

SB0233S01 compared with SB0233

~~text~~ shows text that was in SB0233 but was deleted in SB0233S01.

Inserted text shows text that was not in SB0233 but was inserted into SB0233S01.

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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: _____

Cosponsor:

Curtis S. Bramble

LONG TITLE

General Description:

This bill ~~amends~~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;

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- ▶ 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 equipment or office supplies, by a medical laboratory;
- ▶ makes the expansion of the exemption for a manufacturing facility, certain mining operations, or a web search portal and the new exemption for a medical laboratory effective upon ~~action by the federal government permitting the state to require remote sellers to collect sales and use tax; and~~

~~the state collecting a certain amount of revenue from remote sales;~~

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

Money Appropriated in this Bill:

None

Other Special Clauses:

~~None~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

~~59-12-104~~ 59-12-103.1, as last amended by Laws of Utah ~~2017~~ 2016, ~~Chapters 264, 268~~ Chapter 135

59-12-103.2, ~~and 429~~ as last amended by Laws of Utah 2013, Chapter 150

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

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

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

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

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

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

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

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

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

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

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

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

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

59-12-1802, as last amended by Laws of Utah 2008, Chapter 384

59-12-2003, as last amended by Laws of Utah 2017, Chapter 422

59-12-2103, as last amended by Laws of Utah 2017, Chapter 422

59-12-2204, as last amended by Laws of Utah 2017, Chapter 422

63I-2-210, as last amended by Laws of Utah 2017, Chapters 181 and further amended

by Revisor Instructions, Laws of Utah 2017, Chapters 448, 448, 452 and last

amended by Coordination Clause, Laws of Utah 2017, Chapter 448

63I-2-259, as last amended by Laws of Utah 2017, Chapter 181

ENACTS:

59-12-104.8, Utah Code Annotated 1953

REPEALS:

59-12-104.7, as enacted by Laws of Utah 2017, Chapter 268

63N-1-302, as enacted by Laws of Utah 2017, Chapter 268

~~ENACTS:~~

~~59-12-104.8, Utah Code Annotated 1953~~

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

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

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

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

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pursuant to:

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

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

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

(A) except for:

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

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2;

(V) Section 59-12-104.3;

~~(VI) Section 59-12-107; 59-12-104.1; 8; and~~

~~(VII) Section 59-12-107.1; and~~

~~(VIII) Section 59-12-123; and~~

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

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

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

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

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

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

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

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

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

(iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration,

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collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

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

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

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

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

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

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

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

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

(i) within the municipality;

(ii) at a rate of 3.5%; and

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

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

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

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

(iii) a telecommunications provider is required to pay the municipal

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telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

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

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

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

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

(a) shipped outside the state;

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

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

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

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

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

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

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

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

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

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

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

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

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the tire retailer is required to file a sales and use tax return with the

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commission quarterly under Section 59-12-108.

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

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

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

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

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

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

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

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

Section ~~†~~4. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

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

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

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

(A) a product; or

(B) a service.

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

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

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

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

(a) listed under Subsection (6); and

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

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

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

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

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

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

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- (f) Section 59-12-401;
- (g) Section 59-12-402;
- (h) Section 59-12-402.1;
- (i) Section 59-12-703;
- (j) Section 59-12-802;
- (k) Section 59-12-804;
- (l) Section 59-12-1102;
- (m) Section 59-12-1302;
- (n) Section 59-12-1402;
- (o) Section 59-12-1802;
- (p) Section 59-12-2003;
- (q) Section 59-12-2103;
- (r) Section 59-12-2213;
- (s) Section 59-12-2214;
- (t) Section 59-12-2215;
- (u) Section 59-12-2216;
- (v) Section 59-12-2217;
- (w) Section 59-12-2218; or
- (x) Section 59-12-2219.

(7) "Aircraft" means the same as that term is defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

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(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

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

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

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(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

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

- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

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

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

(13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

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

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

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

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

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

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

(16) "Authorized carrier" means:

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

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

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

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

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

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

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

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

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

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

(ii) the sale of real property;

(iii) the sale of services to real property;

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

(A) the tangible personal property:

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

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

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

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

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

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

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

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

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

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

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

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

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

(A) packaging that:

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

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

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

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

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

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

(A) a binding sales document; or

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

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

(A) a bill of sale;

(B) a contract;

(C) an invoice;

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- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

- (i) on a transaction; and
- (ii) in the states that are members of the agreement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(25) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

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

(a) (i) in digital form; or

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

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

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

(a) a computer to perform a task; or

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

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

(a) future updates or upgrades to computer software;

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

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

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

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

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

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

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

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

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

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(C) services; and

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

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

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

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

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

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

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

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

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

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

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

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

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

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

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

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

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

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

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

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

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

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

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

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

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

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

(a) address information; or

(b) telephone number information.

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

- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
 - (A) a health care facility as defined in Section 26-21-2;
 - (B) a health care provider as defined in Section 78B-3-403;
 - (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
 - (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
 - (A) eyeglasses; or
 - (B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) "Drilling equipment manufacturer" means a facility:

- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

- (i) recognized in:
 - (A) the official United States Pharmacopoeia;

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- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- (ii) intended for use in the:
 - (A) diagnosis of disease;
 - (B) cure of disease;
 - (C) mitigation of disease;
 - (D) treatment of disease; or
 - (E) prevention of disease; or
- (iii) intended to affect:
 - (A) the structure of the body; or
 - (B) any function of the body.
- (b) "Drug" does not include:
 - (i) food and food ingredients;
 - (ii) a dietary supplement;
 - (iii) an alcoholic beverage; or
 - (iv) a prosthetic device.

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

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

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

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

(44) "Electronic" means:

- (a) relating to technology; and
- (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;

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- (iii) magnetic capabilities;
- (iv) wireless capabilities;
- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

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

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

(b) that performs electronic financial payment services.

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

(47) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

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(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

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

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

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

(B) made by a school student;

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

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

(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:

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

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

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

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

(53) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

(i) the executive branch of the state, including all departments, institutions, boards,

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divisions, bureaus, offices, commissions, and committees;

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

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

(iv) the National Guard;

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

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

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

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

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

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

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

(a) in mining or extraction of minerals;

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

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

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

(v) other farming activities;

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

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

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the federal Executive Office of the President, Office of Management and Budget; or

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

(d) by a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

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

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

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

(A) to other tangible personal property; and

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

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(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

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

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

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

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

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

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

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or

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

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System

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of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

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

(63) "Local taxing jurisdiction" means a:

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

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

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

(64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in:

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

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

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

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(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

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

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

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g);

or

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

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

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

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

(i) the origination point of the conveyance, routing, or transmission is not fixed;

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(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

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

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

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

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

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

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

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

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

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

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- (i) collected by the seller; and
- (ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

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

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

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

- (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;
- (b) yield mixtures of liquid hydrocarbon; and
- (c) require further processing other than mechanical blending before becoming finished petroleum products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

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

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

(A) convenience;

(B) stability; or

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(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

(86) "Place of primary use":

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

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

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

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

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

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

(i) through the use of a:

(A) bank card;

(B) credit card;

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(C) debit card; or

(D) travel card; or

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

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

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

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

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

(b) that:

(i) is paid for in advance; and

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

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

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

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

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

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

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- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:
 - (A) access number; or
 - (B) authorization code;
- (c) that is dialed:
 - (i) manually; or
 - (ii) electronically; and
- (d) sold in predetermined units or dollars that decline:
 - (i) by a known amount; and
 - (ii) with use.
- (91) (a) "Prepared food" means:
 - (i) food:
 - (A) sold in a heated state; or
 - (B) heated by a seller;
 - (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
 - (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:
 - (A) plate;
 - (B) knife;
 - (C) fork;
 - (D) spoon;
 - (E) glass;
 - (F) cup;
 - (G) napkin; or
 - (H) straw.
 - (b) "Prepared food" does not include:
 - (i) food that a seller only:
 - (A) cuts;
 - (B) repackages; or
 - (C) pasteurizes; or

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(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);

and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

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

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

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

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(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

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

(i) a container; or

(ii) packaging.

