

# HB0441S01 compared with HB0441

~~deleted text~~ shows text that was in HB0441 but was deleted in HB0441S01.

Inserted text shows text that was not in HB0441 but was inserted into HB0441S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Tim Quinn proposes the following substitute bill:

## TAX EQUALIZATION AND REDUCTION ACT

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tim Quinn**

Senate Sponsor: \_\_\_\_\_

---

### LONG TITLE

#### General Description:

This bill modifies provisions relating to tax.

#### Highlighted Provisions:

This bill:

- ▶ amends the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ modifies the calculation of the Utah personal exemption for purposes of the taxpayer tax credit;
- ▶ enacts a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;

## **HB0441S01 compared with HB0441**

- ▶ provides that a claimant may claim either the retirement tax credit or the nonrefundable tax credit for social security benefits;
- ▶ enacts a refundable state earned income tax credit for certain individuals who are experiencing intergenerational poverty;
- ▶ requires the Department of Workforce Services to notify individuals who are experiencing intergenerational poverty of the state earned income tax credit and to provide certain information about those individuals to the State Tax Commission;
- ▶ specifies procedures for the administration of the earned income tax credit for certain individuals who are experiencing intergenerational poverty;
- ▶ provides, amends, and repeals sales and use tax definitions;
- ▶ imposes a tax on the total premiums received by admitted insurers writing health insurance in this state;
- ▶ decreases the general state sales and use tax rate;
- ▶ imposes a state sales and use tax on amounts paid or charged for services;
- ▶ repeals certain sales and use tax exemptions;
- ▶ provides that certain services are exempt from the sales and use tax;
- ▶ creates the Sales and Use Tax Base Expansion Restricted Account;
- ▶ requires certain state sales and use tax revenue and local option sales and use tax revenue to be deposited into the Sales and Use Tax Base Expansion Restricted Account;
- ▶ requires the State Tax Commission to make certain reports to the Revenue and Taxation Interim Committee;
- ▶ amends the local option sales and use tax distribution formula for the general county, city, town, or metro township sales and use tax and the county option sales and use tax;
- ▶ reduces certain local option sales and use tax rates;
- ▶ enacts a real estate transfer tax;
- ▶ specifies that the following written instruments are subject to the real estate transfer tax:
  - written instruments for the sale or exchange of property or any interest in the property or any combination of sales or exchanges or any assignment or transfer

## **HB0441S01 compared with HB0441**

of property or any interest in the property; and

- deeds or instruments of conveyance of property or any interest in property, for consideration;
- ▶ specifies written instruments that are exempt from the real estate transfer tax;
- ▶ specifies procedures for the collection and enforcement of the real estate transfer tax; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

AMENDS:

**15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18

**31A-8-103**, as last amended by Laws of Utah 2018, Chapter 391

**35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421

**35A-8-309**, as last amended by Laws of Utah 2017, Chapters 181 and 421

**59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399

**59-7-104**, as last amended by Laws of Utah 2018, Chapter 456

**59-7-201**, as last amended by Laws of Utah 2018, Chapter 456

**59-7-610**, as last amended by Laws of Utah 2015, Chapter 283

**59-7-620**, as last amended by Laws of Utah 2017, Chapter 222

**59-9-101**, as last amended by Laws of Utah 2017, Chapters 28, 168, and 363

**59-10-104**, as last amended by Laws of Utah 2018, Chapter 456

**59-10-529.1**, as enacted by Laws of Utah 2015, Chapter 369

**59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

**59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283

**59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389

**59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389

**59-10-1018**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3

**59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

## **HB0441S01 compared with HB0441**

- 59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
- 59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
- 59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
- 59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
- 59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
- 59-12-102**, as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472
- 59-12-103**, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 59-12-104**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 59-12-104.2**, as last amended by Laws of Utah 2016, Chapter 135
- 59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 59-12-104.6**, as enacted by Laws of Utah 2011, Chapter 288
- 59-12-107**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 59-12-204**, as last amended by Laws of Utah 2014, Chapter 258
- 59-12-205**, as last amended by Laws of Utah 2018, Chapters 258, 312, and 330
- 59-12-211**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 59-12-301**, as last amended by Laws of Utah 2015, Chapter 283
- 59-12-302**, as last amended by Laws of Utah 2018, Chapters 258 and 312
- 59-12-352**, as last amended by Laws of Utah 2009, Chapter 92
- 59-12-353**, as last amended by Laws of Utah 2015, Chapter 258
- 59-12-354**, as last amended by Laws of Utah 2018, Chapters 258 and 312
- 59-12-355**, as last amended by Laws of Utah 2004, Chapter 255
- 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
- 59-12-403**, as last amended by Laws of Utah 2018, Chapters 258 and 312
- 59-12-603**, as last amended by Laws of Utah 2018, Chapters 258 and 312
- 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

## **HB0441S01 compared with HB0441**

**59-12-1402**, as last amended by Laws of Utah 2017, Chapter 422  
**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  
**59-12-2206**, as last amended by Laws of Utah 2018, Chapters 258 and 312  
**59-12-2213**, as last amended by Laws of Utah 2011, Chapter 223  
**59-12-2214**, as last amended by Laws of Utah 2015, Chapter 421  
**59-12-2215**, as enacted by Laws of Utah 2010, Chapter 263  
**59-12-2216**, as enacted by Laws of Utah 2010, Chapter 263  
**59-12-2217**, as last amended by Laws of Utah 2018, Chapter 424  
**59-12-2218**, as last amended by Laws of Utah 2018, Chapter 424  
**59-12-2219**, as last amended by Laws of Utah 2018, Chapters 330 and 424  
**59-12-2220**, as enacted by Laws of Utah 2018, Chapter 424  
**59-28-103**, as last amended by Laws of Utah 2018, Chapter 415  
**59-28-105**, as enacted by Laws of Utah 2017, Chapter 166  
**63H-1-205**, as enacted by Laws of Utah 2018, Chapter 442  
**63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

