12-211 through 59-12-215.

3473 (6) The commission shall distribute the revenues the state collects from the sales and
3474 use tax under this part, after subtracting amounts a seller retains in accordance with Section
3475 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3476 (a) within which the state imposes a tax under this part; and

3477 (b) in proportion to the revenues collected from the sales and use tax under this part
3478 within each city, town, and unincorporated area within which the state imposes a tax under this
3479 part.

3480 Section 23. Section 59-12-2103 is amended to read:

3481 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected**
3482 **from the tax -- Administration, collection, and enforcement of tax by commission --**
3483 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

3484 (1) (a) Subject to the other provisions of this section and except as provided in
3485 Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or
3486 town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the
3487 city or town would have received a tax revenue distribution of less than .75% of the taxable
3488 sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or
3489 town legislative body may impose a sales and use tax of up to .20% on the transactions:

3490 (i) described in Subsection 59-12-103(1); and

3491 (ii) within the city or town.

3492 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
3493 expend the revenue collected from the tax for the same purposes for which the city or town
3494 may expend the city's or town's general fund revenue.

3495 (c) For purposes of this Subsection (1), the location of a transaction shall be
3496 determined in accordance with Sections 59-12-211 through 59-12-215.

3497 (2) (a) A city or town legislative body may not impose a tax under this section on:

3498 (i) the sales and uses described in:

3499 (A) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
3500 Section [59-12-104](#); or

3501 (B) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
3502 under Section [59-12-104.8](#); and

3503 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
3504 ingredients.

3505 (b) A city or town legislative body imposing a tax under this section shall impose the
3506 tax on the purchase price or sales price for amounts paid or charged for food and food
3507 ingredients if the food and food ingredients are sold as part of a bundled transaction attributable
3508 to food and food ingredients and tangible personal property other than food and food
3509 ingredients.

3510 (3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax
3511 under this part, a city or town legislative body shall obtain approval from a majority of the
3512 members of the city or town legislative body.

3513 (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or
3514 town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

3515 (c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or
3516 town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before
3517 March 31, 2016, the city or town legislative body obtains approval from a majority vote of the
3518 members of the city or town legislative body to continue to impose the tax.

3519 (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of
3520 the members of the city or town legislative body to continue to impose a tax under this part on
3521 or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

3522 (4) The commission shall transmit revenue collected within a city or town from a tax
3523 under this part:

3524 (a) to the city or town legislative body;

3525 (b) monthly; and

3526 (c) by electronic funds transfer.

3527 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,

3528 collect, and enforce a tax under this part in accordance with:

3529 (i) the same procedures used to administer, collect, and enforce the tax under:

3530 (A) Part 1, Tax Collection; or

3531 (B) Part 2, Local Sales and Use Tax Act; and

3532 (ii) Chapter 1, General Taxation Policies.

3533 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3534 (6) The commission shall retain and deposit an administrative charge in accordance
3535 with Section 59-1-306 from the revenue the commission collects from a tax under this part.

3536 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
3537 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
3538 repeal, or change shall take effect:

3539 (A) on the first day of a calendar quarter; and

3540 (B) after a 90-day period beginning on the date the commission receives notice meeting
3541 the requirements of Subsection (7)(a)(i) from the city or town.

3542 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

3543 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
3544 this part;

3545 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

3546 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

3547 (D) if the city or town enacts the tax or changes the rate of the tax described in
3548 Subsection (7)(a)(ii)(A), the rate of the tax.

3549 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
3550 the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes
3551 effect on the first day of the first billing period that begins on or after the effective date of the
3552 enactment of the tax or the tax rate increase.

3553 (ii) If the billing period for a transaction begins before the effective date of the repeal
3554 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3555 rate decrease applies to a billing period if the billing statement for the billing period is rendered
3556 on or after the effective date of the repeal of the tax or the tax rate decrease.

3557 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3558 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax

3559 described in Subsection (7)(a)(i) takes effect:

3560 (A) on the first day of a calendar quarter; and

3561 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3562 rate of the tax under Subsection (7)(a)(i).

3563 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3564 commission may by rule define the term "catalogue sale."

3565 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
3566 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
3567 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3568 effect:

3569 (A) on the first day of a calendar quarter; and

3570 (B) after a 90-day period beginning on the date the commission receives notice meeting
3571 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3572 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3573 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
3574 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3575 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3576 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3577 (D) if the city or town enacts the tax or changes the rate of the tax described in
3578 Subsection (7)(d)(ii)(A), the rate of the tax.