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

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

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(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

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

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

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

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

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

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

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

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

(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

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

(i) an ancillary service;

(ii) computer software; or

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(iii) a telecommunications service.

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

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(97) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

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

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment"

under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;

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- (D) format;
- (E) method of reproduction; or
- (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or

services are:

- (A) sold;
- (B) leased; or
- (C) rented.

(b) "Purchase price" and "sales price" include:

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

(ii) expenses of the seller, including:

- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;

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

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

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

and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the

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purchaser;

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

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

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

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

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

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the

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understanding of all of the parties to the transaction:

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

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

- (b) be located in the state;
- (c) be a new operation constructed on or after July 1, 2016;
- (d) consist of one or more buildings that total 150,000 or more square feet;
- (e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) "Regularly rented" means:

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

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

(103) "Rental" means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

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

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

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

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

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

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

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

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

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications

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service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

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

- (i) apartment; or
- (ii) other individual dwelling unit.

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

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

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

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

- (a) resale;
- (b) sublease; or
- (c) subrent.

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

(b) "Sale" includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

chapter;

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

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

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

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

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

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

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

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

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

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) "Sales price" means the same as that term is defined in Subsection (99).

(114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

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(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(115) For purposes of this section and Section 59-12-104, "school":

(a) means:

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- (i) an elementary school or a secondary school that:
 - (A) is a:
 - (I) public school; or
 - (II) private school; and
 - (B) provides instruction for one or more grades kindergarten through 12; or
- (ii) a public school district; and
- (b) includes the Electronic High School as defined in Section 53A-15-1002.

(116) "Seller" means a person that makes a sale, lease, or rental of:

- (a) tangible personal property;
- (b) a product transferred electronically; or
- (c) a service.

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

- (i) used primarily in the process of:
 - (A) (I) manufacturing a semiconductor;
 - (II) fabricating a semiconductor; or
 - (III) research or development of a:
 - (Aa) semiconductor; or
 - (Bb) semiconductor manufacturing process; or
- (B) maintaining an environment suitable for a semiconductor; or
- (ii) consumed primarily in the process of:
 - (A) (I) manufacturing a semiconductor;
 - (II) fabricating a semiconductor; or
 - (III) research or development of a:
 - (Aa) semiconductor; or
 - (Bb) semiconductor manufacturing process; or
 - (B) maintaining an environment suitable for a semiconductor.

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

includes:

- (i) parts used in the repairs or renovations of tangible personal property or a product

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transferred electronically described in Subsection (117)(a); or

- (ii) a chemical, catalyst, or other material used to:
 - (A) produce or induce in a semiconductor a:
 - (I) chemical change; or
 - (II) physical change;
 - (B) remove impurities from a semiconductor; or
 - (C) improve the marketable condition of a semiconductor.

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

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

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

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

(iii) is:

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

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

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

- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;
- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;

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(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

(ii) a product transferred electronically.

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

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

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

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

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

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

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- (II) a recreational activity; and
- (B) not suitable for general use.

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

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

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

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

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

- (i) may be:
 - (A) seen;
 - (B) weighed;
 - (C) measured;
 - (D) felt; or
 - (E) touched; or
- (ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

- (i) electricity;
- (ii) water;
- (iii) gas;
- (iv) steam; or
- (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

- (i) a dishwasher;
- (ii) a dryer;

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(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

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

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

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

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

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

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

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

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

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

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

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

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

(b) "Telecommunications service" includes:

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

- (A) on the code, form, or protocol of the content;
- (B) for the purpose of electronic conveyance, routing, or transmission; and
- (C) regardless of whether the service:

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

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

added;

- (ii) an 800 service;
- (iii) a 900 service;
- (iv) a fixed wireless service;

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- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.

(c) "Telecommunications service" does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;
- (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
- (B) the purchaser's primary purpose for the underlying transaction is the processed data

or information;

(v) installation or maintenance of the following on a customer's premises:

- (A) equipment; or
- (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;
- (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;
- (ix) a radio and television audio and video programming service:

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(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

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

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

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

(i) that person; or

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

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

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

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

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

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- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or
- (x) equipment, machinery, or software that functions similarly to an item listed in

Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

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

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (132)(a):
- (i) an amplifier;
 - (ii) a cable;
 - (iii) a closure;
 - (iv) a conduit;
 - (v) a controller;
 - (vi) a duplexer;
 - (vii) a filter;
 - (viii) an input device;
 - (ix) an input/output device;
 - (x) an insulator;
 - (xi) microwave machinery or equipment;
 - (xii) an oscillator;
 - (xiii) an output device;

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- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

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

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

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

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

(134) "Tobacco" means:

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

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

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the amusement device, skill device, or ride device.

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

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

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

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

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

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

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

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

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

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

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

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exchanging a vehicle as defined in Subsection (138).

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

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

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

(A) identify a caller; and

(B) manage multiple calls and call connections.

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

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

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

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

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

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

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

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

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

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

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

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

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

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

59-12-103.1. Action by Supreme Court of the United States authorizing or action

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by Congress permitting a state to require certain sellers to collect a sales or use tax -- Collection of tax by commission -- Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee study -- Division of Finance requirement to make certain deposits.

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

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

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

(ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); or

(b) Congress permits the state to require the following sellers to collect a sales or use tax:

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

(ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b).

(2) The commission shall:

(a) collect the tax described in Subsection (1) from the seller:

(i) to the extent:

(A) authorized by the Supreme Court of the United States; or

(B) permitted by Congress; and

(ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and Taxation Interim Committee; and

(b) make a report to the Revenue and Taxation Interim Committee by electronic means:

(i) regarding the actions taken by:

(A) the Supreme Court of the United States; or

(B) Congress; and

(ii) (A) stating the amount of state revenue collected at the time of the report, if any;

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and

(B) estimating the state sales and use tax rate reduction that would offset the amount of state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

(c) report to the Revenue and Taxation Interim Committee at:

(i) the Revenue and Taxation Interim Committee meeting immediately following the day on which the actions of the Supreme Court of the United States or Congress become effective; and

(ii) any other meeting of the Revenue and Taxation Interim Committee as requested by the chairs of the committee.

(3) The Revenue and Taxation Interim Committee shall after receiving the commission's reports under Subsections (2)(b) and (c):

(a) review the actions taken by:

(i) the Supreme Court of the United States; or

(ii) Congress;

(b) direct the commission regarding the day on which the commission is required to collect the tax described in Subsection (1); and

(c) make recommendations to the Legislative Management Committee:

(i) regarding whether as a result of the actions of the Supreme Court of the United States or Congress any provisions of this chapter should be amended or repealed; and

(ii) within a one-year period after the day on which the commission makes a report under Subsection (2)(c).

(4) The Division of Finance shall deposit a portion of the revenue collected under this section into the Remote Sales Restricted Account as required by Section 59-12-103.2.

(5) (a) The Division of Finance shall notify the legislative general counsel and the commission once the balance of the qualified state revenue collected from remote sellers, as that term is defined in Section 59-12-103.2, in the Remote Sales Restricted Account created in Section 59-12-103.2 has a balance of \$55,000,000.

(b) The Division of Finance shall review the balance in the Remote Sales Restricted Account at least bi-annually for purposes of providing the notice described in Subsection (5)(a).

Section 6. Section 59-12-103.2 is amended to read:

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59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation -- Funding for account -- Interest -- Division of Finance accounting.