### ENACTS:

**35A-9-214**, Utah Code Annotated 1953  
**59-10-1041**, Utah Code Annotated 1953  
**59-10-1102.1**, Utah Code Annotated 1953  
**59-10-1112**, Utah Code Annotated 1953  
**59-12-103.3**, Utah Code Annotated 1953  
**59-12-103.4**, Utah Code Annotated 1953  
**59-30-101**, Utah Code Annotated 1953  
**59-30-102**, Utah Code Annotated 1953  
**59-30-103**, Utah Code Annotated 1953  
**59-30-104**, Utah Code Annotated 1953  
**59-30-105**, Utah Code Annotated 1953  
**59-30-106**, Utah Code Annotated 1953  
**59-30-107**, Utah Code Annotated 1953  
**59-30-108**, Utah Code Annotated 1953

## HB0441S01 compared with HB0441

### 59-30-109, Utah Code Annotated 1953

REPEALS:

**59-12-104.4**, as enacted by Laws of Utah 2011, Chapter 314

---

---

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

Section 1. Section **15A-1-204** is amended to read:

**15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the

## HB0441S01 compared with HB0441

legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

- (i) adopting a new State Construction Code in its entirety; or
- (ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

- (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and
- (ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

- (i) states whether the commission recommends the Legislature adopt the update with any modifications; and
- (ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

- (i) study the recommendations; and
- (ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which

## HB0441S01 compared with HB0441

the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and



## HB0441S01 compared with HB0441

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

## HB0441S01 compared with HB0441

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104~~[(20)]~~(16), is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

Section 2. Section **31A-8-103** is amended to read:

### **31A-8-103. Applicability to other provisions of law.**

(1) (a) Except for exemptions specifically granted under this title, an organization is subject to regulation under all of the provisions of this title.

(b) Notwithstanding any provision of this title, an organization licensed under this chapter:

(i) is wholly exempt from:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations;

(B) Chapter 9, Insurance Fraternal;

(C) Chapter 10, Annuities;

## HB0441S01 compared with HB0441

- (D) Chapter 11, Motor Clubs;
- (E) Chapter 12, State Risk Management Fund; and
- (F) Chapter 19a, Utah Rate Regulation Act; and

(ii) is not subject to:

(A) Chapter 3, Department Funding, Fees, and Taxes, except for Part 1, Funding the Insurance Department;

(B) Section 31A-4-107;

(C) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except for provisions specifically made applicable by this chapter;

(D) Chapter 14, Foreign Insurers, except for provisions specifically made applicable by this chapter;

(E) Chapter 17, Determination of Financial Condition, except:

(I) Part 2, Qualified Assets, and Part 6, Risk-Based Capital; or

(II) as made applicable by the commissioner by rule consistent with this chapter;

(F) Chapter 18, Investments, except as made applicable by the commissioner by rule consistent with this chapter; and

(G) Chapter 22, Contracts in Specific Lines, except for Part 6, Accident and Health Insurance, Part 7, Group Accident and Health Insurance, and Part 12, Reinsurance.

(2) The commissioner may by rule waive other specific provisions of this title that the commissioner considers inapplicable to limited health plans, upon a finding that the waiver will not endanger the interests of:

- (a) enrollees;
- (b) investors; or
- (c) the public.

(3) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, do not apply to an organization except as specifically made applicable by:

- (a) this chapter;
- (b) a provision referenced under this chapter; or
- (c) a rule adopted by the commissioner to deal with corporate law issues of health maintenance organizations that are not settled under this chapter.

## HB0441S01 compared with HB0441

(4) (a) Whenever in this chapter, Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, is made applicable to an organization, the application is:

(i) of those provisions that apply to a mutual corporation if the organization is nonprofit; and

(ii) of those that apply to a stock corporation if the organization is for profit.

(b) When Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, is made applicable to an organization under this chapter, "mutual" means nonprofit organization.

(5) Solicitation of enrollees by an organization is not a violation of any provision of law relating to solicitation or advertising by health professionals if that solicitation is made in accordance with:

(a) this chapter; and

(b) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(6) This title does not prohibit any health maintenance organization from meeting the requirements of any federal law that enables the health maintenance organization to:

(a) receive federal funds; or

(b) obtain or maintain federal qualification status.

(7) Except as provided in Chapter 45, Managed Care Organizations, an organization is exempt from statutes in this title or department rules that restrict or limit the organization's freedom of choice in contracting with or selecting health care providers, including Section 31A-22-618.

~~[(8) An organization is exempt from the assessment or payment of premium taxes imposed by Sections 59-9-101 through 59-9-104.]~~

Section 3. Section **35A-8-308** is amended to read:

### **35A-8-308. Throughput Infrastructure Fund.**

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

(a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;

(b) any voluntary contributions received;

## HB0441S01 compared with HB0441

(c) appropriations made to the fund by the Legislature; and

(d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the fund.

Section 4. Section **35A-8-309** is amended to read:

**35A-8-309. Throughput Infrastructure Fund administered by impact board --**

**Uses -- Review by board -- Annual report.**

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund [~~in accordance with Subsection 59-12-103(12)~~] by statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal entity's obligation to repay loans for extenuating circumstances.

(4) In order to receive assistance under this section, a local political subdivision or an interlocal entity shall submit a formal application containing the information that the impact board requires.

## HB0441S01 compared with HB0441

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal entity issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal entity; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal entities that received assistance under this section.

Section 5. Section **35A-9-214** is enacted to read:

**35A-9-214. Tax credit notification -- Intergenerational poverty report to State Tax Commission.**

(1) As used in this section, "commission" means the State Tax Commission.

(2) (a) On or before January 31, the department shall provide notice of the tax credit available under Section 59-10-1112 to an individual who the department identifies as experiencing intergenerational poverty due to:

(i) the individual's receipt of public assistance during the previous calendar year;

## HB0441S01 compared with HB0441

(ii) the individual's receipt of public assistance for not less than 12 months since the individual reached age 18; and

(iii) the individual's or the individual's family's receipt of public assistance for not less than 12 months during the individual's childhood.

(b) The notice described in Subsection (2)(a) shall explain the eligibility requirements and the method for claiming a tax credit under Section 59-10-1112.

(3) (a) On or before March 1, the department shall provide the commission with an electronic report stating, for each individual to whom the department sent the notice described in Subsection (2):

(i) the name of the individual; and

(ii) the social security number of the individual.

(b) The department and the commission shall provide for the security and confidentiality of the information contained in the electronic report.