3579 (e) (i) If the billing period for a transaction begins before the effective date of the
3580 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
3581 rate increase takes effect on the first day of the first billing period that begins on or after the
3582 effective date of the enactment of the tax or the tax rate increase.

3583 (ii) If the billing period for a transaction begins before the effective date of the repeal
3584 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
3585 rate decrease applies to a billing period if the billing statement for the billing period is rendered
3586 on or after the effective date of the repeal of the tax or the tax rate decrease.

3587 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3588 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3589 described in Subsection (7)(d)(i) takes effect:

3590 (A) on the first day of a calendar quarter; and

3591 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
3592 Subsection (7)(d)(i).

3593 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3594 commission may by rule define the term "catalogue sale."

3595 Section 24. Section **59-12-2204** is amended to read:

3596 **59-12-2204. Transactions that may not be subject to taxation under this part --**
3597 **Exception for food and food ingredients sold as part of a bundled transaction.**

3598 (1) A county, city, or town may not impose a sales and use tax under this part on:

3599 (a) the sales and uses described in:

3600 (i) Section [59-12-104](#) to the extent the sales and uses are exempt from taxation under
3601 Section [59-12-104](#); or

3602 (ii) Section [59-12-104.8](#) to the extent the sales and uses are exempt from taxation
3603 under Section [59-12-104.8](#); and

3604 (b) except as provided in Subsection (2), amounts paid or charged for food and food
3605 ingredients.

3606 (2) A county, city, or town imposing a sales and use tax under this part shall impose
3607 the sales and use tax on the purchase price or sales price for amounts paid or charged for food
3608 and food ingredients if the food and food ingredients are sold as part of a bundled transaction
3609 attributable to food and food ingredients and tangible personal property other than food and
3610 food ingredients.

3611 Section 25. Section **63I-2-210** is amended to read:

3612 **63I-2-210. Repeal dates -- Title 10.**

3613 (1) If Subsection [10-1-405](#)(1)(a)(ii)(A)(VI) is not in effect by December 31, 2028,

3614 Subsection [10-1-405](#)(1)(a)(ii)(A)(VI) is repealed on December 31, 2028.

3615 [~~(1)~~] (2) On July 1, 2018, the following are repealed:

3616 (a) in Subsection [10-2-403](#)(5), the language that states "[10-2a-302](#) or";

3617 (b) in Subsection [10-2-403](#)(5)(b), the language that states "[10-2a-302](#) or";

3618 (c) in Subsection [10-2a-106](#)(2), the language that states "[10-2a-302](#) or";

3619 (d) Section [10-2a-302](#);

3620 (e) Subsection [10-2a-302.5](#)(2)(a);

- 3621 (f) in Subsection [10-2a-303](#)(1), the language that states "[10-2a-302](#) or";
- 3622 (g) in Subsection [10-2a-303](#)(4), the language that states "[10-2a-302](#)(7)(b)(v) or" and
- 3623 "[10-2a-302](#)(7)(b)(iv) or";
- 3624 (h) in Subsection [10-2a-304](#)(1)(a), the language that states "[10-2a-302](#) or"; and
- 3625 (i) in Subsection [10-2a-304](#)(1)(a)(ii), the language that states "Subsection [10-2a-302](#)(5)
- 3626 or".
- 3627 ~~[(2)]~~ (3) Subsection [10-9a-304](#)(2) is repealed June 1, 2020.
- 3628 ~~[(3)]~~ (4) When repealing Subsection [10-9a-304](#)(2), the Office of Legislative Research
- 3629 and General Counsel shall, in addition to the office's authority under Subsection [36-12-12](#)(3),
- 3630 make necessary changes to subsection numbering and cross references.
- 3631 Section 26. Section **63I-2-259** is amended to read:
- 3632 **63I-2-259. Repeal dates -- Title 59.**
- 3633 (1) Subsection [59-2-1007](#)(14) is repealed on December 31, 2018.
- 3634 (2) If Section [59-12-104.8](#) is not in effect by December 31, 2028, Subsection
- 3635 [59-12-103.1](#)(5) is repealed on December 31, 2028.
- 3636 (3) If Subsection [59-12-104.5](#)(2) is not in effect by December 31, 2028, Subsection
- 3637 [59-12-104.5](#)(2) is repealed on December 31, 2028.
- 3638 (4) If Section [59-12-104.8](#) is not in effect by December 31, 2028, Section [59-12-104.8](#)
- 3639 is repealed on December 31, 2028.
- 3640 (5) If Subsection [59-12-106](#)(3)(a)(ii)(B) is not in effect by December 31, 2028,
- 3641 Subsection [59-12-106](#)(3)(a)(ii)(B) is repealed on December 31, 2028.
- 3642 (6) If Subsection [59-12-107](#)(10)(a)(ii)(A)(III) is not in effect by December 31, 2028,
- 3643 Subsection [59-12-107](#)(10)(a)(ii)(A)(III) is repealed on December 31, 2028.
- 3644 (7) If Subsection [59-12-204](#)(2)(b)(ii) is not in effect by December 31, 2028, Subsection
- 3645 [59-12-204](#)(2)(b)(ii) is repealed on December 31, 2028.
- 3646 (8) If Subsection [59-12-204](#)(6)(b)(ii) is not in effect by December 31, 2028, Subsection
- 3647 [59-12-204](#)(6)(b)(ii) is repealed on December 31, 2028.
- 3648 (9) If Subsection [59-12-401](#)(1)(b)(ii)(B) is not in effect by December 31, 2028,
- 3649 Subsection [59-12-401](#)(1)(b)(ii)(B) is repealed on December 31, 2028.
- 3650 (10) If Subsection [59-12-402](#)(1)(b)(ii)(B) is not in effect by December 31, 2028,
- 3651 Subsection [59-12-402](#)(1)(b)(ii)(B) is repealed on December 31, 2028.