(1) As used in this section:

(a) "Qualified local revenue collected from remote sellers" means the local revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:

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

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

(b) "Qualified state revenue collected from remote sellers" means the state revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:

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

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

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

(3) The account shall be funded by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2}[-]; and

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

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

59-12-104.5 Exemptions:

Exemptions from the taxes imposed by this chapter are as follows:

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

(2) subject to Section}5. Revenue and Taxation Interim Committee review of sales and use taxes.

(1) The Revenue and Taxation Interim Committee shall:

[(1)] (a) review Subsection 59-12-104{-6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

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

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

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project,} (28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program;

[(2)] (b) review Subsection 59-12-104(21) before October 1 of the year after the year in

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which Congress permits a state to participate in the SNAP as defined in Section ~~{11-13-103, or~~
facilities providing additional project capacity, as defined in Section 11-13-103;

~~—— (3) (a) sales of an item}~~ 35A-1-102, even if state or local sales taxes are collected
within the state on purchases of food under that program; and

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

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

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

~~[(f)] (A) the cost of the exemption;~~

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

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

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

~~(2) Once the commission implements the sales and use tax exemption described in~~
Subsection 59-12-104.8(1), the provisions described in Subsection ~~(3)(b) from a vending~~
machine if:

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

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

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

~~—— (i) food and food ingredients; or~~

~~—— (ii) prepared food;~~

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

~~—— (i) alcoholic beverages;~~

~~—— (ii) food and food ingredients; or~~

~~—— (iii) prepared food;~~

~~—— (b) sales of tangible personal property or a product transferred electronically:~~

~~—— (i) to a passenger;~~

~~—— (ii) by a commercial airline carrier; and~~

~~—— (iii) during a flight for in-flight consumption or in-flight use by the passenger; or~~

~~—— (c) services related to Subsection (4)(a) or (b);~~

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~~—— [(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment;]~~

~~—— [(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and]~~

~~—— [(II) for;]~~

~~—— [(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;]~~

~~—— [(Bb) renovation of an aircraft; or]~~

~~—— [(Cc) repair of an aircraft; or]~~

~~—— [(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or]~~

~~—— [(ii) beginning on October 1, 2008;]~~

~~—— (5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; [and]~~

~~—— [(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund;]~~

~~—— [(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

~~—— [(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

~~—— [(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;]~~

~~—— [(iv) for sales and use taxes paid under this chapter on the sale;]~~

~~—— [(v) in accordance with Section 59-1-1410; and]~~

~~—— [(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;]~~

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

~~—— (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~

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~~personal property is not assisted cleaning or washing of tangible personal property;~~

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

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

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

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

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

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

~~—— (a) not registered in this state; and~~

~~—— (b) (i) not used in this state; or~~

~~—— (ii) used in this state:~~

~~—— (A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:~~

~~—— (I) 30 days in any calendar year; or~~

~~—— (II) the time period necessary to transport the vehicle to the borders of this state; or~~

~~—— (B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;~~

~~—— (10) (a) amounts paid for an item described in Subsection (10)(b) if:~~

~~—— (i) the item is intended for human use; and~~

~~—— (ii) (A) a prescription was issued for the item; or~~

~~—— (B) the item was purchased by a hospital or other medical facility; and~~

~~—— (b) (i) Subsection (10)(a) applies to:~~

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- ~~—— (A) a drug;~~
- ~~—— (B) a syringe; or~~
- ~~—— (C) a stoma supply; and~~
- ~~—— (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:~~
- ~~—— (A) "syringe"; or~~
- ~~—— (B) "stoma supply";~~
- ~~—— (11) purchases or leases exempt under Section 19-12-201;~~
- ~~—— (12) (a) sales of an item described in Subsection (12)(c) served by:~~
- ~~—— (i) the following if the item described in Subsection (12)(c) is not available to the general public:~~
- ~~—— (A) a church; or~~
- ~~—— (B) a charitable institution;~~
- ~~—— (ii) an institution of higher education if:~~
- ~~—— (A) the item described in Subsection (12)(c) is not available to the general public; or~~
- ~~—— (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or~~
- ~~—— (b) sales of an item described in Subsection (12)(c) provided for a patient by:~~
- ~~—— (i) a medical facility; or~~
- ~~—— (ii) a nursing facility; and~~
- ~~—— (c) Subsections (12)(a) and (b) apply to:~~
- ~~—— (i) food and food ingredients;~~
- ~~—— (ii) prepared food; or~~
- ~~—— (iii) alcoholic beverages;~~
- ~~—— (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:~~
- ~~—— (i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and~~
- ~~—— (ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;~~
- ~~—— (b) this Subsection (13) does not apply if:~~

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- ~~—— (i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;~~
- ~~—— (ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;~~
- ~~—— (iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or~~
- ~~—— (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:~~
 - ~~—— (A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or~~
 - ~~—— (B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and~~
- ~~—— (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:~~
 - ~~—— (i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;~~
 - ~~—— (ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or~~
 - ~~—— (iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;~~
- ~~(14) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of machinery} 1)(c) no longer have effect.~~

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

- 59-12-104.8. Machinery, equipment, {or normal operating repair or }replacement parts{ with an economic life of three or more years by:
- ~~—— (a) a manufacturing facility, except as provided in Subsection (86), that:~~
 - ~~—— (i) is located in the state; and~~
 - ~~—— (ii) uses the machinery, equipment, or normal operating repair or replacement~~

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parts:

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

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

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

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

~~—— (ii) is located in the state; and~~

~~—— (iii) uses the machinery, equipment, or normal operating repair or replacement parts in:~~

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

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

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

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

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

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

~~—— (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President;~~

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Office of Management and Budget;

~~—— (ii) is located in the state; and~~

~~—— (iii) uses the machinery, equipment, or normal operating repair or replacement parts in the operation of the web search portal;~~

~~—— (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:~~

~~—— (i) tooling;~~

~~—— (ii) special tooling;~~

~~—— (iii) support equipment;~~

~~—— (iv) special test equipment; or~~

~~—— (v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and~~

~~—— (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:~~

~~—— (i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and~~

~~—— (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:~~

~~—— (A) a government identification tag placed on the tooling, equipment, or parts; or~~

~~—— (B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;~~

~~—— (16) sales of newspapers or newspaper subscriptions;~~

~~—— (17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:~~

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

~~—— (ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as~~

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~~determined by the commission; and~~

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

~~— (i) money;~~

~~— (ii) electricity;~~

~~— (iii) water;~~

~~— (iv) gas; or~~

~~— (v) steam;~~

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

~~— (A) becomes part of real estate; or~~

~~— (B) is installed by a: (I) farmer; (II) contractor; or (III) subcontractor; or~~

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

~~— (b) amounts paid or charged for the following are subject to, **and materials exemptions.**~~

~~(1) There is an exemption from the taxes imposed by this chapter:~~

~~— (i) (A) subject to Subsection (18)(b)(i)(B), [the following] machinery, equipment, materials, or supplies if used in a manner that is incidental to farming[: (I) machinery; (II) equipment; (III) materials; or (IV) supplies]; and~~

~~— (B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:~~

~~— (I) hand tools; or~~

~~— (II) maintenance and janitorial equipment and supplies;~~

~~— (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and~~

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~~— (B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:~~

~~— (I) office equipment and supplies; or~~

~~— (II) equipment and supplies used in:~~

~~— (Aa) the sale or distribution of farm products;~~

~~— (Bb) research; or~~

~~— (Cc) transportation; or~~

~~— (iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;~~

~~— (19) sales of hay;~~

~~— (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:~~

~~— (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;~~

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

~~— (c) a member of the immediate family of the producer described in Subsection (20)(a);~~