Section 6. Section **59-1-1503** is amended to read:

**59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use tax remittance.**

(1) A nonrefundable individual income tax credit is allowed as provided in Section 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of legal tender for another form of legal tender.

(2) Sales of currency or coin are exempt from sales and use taxes as provided in Subsection 59-12-104[~~(50)~~](40).

(3) The remittance of a sales and use tax on a transaction involving specie legal tender is as provided in Section 59-12-107.

Section 7. Section **59-7-104** is amended to read:

**59-7-104. Tax -- Minimum tax.**

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~4.95%~~] 4.75% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

## HB0441S01 compared with HB0441

Section 8. Section **59-7-201** is amended to read:

**59-7-201. Tax -- Minimum tax.**

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.75% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 9. Section **59-7-610** is amended to read:

**59-7-610. Recycling market development zones tax credit.**

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of [~~5%~~] 4.75% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a taxpayer is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).



## **HB0441S01 compared with HB0441**

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section 63N-2-305.

## HB0441S01 compared with HB0441

Section 10. Section **59-7-620** is amended to read:

**59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a corporation that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) [~~5%~~ 4.75%]; and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 11. Section **59-9-101** is amended to read:

**59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

(1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total

## HB0441S01 compared with HB0441

premiums received by it during the preceding calendar year from insurance covering property or risks located in this state.

(b) This Subsection (1) does not apply to:

(i) workers' compensation insurance, assessed under Subsection (2);

(ii) title insurance premiums taxed under Subsection (3);

(iii) annuity considerations;

(iv) insurance premiums paid by an institution within the state system of higher education as specified in Section 53B-1-102; and

(v) ocean marine insurance.

(c) The taxable premium under this Subsection (1) shall be reduced by:

(i) the premiums returned or credited to policyholders on direct business subject to tax in this state;

(ii) the premiums received for reinsurance of property or risks located in this state; and

(iii) the dividends, including premium reduction benefits maturing within the year:

(A) paid or credited to policyholders in this state; or

(B) applied in abatement or reduction of premiums due during the preceding calendar year.

(d) (i) For purposes of this Subsection (1)(d):

(A) "Utah variable life insurance premium" means an insurance premium paid:

(I) by:

(Aa) a corporation; or

(Bb) a trust established or funded by a corporation; and

(II) for variable life insurance covering risks located within the state.

(B) "Variable life insurance" means an insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of one or more separate accounts that are established and maintained by the insurer pursuant to Title 31A, Insurance Code.

(ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life insurance premium shall be calculated as follows:

(A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:

## HB0441S01 compared with HB0441

- (I) paid for each variable life insurance policy; and
- (II) received by the admitted insurer in the preceding calendar year; and
- (B).08% of the Utah variable life insurance premiums that exceed \$100,000:

- (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
- (II) received by the admitted insurer in the preceding calendar year.

(2) (a) An admitted insurer writing workers' compensation insurance in this state shall pay to the tax commission, on or before March 31 in each year, a premium assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

(i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);

(ii) on and after January 1, 2011, but on or before December 31, 2022, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and

(iii) on and after January 1, 2023, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):

(i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:

(A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;

(B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up

## HB0441S01 compared with HB0441

to 4.5% of the total workers' compensation premium income;

(C) on and after January 1, 2011, but on or before December 31, 2022, an amount of up to 3% of the total workers' compensation premium income; and

(D) on and after January 1, 2023, 0% of the total workers' compensation premium income;

(ii) an amount equal to .25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

(iii) an amount of up to .5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and

(iv) beginning on January 1, 2010, .5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

(d) (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.

(ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.

(iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

(iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding future minimum required assets. The Labor Commission

## HB0441S01 compared with HB0441

shall, after a public hearing, determine if the future annual disbursements are less than the corresponding future minimum required assets from projections provided by the actuary.

(vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.

(3) An admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.

(4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

~~[(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):]~~

(5) The following admitted insurers writing health insurance, as defined in Section 31A-1-301, in this state shall pay to the State Tax Commission, on or before March 31 in each year, a tax of 1% of the total premiums received by the insurer during the preceding calendar year from health insurance in this state:

(a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

## HB0441S01 compared with HB0441

(b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

(e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs; and

(f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

(6) A captive insurer, as provided in Section 31A-3-304, that pays a fee imposed under Section 31A-3-304 is not subject to the premium tax under this section.

(7) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.

(8) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.

Section 12. Section **59-10-104** is amended to read:

### **59-10-104. Tax basis -- Tax rate -- Exemption.**

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.95%~~] 4.75%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 13. Section **59-10-529.1** is amended to read:

### **59-10-529.1. Time period for commission to issue a refund.**

(1) Except as provided in Subsection (2), the commission may not issue a refund before March 1.

(2) The commission may issue a refund before March 1 if, before March 1, the commission determines that:

(a) (i) an employer has filed the one or more forms in accordance with Subsection

## HB0441S01 compared with HB0441

59-10-406(8) the employer is required to file with respect to an individual; and

(ii) for a refund of a tax credit described in Section 59-10-1112, the Department of Workforce Services has submitted the electronic report required by Section 35A-9-214; and

(b) the individual has filed a return in accordance with this chapter.

Section 14. Section **59-10-1002.2** is amended to read:

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

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, ~~[or] 59-10-1028, or 59-10-1041~~ may only claim an apportioned amount of the tax credit equal to:

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

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

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

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

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

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

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

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

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

Section 15. Section **59-10-1007** is amended to read:

### **59-10-1007. Recycling market development zones tax credit.**

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim a nonrefundable tax credit as provided in this section.

(a) (i) There shall be allowed a tax credit of ~~[5%]~~ 4.75% of the purchase price paid for machinery and equipment used directly in:



## HB0441S01 compared with HB0441

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after

## HB0441S01 compared with HB0441

January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the claimant, estate, or trust may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section 63N-2-305.

Section 16. Section **59-10-1017** is amended to read:

### **59-10-1017. Utah Educational Savings Plan tax credit.**

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of [~~5%~~ 4.75%] and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);

## HB0441S01 compared with HB0441

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).

(e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust; and

(b) [~~5%~~] 4.75%.

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

## HB0441S01 compared with HB0441

(7) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.1.