3652 (11) If Subsection 59-12-402.1(5)(b)(ii) is not in effect by December 31, 2028,
3653 Subsection 59-12-402.1(5)(b)(ii) is repealed on December 31, 2028.

3654 (12) If Subsection 59-12-703(1)(c)(i)(B) is not in effect by December 31, 2028,
3655 Subsection 59-12-703(1)(c)(i)(B) is repealed on December 31, 2028.

3656 (13) If Subsection 59-12-802(1)(c)(i)(B) is not in effect by December 31, 2028,
3657 Subsection 59-12-802(1)(c)(i)(B) is repealed on December 31, 2028.

3658 (14) If Subsection 59-12-804(1)(b)(i)(B) is not in effect by December 31, 2028,
3659 Subsection 59-12-804(1)(b)(i)(B) is repealed on December 31, 2028.

3660 (15) If Subsection 59-12-1102(1)(a)(ii)(B) is not in effect by December 31, 2028,
3661 Subsection 59-12-1102(1)(a)(ii)(B) is repealed on December 31, 2028.

3662 (16) If Subsection 59-12-1302(4)(a)(i)(B) is not in effect by December 31, 2028,
3663 Subsection 59-12-1302(4)(a)(i)(B) is repealed on December 31, 2028.

3664 (17) If Subsection 59-12-1402(1)(c)(ii)(B) is not in effect by December 31, 2028,
3665 Subsection 59-12-1402(1)(c)(ii)(B) is repealed on December 31, 2028.

3666 (18) If Subsection 59-12-1802(2)(b) is not in effect by December 31, 2028, Subsection
3667 59-12-1802(2)(b) is repealed on December 31, 2028.

3668 (19) If Subsection 59-12-2003(4)(a)(i)(B) is not in effect by December 31, 2028,
3669 Subsection 59-12-2003(4)(a)(i)(B) is repealed on December 31, 2028.

3670 (20) If Subsection 59-12-2103(2)(a)(i)(B) is not in effect by December 31, 2028,
3671 Subsection 59-12-2103(2)(a)(i)(B) is repealed on December 31, 2028.

3672 (21) If Subsection 59-12-2204(1)(a)(ii) is not in effect by December 31, 2028,
3673 Subsection 59-12-2204(1)(a)(ii) is repealed on December 31, 2028.

3674 **Section 27. Repealer.**

3675 This bill repeals:

3676 Section **59-12-104.7, Reporting by purchaser of certain sales and use tax exempt**
3677 **purchases.**

3678 Section **63N-1-302, Reporting of certain sales and use tax exempt purchases.**

3679 Section 28. **Contingent effective date and effective date.**

3680 (1) Except as provided in Subsection (2), this bill takes effect on the first day of the
3681 calendar quarter after a 90 day period that begins on the day the legislative general counsel
3682 notifies the Legislative Management Committee that the Division of Finance has provided the

3683 notice required by Subsection [59-12-103.1\(5\)](#).

3684 (2) The amendments to Sections [59-12-102](#), [59-12-103.1](#), [63I-2-210](#), and [63I-2-259](#)

3685 take effect on July 1, 2018.