~~— (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;~~

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

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

~~— (24) (a) purchases of a product if:~~

~~— (i) the product is:~~

~~— (A) purchased outside of this state;~~

~~— (B) brought into this state:~~

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

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

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- ~~—— (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and~~
- ~~—— (D) not used in conducting business in this state; and~~
- ~~—— (ii) for:~~
 - ~~—— (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;~~
 - ~~—— (B) a boat, the boat is registered outside of this state; or~~
 - ~~—— (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;~~
- ~~—— (b) the exemption provided for in Subsection (24)(a) does not apply to:~~
 - ~~—— (i) a lease or rental of a product; or~~
 - ~~—— (ii) a sale of a vehicle exempt under Subsection (33); and~~
 - ~~—— (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:~~
 - ~~—— (i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);~~
 - ~~—— (ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or~~
 - ~~—— (iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);~~
- ~~—— (25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;~~
- ~~—— (26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;~~
- ~~—— (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;~~

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

~~— (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;~~

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

~~— (a) not registered in this state; and~~

~~— (b) (i) not used in this state; or~~

~~— (ii) used in this state:~~

~~— (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:~~

~~— (I) 30 days in any calendar year; or~~

~~— (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or~~

~~— (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;~~

~~— (31) sales of aircraft manufactured in Utah;~~

~~— (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;~~

~~— (33) sales, leases, or uses of the following:~~

~~— (a) a vehicle by an authorized carrier; or~~

~~— (b) tangible personal property that is installed on a vehicle:~~

~~— (i) sold or leased to or used by an authorized carrier; and~~

~~— (ii) before the vehicle is placed in service for the first time;~~

~~— (34) (a) 45% of the sales price of any new manufactured home; and~~

~~— (b) 100% of the sales price of any used manufactured home;~~

~~— (35) sales relating to schools and fundraising sales;~~

~~— (36) sales or rentals of durable medical equipment if:~~

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- ~~_____ (a) a person presents a prescription for the durable medical equipment; and~~
- ~~_____ (b) the durable medical equipment is used for home use only;~~
- ~~_____ (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and~~
- ~~_____ (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;~~
- ~~_____ (38) sales to a ski resort of:~~
 - ~~_____ (a) snowmaking equipment;~~
 - ~~_____ (b) ski slope grooming equipment;~~
 - ~~_____ (c) passenger ropeways as defined in Section 72-11-102; or~~
 - ~~_____ (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);~~
- ~~_____ (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;~~
- ~~_____ (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;~~
 - ~~_____ (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and~~
 - ~~_____ (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:~~
 - ~~_____ (i) governing the circumstances under which sales are at the same business location; and~~
 - ~~_____ (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;~~
- ~~_____ (41) (a) sales of photocopies by:~~
 - ~~_____ (i) a governmental entity; or~~
 - ~~_____ (ii) an entity within the state system of public education, including:~~

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- ~~—— (A) a school; or~~
- ~~—— (B) the State Board of Education; or~~
- ~~—— (b) sales of publications by a governmental entity;~~
- ~~—— (42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;~~
- ~~—— (43) (a) sales made to or by:~~
 - ~~—— (i) an area agency on aging; or~~
 - ~~—— (ii) a senior citizen center owned by a county, city, or town; or~~
- ~~—— (b) sales made by a senior citizen center that contracts with an area agency on aging;~~
- ~~—— (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:~~
 - ~~—— (a) actually come into contact with a semiconductor; or~~
 - ~~—— (b) ultimately become incorporated into real property;~~
- ~~—— (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;~~
- ~~—— (46) [beginning on September 1, 2001,] the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;~~
- ~~—— (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;~~
 - ~~—— (b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;~~
- ~~—— (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;~~

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- ~~_____ (49) sales of water in a:~~
- ~~_____ (a) pipe;~~
- ~~_____ (b) conduit;~~
- ~~_____ (c) ditch; or~~
- ~~_____ (d) reservoir;~~
- ~~_____ (50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;~~
- ~~_____ (51) (a) sales of an item described in Subsection (51)(b) if the item:~~
- ~~_____ (i) does not constitute legal tender of a state, the United States, or a foreign nation; and~~
- ~~_____ (ii) has a gold, silver, or platinum content of 50% or more; and~~
- ~~_____ (b) Subsection (51)(a) applies to a gold, silver, or platinum:~~
- ~~_____ (i) ingot;~~
- ~~_____ (ii) bar;~~
- ~~_____ (iii) medallion; or~~
- ~~_____ (iv) decorative coin;~~
- ~~_____ (52) amounts paid on a sale-leaseback transaction;~~
- ~~_____ (53) sales of a prosthetic device:~~
- ~~_____ (a) for use on or in a human; and~~
- ~~_____ (b) (i) for which a prescription is required; or~~
- ~~_____ (ii) if the prosthetic device is purchased by a hospital or other medical facility;~~
- ~~_____ (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:~~
- ~~_____ (i) a motion picture;~~
- ~~_____ (ii) a television program;~~
- ~~_____ (iii) a movie made for television;~~
- ~~_____ (iv) a music video;~~
- ~~_____ (v) a commercial;~~
- ~~_____ (vi) a documentary; or~~
- ~~_____ (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the~~

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

~~— (b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:~~

~~— (i) a live musical performance;~~

~~— (ii) a live news program; or~~

~~— (iii) a live sporting event;~~

~~— (c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):~~

~~— (i) NAICS Code 512110; or~~

~~— (ii) NAICS Code 51219; and~~

~~— (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:~~

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

~~or~~

~~— (ii) define:~~

~~— (A) "commercial distribution";~~

~~— (B) "live musical performance";~~

~~— (C) "live news program"; or~~

~~— (D) "live sporting event";~~

~~— (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:~~

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

~~— (A) is an alternative energy electricity production facility;~~

~~— (B) is located in the state; and~~

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

~~— (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;~~

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

~~— (iii) is used to make the facility or the increase in capacity of the facility described in~~

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~~Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:~~

- ~~— (A) a wind turbine;~~
- ~~— (B) generating equipment;~~
- ~~— (C) a control and monitoring system;~~
- ~~— (D) a power line;~~
- ~~— (E) substation equipment;~~
- ~~— (F) lighting;~~
- ~~— (G) fencing;~~
- ~~— (H) pipes; or~~
- ~~— (I) other equipment used for locating a power line or pole; and~~

~~(b) this Subsection (55) does not apply to:~~

~~(i) tangible personal property used in construction of:~~

- ~~— (A) a new alternative energy electricity production facility; or~~
- ~~— (B) the increase in the capacity of an alternative energy electricity production facility;~~
- ~~— (ii) contracted services required for construction and routine maintenance activities;~~

~~and~~

~~(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:~~

~~— (A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or~~

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

~~(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:~~

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

~~— (A) is a waste energy production facility;~~

~~— (B) is located in the state; and~~

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

~~— (II) has its generation capacity increased by one or more megawatts on or after July 1,~~

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~~2004, as a result of the use of the tangible personal property:~~

- ~~—— (ii) has an economic life of five or more years; and~~
- ~~—— (iii) is used to make the facility or the increase in capacity of the facility described in~~

~~Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:~~

- ~~—— (A) generating equipment;~~
- ~~—— (B) a control and monitoring system;~~
- ~~—— (C) a power line;~~
- ~~—— (D) substation equipment;~~
- ~~—— (E) lighting;~~
- ~~—— (F) fencing;~~
- ~~—— (G) pipes; or~~
- ~~—— (H) other equipment used for locating a power line or pole; and~~

~~—— (b) this Subsection (56) does not apply to:~~

- ~~—— (i) tangible personal property used in construction of:~~
 - ~~—— (A) a new waste energy facility; or~~
 - ~~—— (B) the increase in the capacity of a waste energy facility;~~
- ~~—— (ii) contracted services required for construction and routine maintenance activities;~~

~~and~~

~~—— (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(H), tangible personal property used or acquired after:~~

- ~~—— (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or~~
- ~~—— (B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);~~

~~—— (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:~~

- ~~—— (i) is leased or purchased for or by a facility that:~~
 - ~~—— (A) is located in the state;~~
 - ~~—— (B) produces fuel from alternative energy, including[: (I)] methanol[:] or [(II)] ethanol;~~