Section 17. Section **59-10-1017.1** is amended to read:

### **59-10-1017.1. Student Prosperity Savings Program tax credit.**

(1) As used in this section, "qualified donation" means an amount donated, in accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in Section 53B-8a-202.

(2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified donation.

(3) The tax credit equals the product of:

(a) the qualified donation; and

(b) [~~5%~~] 4.75%.

(4) A claimant, estate, or trust may not claim a tax credit under this section with respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a federal income tax return.

(5) A claimant, estate, or trust may not carry forward or carry back the portion of the tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for the taxable year in which the claimant, estate, or trust claims the tax credit.

(6) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.

Section 18. Section **59-10-1018** is amended to read:

### **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

(1) As used in this section:

(a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(b) "Income threshold" means:

(i) for a claimant who has a single filing status, an adjusted gross income of \$42,000;

(ii) for a claimant who has a head of household filing status, an adjusted gross income of \$56,000; and

(iii) for a claimant who has a joint filing status, an adjusted gross income of \$70,000.

## HB0441S01 compared with HB0441

~~[(b)]~~ (c) "Joint filing status" means:

- (i) spouses who file a single return jointly under this chapter for a taxable year; or
- (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~[(c)]~~ (d) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.

~~[(d)]~~ (e) "Single filing status" means:

- (i) a single individual who files a single federal individual income tax return for the taxable year; or
- (ii) a married individual who:
  - (A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and
  - (B) files a single federal individual income tax return for the taxable year.

~~[(e)]~~ (f) "State or local income tax" means the lesser of:

- (i) the amount of state or local income tax that the claimant:
  - (A) pays for the taxable year; and
  - (B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and
- (ii) \$10,000.

~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6):

(i) for a claimant whose adjusted gross income exceeds the income threshold for the claimant's filing status, \$565 multiplied by the number of the claimant's qualifying

## HB0441S01 compared with HB0441

dependents[-]; or

(ii) for a claimant whose adjusted gross income is equal to or less than the income threshold for the claimant's filing status, \$3,113 multiplied by the number of the claimant's qualifying dependents.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and

(b) 6% of the claimant's Utah personal exemption.

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

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For a taxable year beginning on or after January 1, 2009, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b),

## HB0441S01 compared with HB0441

the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(6) (a) For a taxable year beginning on or after January 1, 2019, the commission shall increase annually the Utah personal exemption [~~amount~~] amounts listed in Subsection [~~(1)(g)~~] (1)(h) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year 2017.

(b) After the commission increases the Utah personal exemption [~~amount~~] amounts as described in Subsection (6)(a), the commission shall round the Utah personal exemption [~~amount~~] amounts to the nearest whole dollar.

(c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 19. Section **59-10-1019** is amended to read:

### **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

(1) As used in this section:

(a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether that claimant is retired, who:

- (i) is over 65 years of age [~~or older~~]; and
- (ii) was born on or before December 31, 1952.

~~[(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:]~~

~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and]~~

~~[(B) (i) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

~~[(H) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or]~~

~~[(HH) paid by:]~~

## HB0441S01 compared with HB0441

~~[(Aa) the United States;]~~

~~[(Bb) a state or a political subdivision of a state; or]~~

~~[(Cc) the District of Columbia.]~~

~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.]~~

~~[(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that claimant is retired, who:]~~

~~[(i) is younger than 65 years of age;]~~

~~[(ii) was born on or before December 31, 1952; and]~~

~~[(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.]~~

~~[(d)] (b) "Head of household filing status" is as defined in Section 59-10-1018.~~

~~[(e)] (c) "Joint filing status" is as defined in Section 59-10-1018.~~

~~[(f)] (d) "Married filing separately status" means a married individual who:~~

~~(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and~~

~~(ii) files a single federal individual income tax return for the taxable year.~~

~~[(g)] (e) "Modified adjusted gross income" means the sum of an eligible over age 65 ~~[or older]~~ retiree's ~~[or eligible under age 65 retiree's]~~:~~

~~(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;~~

~~(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection ~~[(f)](g)(i)~~ (1)(e)(i); and~~

~~(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection ~~[(f)](g)(i)~~ (1)(e)(i).~~

~~[(h)] (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.~~

(2) Except as provided in Section 59-10-1002.2 and Subsection (6) and subject to Subsections (3) through (5)~~[(a)]~~, each eligible over age 65 ~~[or older]~~ retiree may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[(a)]~~.



## HB0441S01 compared with HB0441

~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:]~~

~~[(i) \$288; or]~~

~~[(ii) the product of:]~~

~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

~~[(B) 6%.]~~

(3) A tax credit under this section may not be carried forward or carried back.

(4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, \$16,000;

(b) for a federal individual income tax return that is allowed a single filing status, \$25,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, \$32,000; or

(d) for a return under this chapter that is allowed a joint filing status, \$32,000.

(5) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.

(6) If an eligible over age 65 retiree qualifies for a tax credit under this section and under Section 59-10-1041, the eligible over age 65 retiree may claim either:

(a) the tax credit under this section; or

(b) the tax credit under Section 59-10-1041.

Section 20. Section **59-10-1022** is amended to read:

**59-10-1022. Nonrefundable tax credit for capital gain transactions.**

(1) As used in this section:

(a) (i) "Capital gain transaction" means a transaction that results in a:

(A) short-term capital gain; or

## HB0441S01 compared with HB0441

(B) long-term capital gain.

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

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(d) "Qualifying stock" means stock that is:

(i) (A) common; or

(B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2008; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f) (i) "Utah small business corporation" means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

## HB0441S01 compared with HB0441

(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."

(2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

(a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

(b) [~~5%~~] 4.75%.