~~and~~

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

~~(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;~~

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

~~(iii) is installed on the facility described in Subsection (57)(a)(i);~~

~~(b) this Subsection (57) does not apply to:~~

~~(i) tangible personal property used in construction of:~~

~~(A) a new facility described in Subsection (57)(a)(i); or~~

~~(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or~~

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

~~and~~

~~(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:~~

~~(A) the facility described in Subsection (57)(a)(i) is operational; or~~

~~(B) the increased capacity described in Subsection (57)(a)(i) is operational;~~

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

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

~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund;]~~

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

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

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

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- ~~— (iv) for sales and use taxes paid under this chapter on the sale;~~
- ~~— (v) in accordance with Section 59-1-1410; and~~
- ~~— (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;~~
- ~~— (59) purchases:~~
 - ~~— (a) of one or more of the following items in printed or electronic format:~~
 - ~~— (i) a list containing information that includes one or more [:(A)] names[:] or [(B)] addresses; or~~
 - ~~— (ii) a database containing information that includes one or more [:(A)] names[:] or [(B)] addresses; and~~
 - ~~— (b) used to send direct mail;~~
- ~~— (60) redemptions or repurchases of a product by a person if that product was:~~
 - ~~— (a) delivered to a pawnbroker as part of a pawn transaction; and~~
 - ~~— (b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;~~
- ~~— (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:~~
 - ~~— (i) is purchased or leased by, or on behalf of, a telecommunications service provider; and~~
 - ~~— (ii) has a useful economic life of one or more years; and~~
 - ~~— (b) the following apply to Subsection (61)(a):~~
 - ~~— (i) telecommunications enabling or facilitating equipment, machinery, or software;~~
 - ~~— (ii) telecommunications equipment, machinery, or software required for 911 service;~~
 - ~~— (iii) telecommunications maintenance or repair equipment, machinery, or software;~~
 - ~~— (iv) telecommunications switching or routing equipment, machinery, or software; or~~
 - ~~— (v) telecommunications transmission equipment, machinery, or software;~~
- ~~— (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and~~
 - ~~— (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in~~

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the research and development of alternative energy technology;

~~—— (63) (a) purchases of tangible personal property or a product transferred electronically if:~~

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

~~—— (A) purchased outside of this state;~~

~~—— (B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and~~

~~—— (C) used in conducting business in this state; and~~

~~—— (ii) for:~~

~~—— (A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or~~

~~—— (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;~~

~~—— (b) the exemption provided for in Subsection (63)(a) does not apply to:~~

~~—— (i) a lease or rental of tangible personal property or a product transferred electronically;~~
~~or~~

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

~~—— (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:~~

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

~~—— (ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or~~

~~—— (iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);~~

~~—— (64) sales of disposable home medical equipment or supplies if:~~

~~—— (a) a person presents a prescription for the disposable home medical equipment or supplies;~~

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~~— (b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and~~

~~— (c) the disposable home medical equipment and supplies are listed as eligible for payment under:~~

~~— (i) Title XVIII, federal Social Security Act; or~~

~~— (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;~~

~~— (65) sales:~~

~~— (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or~~

~~— (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:~~

~~— (i) clearly identified; and~~

~~— (ii) installed or converted to real property owned by the public transit district;~~

~~— (66) sales of construction materials:~~

~~— (a) purchased on or after July 1, 2010;~~

~~— (b) purchased by, on behalf of, or for the benefit of an international airport:~~

~~— (i) located within a county of the first class; and~~

~~— (ii) that has a United States customs office on its premises; and~~

~~— (c) if the construction materials are:~~

~~— (i) clearly identified;~~

~~— (ii) segregated; and~~

~~— (iii) installed or converted to real property:~~

~~— (A) owned or operated by the international airport described in Subsection (66)(b); and~~

~~— (B) located at the international airport described in Subsection (66)(b);~~

~~— (67) sales of construction materials:~~

~~— (a) purchased on or after July 1, 2008;~~

~~— (b) purchased by, on behalf of, or for the benefit of a new airport:~~

~~— (i) located within a county of the second class; and~~

~~— (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and~~

~~— (c) if the construction materials are:~~

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- ~~—— (i) clearly identified;~~
- ~~—— (ii) segregated; and~~
- ~~—— (iii) installed or converted to real property:~~
 - ~~—— (A) owned or operated by the new airport described in Subsection (67)(b);~~
 - ~~—— (B) located at the new airport described in Subsection (67)(b); and~~
 - ~~—— (C) as part of the construction of the new airport described in Subsection (67)(b);~~
- ~~—— (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;~~
- ~~—— (69) purchases and sales described in Section 63H-4-111;~~
- ~~—— (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or~~
- ~~—— (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;~~
- ~~—— (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:~~
 - ~~—— (a) to a person admitted to an institution of higher education; and~~
 - ~~—— (b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;~~
- ~~—— (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;~~
- ~~—— (73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:~~
 - ~~—— (a) clearly identified;~~
 - ~~—— (b) segregated; and~~

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- ~~— (c) installed or converted to real property;~~
- ~~— (74) amounts paid or charged for:~~
- ~~— (a) a purchase or lease of machinery and equipment that:~~
- ~~— (i) are used in performing qualified research:~~
- ~~— (A) as defined in Section 41(d), Internal Revenue Code; and~~
- ~~— (B) in the state; and~~
- ~~— (ii) have an economic life of three or more years; and~~
- ~~— (b) normal operating repair or replacement parts:~~
- ~~— (i) for the machinery and equipment described in Subsection (74)(a); and~~
- ~~— (ii) that have an economic life of three or more years;~~
- ~~— (75) a sale or lease of tangible personal property used in the preparation of prepared food if:~~
- ~~— (a) for a sale:~~
- ~~— (i) the ownership of the seller and the ownership of the purchaser are identical; and~~
- ~~— (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or~~
- ~~— (b) for a lease:~~
- ~~— (i) the ownership of the lessor and the ownership of the lessee are identical; and~~
- ~~— (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;~~
- ~~— (76) (a) purchases of machinery or equipment if:~~
- ~~— (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;~~
- ~~— (ii) the machinery or equipment:~~
- ~~— (A) has an economic life of three or more years; and~~
- ~~— (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and~~
- ~~— (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:~~
- ~~— (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and~~

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- ~~—— (B) subject to taxation under this chapter; and~~
- ~~—— (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:~~
 - ~~—— (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and~~
 - ~~—— (ii) subject to taxation under this chapter;~~
 - ~~—— (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);~~
 - ~~—— (78) amounts paid or charged to access a database:~~
 - ~~—— (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and~~
 - ~~—— (b) not including amounts paid or charged for a:~~
 - ~~—— (i) digital audiowork;~~
 - ~~—— (ii) digital audio-visual work; or~~
 - ~~—— (iii) digital book;~~
 - ~~—— (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:~~
 - ~~—— (a) machinery and equipment that:~~
 - ~~—— (i) are used in the operation of the electronic financial payment service; and~~
 - ~~—— (ii) have an economic life of three or more years; and~~
 - ~~—— (b) normal operating repair or replacement parts that:~~
 - ~~—— (i) are used in the operation of the electronic financial payment service; and~~
 - ~~—— (ii) have an economic life of three or more years;~~
 - ~~—— (80) [beginning on April 1, 2013,] sales of a fuel cell as defined in Section 54-15-102;~~
 - ~~—— (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:~~
 - ~~—— (a) is stored, used, or consumed in the state; and~~
 - ~~—— (b) is temporarily brought into the state from another state:~~
 - ~~—— (i) during a disaster period as defined in Section 53-2a-1202;~~

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- ~~_____ (ii) by an out-of-state business as defined in Section 53-2a-1202;~~
- ~~_____ (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and~~
- ~~_____ (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;~~
- ~~_____ (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;~~
- ~~_____ (83) amounts paid or charged for a purchase or lease of molten magnesium;~~
- ~~_____ (84) [(a) except as provided in Subsection (84)(b),] subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, [materials, or] normal operating repair or replacement parts[: (i)] or materials, except for office equipment or office supplies, that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; [and]~~
- ~~_____ [(ii) except for office;]~~
- ~~_____ [(A) equipment; or]~~
- ~~_____ [(B) supplies; and]~~
- ~~_____ [(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund;]~~
- ~~_____ [(i) of 50% of the tax paid on the amounts paid or charged; and]~~
- ~~_____ [(ii) in accordance with Section 59-1-1410;]~~
- ~~_____ (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:~~
- ~~_____ (a) are used in the operation of the establishment; and~~
- ~~_____ (b) have an economic life of one or more years; and~~
- ~~_____ (86) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility that:~~
- ~~_____ (a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
- ~~_____ (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the~~

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~~President, Office of Management and Budget;~~

~~—— (c) is located in the state; and~~

~~—— (d) uses the machinery, equipment, or normal operating repair or replacement parts in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~—— (87) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of equipment or normal operating repair or replacement parts with an economic life of less than three years by a manufacturing facility that:~~

~~—— (a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~—— (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the~~

~~President, Office of Management and Budget;~~

~~—— (c) is located in the state; and~~

~~—— (d) uses the equipment or normal operating repair or replacement parts to manufacture hydrogen;~~

~~—— (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle; [and]~~

~~—— (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:~~

~~—— (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;~~

~~—— (b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:~~

~~—— (i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;~~

~~—— (ii) research and development;~~

~~—— (iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding~~

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~~blendstock to gasoline or diesel fuel;~~

~~— (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or~~

~~— (v) preventing, controlling, or reducing pollutants from refining; and~~

~~— (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2)[.];~~

~~— (90) subject to Section 59-12-104.8,} for amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:~~

~~(a) a manufacturing facility that:~~

~~(i) is located in the state; and~~

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

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

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

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

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

~~(ii) is located in the state; and~~

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

~~(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah~~

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

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

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

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

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

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

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal ~~{; and};~~

~~{91}2} ~~{subject to Section 59-12-104.8,}~~ **There is an exemption from the taxes imposed by this chapter for** amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~

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

(b) is located in this state; and

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

~~{Section 3. Section 59-12-104.5 is amended to read:~~

~~59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes:~~

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

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~~——— [(1)] (a) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program;~~

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

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

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

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

~~——— [(i)] (A) the cost of the exemption;~~

~~——— [(ii)] (B) the purpose and effectiveness of the exemption; and~~

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

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

~~——— (2) Once the commission implements the sales and use tax exemption described in Subsection 59-12-104(90) in accordance with Section 59-12-104.8, the provisions described in Subsection (1)(c) no longer have effect.~~

~~——— Section 4. Section **59-12-104.7** is amended to read:~~

~~——— **59-12-104.7. Reporting by purchaser of certain sales and use tax exempt purchases:**~~

~~——— (1) A purchaser that receives a sales and use tax exemption under Subsection 59-12-104(86) or (87) shall make the report described in Section 63N-1-302.~~

~~——— (2) Once the commission implements the sales and use tax exemption described in Subsection 59-12-104(90) in accordance with Section 59-12-104.8, the provision described in Subsection (1) no longer has effect.~~

~~——— Section 5. Section **59-12-104.8** is enacted to read:~~

~~——— **59-12-104.8. Exemption for machinery, equipment, normal operating repair or replacement parts, and materials.**~~

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- ~~(1) As used in this section, "committee" means:~~
- ~~(a) the Revenue and Taxation Interim Committee; or~~
 - ~~(b) the House Revenue and Taxation Standing Committee and the Senate Revenue and Taxation Standing Committee jointly.~~
- ~~(2); (3) The sales and use tax {exemptions described in Subsections 59-12-104(90) and (91) take effect, in accordance with Subsection (3), if the Supreme Court of the United States issues a decision or Congress passes legislation that permits a state to require the following sellers to collect a sales or use tax:~~
- ~~(a) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or~~
 - ~~(b) a seller that is not required to pay or collect and remit sales and use tax under Subsection 59-12-107(2)(b);~~
- ~~(3) (a) The commission shall make an electronic report regarding the action of the Supreme Court of the United States or Congress immediately after the action becomes effective to:~~
- ~~(i) between the conclusion of the General Session and the conclusion of interim meetings, the Revenue and Taxation Interim Committee; or~~
 - ~~(ii) between the conclusion of interim meetings and the conclusion of the General Session:~~
- ~~(A) the House Revenue and Taxation Standing Committee; and~~
 - ~~(B) the Senate Revenue and Taxation Standing Committee;~~
- ~~(b) After receiving the report described in this Subsection (3), the committee shall:~~
- ~~(i) review the action taken by the Supreme Court of the United States or Congress;~~
 - ~~(ii) direct the commission to:~~
- ~~(A) implement the sales and use tax exemptions described in Subsections 59-12-104(90) and (91) on the first day of the next calendar quarter that is at least 30 days after the day on which the committee directs the commission; and~~
 - ~~(B) treat {**exemption in Subsection (1) supersedes** the sales and use tax exemptions described in Subsections 59-12-104(14), (84), (86), and (87) {as subsumed by the sales and use tax exemption described in Subsection 59-12-104(90) once the commission implements the sales and use tax exemption described in Subsection 59-12-104(90); and~~

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~~(iii) make a recommendation:~~

~~(A) to the Legislative Management Committee that the Revenue and Taxation Interim Committee study whether as a result of the action by the Supreme Court of the United States or Congress, the Legislature should amend or repeal any provisions of this chapter; or~~

~~(B) to the Legislative Management Committee or in the form of legislation regarding the need for amendment or repeal of any provisions of this chapter as a result of the action by the Supreme Court of the United States or Congress and the implementation of this section:~~

~~†:~~

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

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

(1) As used in this section:

(a) "applicant" means a person that:

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

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

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

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

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

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

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

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

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

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(d) "fiduciary of the licensee" means a person that:

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

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) "license" means a license under this section; and

(f) "licensee" means a person that is licensed under this section by the commission.

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

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

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

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

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the

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commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

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

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

(ii) is required to post a bond with the commission in accordance with Subsections

(2)(e) and (f) before the applicant may be issued a license.

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

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

(I) the applicant;

(II) a fiduciary of the applicant; or

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

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

(I) the applicant;

(II) a fiduciary of the applicant; or

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

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

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

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

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

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

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(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

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

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; and

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

(B) for a licensee, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; or

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

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; and

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

(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:

(A) be less than \$25,000; or

(B) exceed \$500,000.

(g) If business is transacted at two or more separate places by one person, a separate license for each place of business is required.

(h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the licensee has complied with the requirements of this chapter, including:

(A) paying any:

(I) tax due under this chapter;

(II) penalty as provided in Section 59-1-401; or

(III) interest as provided in Section 59-1-402; and

(B) posting a bond in accordance with Subsections (2)(e) and (f).

(i) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

(j) A license:

(i) is not required for any person engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; and

(ii) shall be issued to the person by the commission without a license fee.

(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal

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property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

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

(b) An exemption certificate described in Subsection (3)(a):

- (i) shall contain information as prescribed by the commission; and
- (ii) if a paper exemption certificate is used, shall be signed by the purchaser.

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

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

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

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.

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

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

(B) could be applicable to that transaction; and

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

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

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

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

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

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

(A) renew an exemption certificate;

(B) update an exemption certificate; or

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

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

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

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

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

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other

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liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

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

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

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

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

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

(B) to a purchaser in the state.