(3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

(a) 70% or more of the gross proceeds of the capital gain transaction are expended:

(i) to purchase qualifying stock in a Utah small business corporation; and

(ii) within a 12-month period after the day on which the capital gain transaction occurs;

and

(b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

(4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

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

(a) defining the term "gross proceeds"; and

(b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Section 21. Section **59-10-1023** is amended to read:

**59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.**

(1) As used in this section:

(a) "Claimant with dependents" means a claimant:

(i) regardless of the claimant's filing status for purposes of filing a federal individual

## HB0441S01 compared with HB0441

income tax return for the taxable year; and

(ii) who claims one or more dependents under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

## HB0441S01 compared with HB0441

- (e) "Joint claimant with no dependents" means a husband and wife who:
  - (i) file a single return jointly under this chapter for the taxable year; and
  - (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the husband's and wife's federal individual income tax return for the taxable year.
- (f) "Single claimant with no dependents" means:
  - (i) a single individual who:
    - (A) files a single federal individual income tax return for the taxable year; and
    - (B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;
  - (ii) a head of household:
    - (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and
    - (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or
  - (iii) a married individual who:
    - (A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and
    - (B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.
- (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit equal to the product of:
  - (a) the difference between:
    - (i) the total amount the claimant pays during the taxable year for:
      - (A) insurance offered under a health benefit plan; and
      - (B) an eligible insured individual; and
    - (ii) excluded expenses; and
  - (b) [~~5%~~ 4.75%].
- (3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:
  - (a) for a single claimant with no dependents, \$300;

## **HB0441S01 compared with HB0441**

(b) for a joint claimant with no dependents, \$600; or

(c) for a claimant with dependents, \$900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

(5) A claimant may not carry forward or carry back a tax credit under this section.

Section 22. Section **59-10-1028** is amended to read:

**59-10-1028. Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.**

(1) As used in this section:

(a) "Capital gain transaction" means a transaction that results in a:

(i) short-term capital gain; or

(ii) long-term capital gain.

(b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.

(e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, for taxable years beginning on or after January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

## HB0441S01 compared with HB0441

(b) [~~5%~~] 4.75%.

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 23. Section **59-10-1035** is amended to read:

**59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) [~~5%~~] 4.75%; and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

## HB0441S01 compared with HB0441

(5) A tax credit under this section may not be carried forward or carried back.

Section 24. Section **59-10-1036** is amended to read:

### **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

(1) As used in this section:

(a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec. 10101.

(c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(d) "Survivor benefits" means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.

(2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:

(a) the death of a member of the armed forces or reserve components while on active duty; or

(b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.

(3) The tax credit described in Subsection (2) is equal to the product of:

(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

(b) [~~5%~~] 4.75%.

(4) The tax credit described in Subsection (2):

(a) may not be carried forward or carried back; and

(b) applies to a taxable year beginning on or after January 1, 2017.

Section 25. Section **59-10-1041** is enacted to read:

### **59-10-1041. Nonrefundable tax credit for social security benefits.**

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married



## HB0441S01 compared with HB0441

individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of a claimant's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2, a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) 4.75%; and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) A claimant:

(a) may not carry forward or carry back a tax credit under this section; and

(b) may not claim a tax credit under this section if a tax credit under Section 59-10-1019 is claimed on the return.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, \$22,500;

(b) for a federal individual income tax return that is allowed a single filing status, \$30,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, \$45,000; or

## HB0441S01 compared with HB0441

(d) for a return under this chapter that is allowed a joint filing status, \$45,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 26. Section **59-10-1102.1** is enacted to read:

### **59-10-1102.1. Apportionment of tax credit.**

A nonresident individual or a part-year resident individual who claims the tax credit described in Section 59-10-1112 may only claim an apportioned amount of the tax credit equal to the product of:

(1) the state income tax percentage for a nonresident individual or the state income tax percentage for a part-year resident individual; and

(2) the amount of the tax credit that the nonresident individual or the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

Section 27. Section **59-10-1112** is enacted to read:

**59-10-1112. Refundable state earned income tax credit -- Definition -- Tax credit calculation -- Transfers from General Fund.**

(1) As used in this section:

(a) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(b) "Federal earned income tax credit" means the federal earned income tax credit described in Section 32, Internal Revenue Code.

(c) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(d) "Qualifying claimant" means a resident or nonresident individual who:

(i) is identified by the department as experiencing intergenerational poverty; and

(ii) claimed the federal earned income tax credit for the previous taxable year.

(2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a refundable earned income tax credit equal to 10% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return in the previous taxable year.

## HB0441S01 compared with HB0441

(3) (a) The commission shall use the electronic report described in Section 35A-9-214 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

(b) The commission may not use the electronic report described in Section 35A-9-214 for any other purpose.

Section 28. 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.

(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:

## HB0441S01 compared with HB0441

(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;

(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;

## HB0441S01 compared with HB0441

- (t) Section 59-12-2215;
- (u) Section 59-12-2216;
- (v) Section 59-12-2217;
- (w) Section 59-12-2218;
- (x) Section 59-12-2219; or
- (y) Section 59-12-2220.

(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;

(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.

## HB0441S01 compared with HB0441

(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
    - (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:

## HB0441S01 compared with HB0441

- (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]~~

~~[(b) at the direction of the seller of the cleaning or washing of the tangible personal property:]~~

~~[(16)]~~ (14) "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)]~~ (15) (a) Except as provided in Subsection ~~[(17)]~~ (15)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or

## HB0441S01 compared with HB0441

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)]~~ (16) (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:

(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:



## HB0441S01 compared with HB0441

- (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

(B) subject to Subsection [~~(18)~~] (16)(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)~~] (16)(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;

## HB0441S01 compared with HB0441

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

(d) (i) For purposes of Subsection [~~(18)~~] (16)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

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

(ii) For purposes of Subsection [~~(18)~~] (16)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection [~~(18)~~] (16)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

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

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

## HB0441S01 compared with HB0441

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

(ii) For purposes of Subsection [~~(18)~~] (16)(b)(vi), a seller:

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

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

(iii) For purposes of Subsection [~~(18)~~] (16)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection [~~(18)~~] (16)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

[~~(19)~~] (17) "Certified automated system" means software certified by the governing board of the agreement that:

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

(i) on a transaction; and

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

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

(c) maintains a record of the transaction described in Subsection [~~(19)~~] (17)(a)(i).

[~~(20)~~] (18) "Certified service provider" means an agent certified:

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

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

[~~(21)~~] (19) (a) Subject to Subsection [~~(21)~~] (19)(b), "clothing" means all human wearing apparel suitable for general use.

## HB0441S01 compared with HB0441

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

~~[(23)]~~ (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection ~~[(56)]~~ (55) or residential use under Subsection (106).

~~[(24)]~~ (22) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

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

(ii) For purposes of Subsection ~~[(24)]~~ (22)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

~~[(25)]~~ (23) "Component part" includes:

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

~~[(26)]~~ (24) "Computer" means an electronic device that accepts information:

- (a) (i) in digital form; or
- (ii) in a form similar to digital form; and

## HB0441S01 compared with HB0441

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

~~[(27)]~~ (25) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

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

~~[(28)]~~ (26) "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)]~~ (26)(a) and (b).

~~[(29)]~~ (27) (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)]~~ (27)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection ~~[(29)]~~ (27)(a).

~~[(30)]~~ (28) "Construction materials" means any tangible personal property that will be converted into real property.

(29) (a) "Cosmetic medical procedure" means a medical procedure performed in order to improve a human subject's appearance without significantly serving to prevent or treat illness or disease or to promote proper functioning of the body.

(b) "Cosmetic medical procedure" may include:

(i) cosmetic surgery;

(ii) hair transplants;

(iii) cosmetic injections;

(iv) cosmetic soft tissue fillers;

(v) dermabrasion and chemical peels;

(vi) laser hair removal;

(vii) laser skin resurfacing;

(viii) laser treatment of leg veins;

(ix) sclerotherapy;

(x) cosmetic dentistry; and

## HB0441S01 compared with HB0441

(xi) facility occupancies, such as hospitalization or clinic stays, required for or directly associated with a cosmetic medical procedure.

(c) "Cosmetic medical procedure" does not include:

(i) reconstructive surgery or dentistry to correct or minimize abnormal structures caused by:

(A) congenital defects;

(B) developmental abnormalities;

(C) trauma;

(D) infection;

(E) tumors; or

(F) disease; or

(ii) other procedures performed in order to improve proper functioning of the body.

~~[(31)]~~ (30) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

~~[(32)]~~ (31) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection ~~[(32)]~~ (31)(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)]~~ (32) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

## HB0441S01 compared with HB0441

~~(34)~~ (33) "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)~~ (33)(b)(i) through (v);

(c) (i) except as provided in Subsection ~~(34)~~ (33)(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

(ii) if the product is not intended for ingestion in a form described in Subsections ~~(34)~~ (33)(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.

(34) (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.

(35) "Digital audio-visual work" means a series of related images which, when shown

## HB0441S01 compared with HB0441

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)]~~ (36) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

~~[(38)]~~ (37) (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)]~~ (38) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

~~[(40)]~~ (39) (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)]~~ (39)(a)(ii)(B); or

(D) a person similar to a person described in Subsections ~~[(40)]~~ (39)(a)(ii)(A) through (C).

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



## HB0441S01 compared with HB0441

- (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)]~~ (40) "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)]~~ (41) (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;
  - (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)]~~ (41)(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

## HB0441S01 compared with HB0441

- (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)]~~ (42) (a) Except as provided in Subsection ~~[(43)]~~ (42)(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)]~~ (42)(a).

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

~~[(44)]~~ (43) "Electronic" means:

- (a) relating to technology; and
- (b) having:
  - (i) electrical capabilities;
  - (ii) digital capabilities;
  - (iii) magnetic capabilities;
  - (iv) wireless capabilities;
  - (v) optical capabilities;
  - (vi) electromagnetic capabilities; or
  - (vii) capabilities similar to Subsections ~~[(44)]~~ (43)(b)(i) through (vi).

~~[(45)]~~ (44) "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

## HB0441S01 compared with HB0441

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

(b) that performs electronic financial payment services.

~~[(46)]~~ (45) "Employee" means the same as that term is defined in Section 59-10-401.

~~[(47)]~~ (46) "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)]~~ (47) "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)]~~ (48) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

~~[(50)]~~ (49) (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

(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)]~~  
(89)(b)(iii).

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

(i) an alcoholic beverage;

## HB0441S01 compared with HB0441

(ii) tobacco; or

(iii) prepared food.

~~[(51)]~~ (50) (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)]~~ (50)(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)]~~ (51) "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)]~~ (52) "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)]~~ (53) (a) For purposes of Subsection 59-12-104~~[(41)]~~(33), "governmental entity" means:

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

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, 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

## HB0441S01 compared with HB0441

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)]~~ (54) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

~~[(56)]~~ (55) "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 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

## HB0441S01 compared with HB0441

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)~~] (55)(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)~~] (56) (a) Except as provided in Subsection [~~(57)~~] (56)(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.

[~~(58)~~] (57) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

[~~(59)~~] (58) (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

## HB0441S01 compared with HB0441

(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)~~ (58)(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)~~ (59) "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 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.

## HB0441S01 compared with HB0441

~~[(61)]~~ (60) "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)]~~ (61) "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)]~~ (62) "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)]~~ (63) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

~~[(65)]~~ (64) "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;
    - (E) glass;
    - (F) plastic;
    - (G) textile; or
    - (H) rubber; and
  - (ii) the new products under Subsection ~~[(65)]~~ (64)(b)(i) would otherwise be made with



## HB0441S01 compared with HB0441

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)]~~ (65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104~~[(20)]~~(16)(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)]~~ (65)(a) through (g); or

(j) person similar to a person described in Subsections ~~[(66)]~~ (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(67)]~~ (66) "Mobile home" means the same as that term is defined in Section 15A-1-302.

~~[(68)]~~ (67) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(69)]~~ (68) (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;

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

(iii) the origination point described in Subsection ~~[(69)]~~ (68)(a)(i) and the termination point described in Subsection ~~[(69)]~~ (68)(a)(ii) are not fixed.

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

## HB0441S01 compared with HB0441

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)]~~ (69) (a) Except as provided in Subsection ~~[(70)]~~ (69)(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)]~~ (69)(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)]~~ (70) "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)]~~ (71) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection ~~[(72)]~~ (71)(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:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

~~[(73)]~~ (72) (a) Subject to Subsection ~~[(73)]~~ (72)(b), "model 3 seller" means a seller registered under the agreement that has:

## HB0441S01 compared with HB0441

- (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)~~] (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

[~~(74)~~] (73) "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)~~] (74) "Modular home" means a modular unit as defined in Section 15A-1-302.