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

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

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

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

(ii) maintains a stock of goods;

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

(A) advertising; or

(B) solicitation by:

(I) direct mail;

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- (II) electronic mail;
- (III) the Internet;
- (IV) telecommunications service; or
- (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
- (iv) regularly engages in the delivery of property in the state other than by:
 - (A) common carrier; or
 - (B) United States mail; or
 - (v) regularly engages in an activity directly related to the leasing or servicing of

property located within the state.

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

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

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

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

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

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

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

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

(ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

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

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

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- (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (C) Section 19-6-714;
- (D) Section 19-6-805;
- (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
- (F) this title; or

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

- (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (C) Section 19-6-714;
- (D) Section 19-6-805;
- (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
- (F) this title.

(e) A person shall pay a use tax imposed by this chapter on a transaction described in

Subsection 59-12-103(1) if:

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

(ii) the person:

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

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

or

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

(f) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

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

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

(c) (i) Each seller shall:

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

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

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

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

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

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

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

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

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

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie

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legal tender and in the legal tender the seller is required to remit to the commission;

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

(D) the date of the purchase.

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

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

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

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

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

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

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

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

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

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser who is required to remit taxes under this chapter, but is not required to remit taxes monthly in

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accordance with Section 59-12-108, and who converts tangible personal property into real property.

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

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

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

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

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

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

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

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

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

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

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

- (i) registered under the agreement;
- (ii) described in Subsection (2)(c); and
- (iii) not a:
 - (A) model 1 seller;
 - (B) model 2 seller; or
 - (C) model 3 seller.

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

- (A) to the commission;
- (B) annually; and
- (C) on or before the last day of the month immediately following the last day of each calendar year.

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

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

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

- (A) with the commission;
- (B) with respect to the tax;
- (C) containing information prescribed by the commission; and
- (D) on a form prescribed by the commission.

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

- (A) the information required to be contained in a return described in Subsection (5)(c)(i); and

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(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

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

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale and the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(a) the retailer represents that the personal property is purchased by the retailer for resale; and

(b) the personal property is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use

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tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

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

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

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

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

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

(II) exempt under Section 59-12-104; or

(III) exempt under Section 59-12-104.8;

(B) a financing charge;

(C) interest;

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

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

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

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

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

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

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

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

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

(B) the qualifying purchaser's sale of that tangible personal property converted into real

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property later becomes bad debt; and

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

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

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

(ii) as provided in Section 59-1-1410.

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

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

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

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

(A) for federal income tax purposes; and

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

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

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

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

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

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

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(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

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

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

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

(c) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

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

59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.

(1) The tax ordinance adopted pursuant to this part shall impose a tax upon those transactions listed in Subsection 59-12-103(1).

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

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

(ii) if the location of the transaction is within the county as determined under Sections

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59-12-211 through 59-12-215.

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

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

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

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

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

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

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

(a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

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

(i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under

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Section 59-12-104; or

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

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

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

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

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

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

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

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

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

(ii) \$25,417.

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

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

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

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

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

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

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in:

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

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

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

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

(d) A city or town imposing a tax under this section shall impose the tax on the

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purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

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

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

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

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

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

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

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

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

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

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

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to

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66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

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

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in:

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

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

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

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

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

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

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

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

(a) pass a resolution approving the tax; and

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

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

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

(i) a regular general election; or

(ii) a municipal general election; and

(b) publish notice of the election:

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

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

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

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

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

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

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

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

59-12-402.1. State correctional facility sales and use tax -- Base -- Rate --

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Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.

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

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

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

(3) For purposes of this section, the tax rate may not exceed .5%.

(4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.

(5) A city or town may not impose a tax under this section on:

- (a) the sale of:
 - (i) a motor vehicle;
 - (ii) an aircraft;
 - (iii) a watercraft;
 - (iv) a modular home;
 - (v) a manufactured home; or
 - (vi) a mobile home;
- (b) the sales and uses described in:

(i) Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; or

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

(c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.

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

(7) A city or town that imposes a tax under this section shall impose the tax on the

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purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(8) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.

(9) A city or town that imposes a tax under this section is not subject to Section 59-12-405.

(10) A military installation development authority may not impose a tax under this section.

Section 15. Section 59-12-703 is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

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(c) A county legislative body may not impose a tax under this section on:

(i) the sales and uses described in:

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

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

(ii) sales and uses within a municipality that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

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

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

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

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

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

(i) described in Subsection (1); and

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

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenue generated from a tax imposed under Subsection (2)(a) without submitting an opinion question to residents of the county.

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(3) Subject to Section 59-12-704, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(5) (a) For purposes of this Subsection (5):

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

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

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(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

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

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

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(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

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

Section 16. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.

(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county of the third or fourth class, rural county health care facilities in that county; or

(ii) for a county of the fifth or sixth class:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

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

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(E) rural health clinics in that county; or

(F) a combination of Subsections (1)(b)(ii)(A) through (E).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

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

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

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

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

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

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

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money collected from a tax imposed under Subsection (1) by a county of the

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fifth or sixth class may only be used to fund:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(iii) the design, construction, equipping, or furnishing of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county; or

(iv) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

[Section 17. Section 59-12-804 is amended to read:](#)

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city;
and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

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(i) the sales and uses described in:

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

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

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

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

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

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

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

(I) Part 1, Tax Collection; or

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

(B) Chapter 1, General Taxation Policies; and

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(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 18. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in:

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

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

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

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

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(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the

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community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

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

(A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) \$6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

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

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

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(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

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

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

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

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting

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the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

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

Section 19. Section 59-12-1302 is amended to read:

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

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(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) A town may not impose a tax under this section on:

(i) the sales and uses described in:

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

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

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

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

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

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(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

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(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

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

(6) The commission shall:

(a) distribute the revenue generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

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

(A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

Section 20. Section 59-12-1402 is amended to read:

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenue -- Enactment or repeal of tax -- Effective date -- Notice requirements.

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(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in:

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

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

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

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

(e) A city or town legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food

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ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenue collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

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

(I) Part 1, Tax Collection; or

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

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(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through (7).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

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

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

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

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

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

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of

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sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

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

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under this section, the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

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

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

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(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Section 21. Section 59-12-1802 is amended to read:

59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into General Fund.

(1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax, a tax shall be imposed within the county under this section by the state:

(a) on the transactions described in Subsection 59-12-103(1);

(b) at a rate of .25%; and

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(c) beginning on January 1, 2008, and ending on the day on which the county imposes a tax under Part 11, County Option Sales and Use Tax.

(2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the sales and uses described in:

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

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

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

(4) Revenues collected from the sales and use tax imposed by this section, after subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the General Fund.

Section 22. Section 59-12-2003 is amended to read:

59-12-2003. Imposition -- Base -- Rate -- Revenue distributed to certain public transit districts.

(1) Subject to the other provisions of this section and except as provided in Subsection (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated area of a county of the first or second class if, on January 1, 2008, there is a public transit district within any portion of that county of the first or second class.

(2) The state may not impose a tax under this part within a county of the first or second class if within all of the cities, towns, and the unincorporated area of the county of the first or second class there is imposed a sales and use tax of:

- (a) .30% under Section 59-12-2213;
- (b) .30% under Section 59-12-2215; or
- (c) .30% under Section 59-12-2216.

(3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a county of the first or second class is a percentage equal to the difference between:

- (i) .30%; and

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(ii) (A) for a city within the county of the first or second class, the highest tax rate imposed within that city under:

- (I) Section 59-12-2213;
- (II) Section 59-12-2215; or
- (III) Section 59-12-2216;

(B) for a town within the county of the first or second class, the highest tax rate imposed within that town under:

- (I) Section 59-12-2213;
- (II) Section 59-12-2215; or
- (III) Section 59-12-2216; or

(C) for the unincorporated area of the county of the first or second class, the highest tax rate imposed within that unincorporated area under:

- (I) Section 59-12-2213;
- (II) Section 59-12-2215; or
- (III) Section 59-12-2216.