[~~(76)~~] (75) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

[~~(77)~~] (76) "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)~~] (77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[~~(79)~~] (78) "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)~~] (79) (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.

[~~(81)~~] (80) (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)~~] (80)(a), the transmission of a coded radio signal

## HB0441S01 compared with HB0441

includes a transmission by message or sound.

~~[(82)]~~ (81) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

~~[(83)]~~ (82) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

~~[(84)]~~ (83) (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)]~~ (83)(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

(C) for an obvious temporary purpose;

## HB0441S01 compared with HB0441

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~(84)~~] (83)(b)(ii); or

(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)~~] (83)(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)]~~ (84) "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)]~~ (85) "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, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(87)]~~ (86) (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;

(C) debit card; or

## HB0441S01 compared with HB0441

(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)]~~ (87) "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)]~~ (88) "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:

(i) is paid for in advance; and

## HB0441S01 compared with HB0441

(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)]~~ (89) (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)]~~ (89)(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

(ii) (A) the following:

## HB0441S01 compared with HB0441

- (I) raw egg;
- (II) raw fish;
- (III) raw meat;
- (IV) raw poultry; or
- (V) a food containing an item described in Subsections [~~(91)~~] (89)(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)~~] (89)(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;

(XII) a pastry;



## HB0441S01 compared with HB0441

- (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)]~~ (90) "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)]~~ (91) (a) Except as provided in Subsection ~~[(93)]~~ (91)(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)]~~ (91)(c), prewritten computer software or a prewritten portion of prewritten computer software:

- (A) that is modified or enhanced to any degree; and
- (B) if the modification or enhancement described in Subsection ~~[(93)]~~ (91)(b)(iii)(A) is

## HB0441S01 compared with HB0441

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)~~] (91)(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)~~] (92) (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)~~] (93) (a) Except as provided in Subsection [~~(95)~~] (93)(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

## HB0441S01 compared with HB0441

(iii) a telecommunications service.

~~[(96)]~~ (94) (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)]~~ (95) (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)]~~ (96) (a) For purposes of Subsection 59-12-104~~[(41)]~~(33), "publication" means any written or printed matter, other than a photocopy:

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

## HB0441S01 compared with HB0441

- (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)]~~ (97) (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;

(H) a delivery charge; or

(I) an installation charge;

(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

## HB0441S01 compared with HB0441

(II) the consideration described in Subsection [~~(99)~~] (97)(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 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

## HB0441S01 compared with HB0441

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 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)]~~ (B) a manufacturer rebate on a motor vehicle; or

~~[(E)]~~ (C) a tax or fee legally imposed directly on the consumer.

~~[(100)]~~ (98) "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)]~~ (99) "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

## HB0441S01 compared with HB0441

establishment.

(100) "Rate reduction factor" means ~~the~~ a percentage calculated by determining the quotient of the current state:

(a) except as provided in Subsection (100)(b), .83%; and

(b) if the sales and use tax rate described in ~~effect under~~ Subsection 59-12-103(2)(a)(i)(A) ~~divided by 4.70%;~~ is reduced on October 1, 2020, as determined in Subsection 59-12-103(13), .66%.

~~(102)~~ (101) "Regularly rented" means:

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

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

~~(103)~~ (102) "Rental" means the same as that term is defined in Subsection ~~(59)~~ (58).

~~(104)~~ (103) (a) Except as provided in Subsection ~~(104)~~ (103)(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

## HB0441S01 compared with HB0441

other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

~~[(105)]~~ (104) "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)]~~ (105) (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 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)]~~ (105)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

~~[(107)]~~ (106) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(108)]~~ (107) (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)]~~ (108) "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)]~~ (109) (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:



## HB0441S01 compared with HB0441

- (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)]~~ (110) "Sale at retail" means the same as that term is defined in Subsection ~~[(109)]~~ (108).

~~[(112)]~~ (111) "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)]~~ (112) "Sales price" means the same as that term is defined in Subsection ~~[(99)]~~ (97).

## HB0441S01 compared with HB0441

~~[(114)]~~ (113) (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:

(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)]~~ (113)(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

## HB0441S01 compared with HB0441

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)]~~ (114) For purposes of this section and Section 59-12-104, "school":

(a) means:

(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 53E-10-601.

~~[(116)]~~ (115) "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)]~~ (116) (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

## HB0441S01 compared with HB0441

- (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 transferred electronically described in Subsection [~~(117)~~] (116)(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)~~] (117) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(118) (a) "Service" means an activity engaged in for another person for a fee, retainer, commission, or other monetary charge, if the activity involves the performance of a service.

(b) "Service" does not include a service rendered by an employee for the employee's employer.

(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)[~~(f)~~](h) 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

## HB0441S01 compared with HB0441

(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;

(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

## HB0441S01 compared with HB0441

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

(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;

## HB0441S01 compared with HB0441

- (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;
- (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.]~~

## HB0441S01 compared with HB0441

~~[(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 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



## HB0441S01 compared with HB0441

(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;

(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

## HB0441S01 compared with HB0441

- (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:
    - (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:

## HB0441S01 compared with HB0441

(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;

(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;

## HB0441S01 compared with HB0441

- (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;
- (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).

## HB0441S01 compared with HB0441

(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)] (133) "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 the amusement device, skill device, or ride device:]~~

~~[(136)] (134) (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)] (135) "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:~~

## HB0441S01 compared with HB0441

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

~~(138)~~ (136) (a) Subject to Subsection ~~(138)~~ (136)(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)~~(28) only, "vehicle" includes:

- (i) a vehicle described in Subsection ~~(138)~~ (136)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

~~(139)~~ (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection ~~(138)~~ (136).

~~(140)~~ (138) (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)~~ (139) (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)~~ (140) (a) Except as provided in Subsection ~~(142)~~ (140)(b), "waste energy facility" means a facility that generates electricity:

## HB0441S01 compared with HB0441

(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)]~~ (141) "Watercraft" means a vessel as defined in Section 73-18-2.

~~[(144)]~~ (142) "Wind energy" means wind used as the sole source of energy to produce electricity.