(b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of a county of the first or second class, the highest tax rate imposed under Section 59-12-2213, 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the first or second class is .30%, the state may not impose a tax under this part within that city, town, or unincorporated area.

(4) (a) The state may not impose a tax under this part on:

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

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

(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food ingredients.

(b) The state shall impose a tax under this part on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and ingredients and tangible personal property other than food and food ingredients.

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

(6) The commission shall distribute the revenues the state collects from the sales and use tax under this part, after subtracting amounts a seller retains in accordance with Section 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

(a) within which the state imposes a tax under this part; and

(b) in proportion to the revenues collected from the sales and use tax under this part within each city, town, and unincorporated area within which the state imposes a tax under this part.

Section 23. Section 59-12-2103 is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.

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

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in:

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

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

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under Section 59-12-104.8; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

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

(3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit revenue collected within a city or town from a tax under this part:

- (a) to the city or town legislative body;
- (b) monthly; and
- (c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

- (i) the same procedures used to administer, collect, and enforce the tax under:
 - (A) Part 1, Tax Collection; or
 - (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

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(b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

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

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

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

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commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

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Section 24. Section 59-12-2204 is amended to read:

59-12-2204. Transactions that may not be subject to taxation under this part --

Exception for food and food ingredients sold as part of a bundled transaction.

(1) A county, city, or town may not impose a sales and use tax under this part on:

(a) the sales and uses described in:

(i) Section 59-12-104 to the extent the sales and uses are exempt from taxation under

Section 59-12-104; or

(ii) Section 59-12-104.8 to the extent the sales and uses are exempt from taxation under Section 59-12-104.8; and

(b) except as provided in Subsection (2), amounts paid or charged for food and food ingredients.

(2) A county, city, or town imposing a sales and use tax under this part shall impose the sales and use tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

Section 25. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) If Subsection 10-1-405(1)(a)(ii)(A)(VI) is not in effect by December 31, 2028,

Subsection 10-1-405(1)(a)(ii)(A)(VI) is repealed on December 31, 2028.

(1)(2) On July 1, 2018, the following are repealed:

(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";

(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";

(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";

(d) Section 10-2a-302;

(e) Subsection 10-2a-302.5(2)(a);

(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";

(g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and "10-2a-302(7)(b)(iv) or";

(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and

(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5)

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or".

~~[(2)]~~ (3) Subsection 10-9a-304(2) is repealed June 1, 2020.

~~[(3)]~~ (4) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

Section 26. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) Subsection 59-2-1007(14) is repealed on December 31, 2018.

~~{Section 6. }~~ (2) If Section ~~{63N-1-302~~ is amended to read:

~~63N-1-302. Reporting~~ 59-12-104.8 is not in effect by December 31, 2028,

Subsection 59-12-103.1(5) is repealed on December 31, 2028.

(3) If Subsection 59-12-104.5(2) is not in effect by December 31, 2028, Subsection 59-12-104.5(2) is repealed on December 31, 2028.

(4) If Section 59-12-104.8 is not in effect by December 31, 2028, Section 59-12-104.8 is repealed on December 31, 2028.

(5) If Subsection 59-12-106(3)(a)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-106(3)(a)(ii)(B) is repealed on December 31, 2028.

(6) If Subsection 59-12-107(10)(a)(ii)(A)(III) is not in effect by December 31, 2028, Subsection 59-12-107(10)(a)(ii)(A)(III) is repealed on December 31, 2028.

(7) If Subsection 59-12-204(2)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-204(2)(b)(ii) is repealed on December 31, 2028.

(8) If Subsection 59-12-204(6)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-204(6)(b)(ii) is repealed on December 31, 2028.

(9) If Subsection 59-12-401(1)(b)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-401(1)(b)(ii)(B) is repealed on December 31, 2028.

(10) If Subsection 59-12-402(1)(b)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-402(1)(b)(ii)(B) is repealed on December 31, 2028.

(11) If Subsection 59-12-402.1(5)(b)(ii) is not in effect by December 31, 2028, Subsection 59-12-402.1(5)(b)(ii) is repealed on December 31, 2028.

(12) If Subsection 59-12-703(1)(c)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-703(1)(c)(i)(B) is repealed on December 31, 2028.

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(13) If Subsection 59-12-802(1)(c)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-802(1)(c)(i)(B) is repealed on December 31, 2028.

(14) If Subsection 59-12-804(1)(b)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-804(1)(b)(i)(B) is repealed on December 31, 2028.

(15) If Subsection 59-12-1102(1)(a)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-1102(1)(a)(ii)(B) is repealed on December 31, 2028.

(16) If Subsection 59-12-1302(4)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-1302(4)(a)(i)(B) is repealed on December 31, 2028.

(17) If Subsection 59-12-1402(1)(c)(ii)(B) is not in effect by December 31, 2028, Subsection 59-12-1402(1)(c)(ii)(B) is repealed on December 31, 2028.

(18) If Subsection 59-12-1802(2)(b) is not in effect by December 31, 2028, Subsection 59-12-1802(2)(b) is repealed on December 31, 2028.

(19) If Subsection 59-12-2003(4)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-2003(4)(a)(i)(B) is repealed on December 31, 2028.

(20) If Subsection 59-12-2103(2)(a)(i)(B) is not in effect by December 31, 2028, Subsection 59-12-2103(2)(a)(i)(B) is repealed on December 31, 2028.

(21) If Subsection 59-12-2204(1)(a)(ii) is not in effect by December 31, 2028, Subsection 59-12-2204(1)(a)(ii) is repealed on December 31, 2028.

Section 27. Repealer.

This bill repeals:

Section 59-12-104.7, Reporting by purchaser of certain sales and use tax exempt purchases.

~~{(1) (a) On or before October 1, a purchaser that receives a}~~ Section 63N-1-302, Reporting of certain sales and use tax {exemption under} exempt purchases.

Section 28. Contingent effective date and effective date.

(1) Except as provided in Subsection (2), this bill takes effect on the first day of the calendar quarter after a 90 day period that begins on the day the legislative general counsel notifies the Legislative Management Committee that the Division of Finance has provided the notice required by Subsection ~~{59-12-104(86)}~~ for the previous calendar year shall report to the office:

~~— (i) the total purchase or lease price for all machinery, equipment, or normal operating~~

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~~repair or replacement parts for which the purchaser received the sales and use tax exemption under Subsection 59-12-104(86); and~~

~~—— (i) the total amount of sales and use tax that the purchaser would have owed on the purchase or lease price but for the exemption in Subsection 59-12-104(86);~~

~~—— (b) On or before October 1, a purchaser that receives a sales and use tax exemption under Subsection 59-12-104(87) for the previous calendar year shall report to the office:~~

~~—— (i) the total purchase or lease price for all equipment or normal operating repair or replacement parts for which the purchaser received the sales and use tax exemption under Subsection 59-12-104(87); and~~

~~—— (ii) the total amount of sales and use tax that the purchaser would have owed on the purchase or lease price but for the exemption in Subsection 59-12-104(87);~~

~~—— (2) On or before November 30, the office shall report the information received under Subsection (1) to the Revenue and Taxation Interim Committee:~~

~~—— (a) for each exemption; and~~

~~—— (b) in the aggregate for all purchasers that make a report in accordance with this section;~~

~~—— (3) Once the commission implements the sales and use tax exemption described in Subsection 59-12-104(90) in accordance with Section 59-12-104.8, the provisions described in this section no longer have effect.~~

Legislative Review Note

~~Office of Legislative Research and General Counsel~~ 59-12-103.1(5).

(2) The amendments to Sections 59-12-102, 59-12-103.1, 63I-2-210, and 63I-2-259 take effect on July 1, 2018.