~~[(145)]~~ (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 29. Section **59-12-103** is amended to read:

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

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

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

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

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

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

(c) sales of the following for commercial use:

## HB0441S01 compared with HB0441

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (d) sales of the following for residential use:

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

- (i) the tangible personal property; and
- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal



## HB0441S01 compared with HB0441

property are exempt from a tax under this chapter;

~~[(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;]~~

~~[(†)]~~ (h) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

~~[(j) amounts paid or charged for laundry or dry cleaning services;]~~

~~[(\*)]~~ (i) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

~~[(†)]~~ (j) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; ~~[and]~~

~~[(m)]~~ (k) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition[-];

(l) amounts paid or charged for access:

(i) to digital audio-visual works, digital audio works, digital books, or gaming services, including the streaming of or subscription for access to digital audio-visual works, digital audio works, digital books, or gaming services;

(ii) regardless of the method of delivery; and

(iii) regardless of whether the amount paid or charged for access provides:

(A) a right to single-use access to the digital audio-visual works, digital audio works,

## HB0441S01 compared with HB0441

digital books, or gaming services; or

(B) a right to access the audio-visual works, digital audio works, digital books, or gaming services through a subscription, including a right that terminates upon the occurrence of a condition;

(m) amounts paid or charged for:

(i) services provided in relation to the use of computer software; and

(ii) the use of computer software; and

(n) amounts paid or charged for a sale of a service performed by a seller unless the economic activities are exempt from the sales and use tax under Section 59-12-104.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) (A) ~~(I)~~ beginning on January 1, 2020, a state tax imposed on the transaction at a tax rate equal to the sum of ~~[:]~~ 3.9% plus the rate specified in Subsection (12)(a); and

~~[(A) (I) through March 31, 2019, 4.70%; and]~~

~~[(H) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a); and]~~

~~(B) (I)~~ unless Subsection (13) applies, the tax rate described in Subsection (2)(a)(i)(A) (I) shall be reduced by .8% on October 1, 2020.

~~(B) (C)~~ (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

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

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

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

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

## HB0441S01 compared with HB0441

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

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

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

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

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

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

(I) the tax rate described in Subsection (2)(a)(i)(A); and

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

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

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

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible

## HB0441S01 compared with HB0441

personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

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

(II) state or federal law provides otherwise; or

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

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

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an

## HB0441S01 compared with HB0441

invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

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

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

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

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) 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 tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

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

(B) Subsection (2)(b)(i);

## HB0441S01 compared with HB0441

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(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 rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

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

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

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

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

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

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

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

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

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

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

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

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

## HB0441S01 compared with HB0441

(iv) the tax imposed by Subsection (2)(d)(i)(B).

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

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

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

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

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

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

(iii) At the end of each fiscal year:

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

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

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

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

## HB0441S01 compared with HB0441

in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

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

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

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

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

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

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

(B) fund state required dam safety improvements; and

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

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

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

(i) provide for the installation and repair of collection, treatment, storage, and



## HB0441S01 compared with HB0441

distribution facilities for any public water system, as defined in Section 19-4-102;

- (ii) develop underground sources of water, including springs and wells; and
- (iii) develop surface water sources.

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

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

(ii) \$17,500,000.

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

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

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

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

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

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

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

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

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

## **HB0441S01 compared with HB0441**

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

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

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

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

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

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

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

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

## HB0441S01 compared with HB0441

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at [~~a 4.7% rate~~] the rate currently in effect under Subsection (2)(a)(i)(A) minus the rate specified in Subsection (12)(a);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections

## HB0441S01 compared with HB0441

(7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(c)(i)] (8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection ~~[(8)(c)(ii)] (8)(b)~~, for a fiscal year~~

## HB0441S01 compared with HB0441

beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at [~~a 4.7% rate~~] the rate currently in effect under Subsection (2)(a)(i)(A) minus the rate specified in Subsection (12)(a);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection ~~[(8)(c)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection ~~[(8)(c)(i)]~~ (8)(b) into the Transit ~~[and]~~ Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

## HB0441S01 compared with HB0441

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

~~[(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

~~[(13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be expended or deposited in accordance with Subsections (4) through (12) and (14) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.]~~

~~[(14)]~~ (12) (a) The rate specified in this ~~[subsection]~~ Subsection (12) is the product of:

(i) 0.15%; and

## HB0441S01 compared with HB0441

(ii) the rate reduction factor.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue generated by a 0.15% tax rate imposed beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health Care Financing; and

(ii) for a fiscal year beginning on or after fiscal year 2019-20, annually transfer the amount of revenue generated by [~~a-0.15%~~] the tax rate currently in effect under Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health Care Financing.

(c) The revenue described in Subsection [~~(14)~~] (12)(b) that the Division of Finance transfers to the Division of Health Care Financing as dedicated credits shall be expended for the following uses:

(i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and 26-18-3.9(2)(b);

(ii) if revenue remains after the use specified in Subsection [~~(14)~~] (12)(c)(i), other measures required by Section 26-18-3.9; and

(iii) if revenue remains after the uses specified in Subsections [~~(14)~~] (12)(c)(i) and (ii), other measures described in Title 26, Chapter 18, Medical Assistance Act.

(13) (a) Notwithstanding the rate reduction specified in Subsection (2)(a)(i)(~~(B)~~A)(II), if the actual sales and use tax collections do not meet the latest consensus revenue estimates as adopted by the Executive Appropriations Committee of the Legislature the rate reduction specified in Subsection (2)(a)(i)(~~(B)~~A)(II) does not take effect.

(b) The Executive Appropriations Committee of the Legislature shall certify:

(i) whether the actual collections for the ~~previous~~ calendar quarter beginning on or after January 1, 2020, meet the latest adopted consensus revenue estimates; and

(ii) whether the rate reduction specified in Subsection (2)(a)(i)(~~(B)~~A)(II) shall take effect.

(c) The Executive Appropriations Committee shall provide notice to the State Tax Commission no later than 90 days before the new rate is scheduled to take effect under Subsection (2)(a)(i)(~~(B)~~A)(II):

## HB0441S01 compared with HB0441

(i) whether the requirement of Subsection (13)(~~f~~~~a~~~~b~~)(i) has been met; and

(ii) whether the new rate scheduled to take effect under Subsection (2)(a)(i)(~~f~~~~B~~)(~~A~~)(II) will take effect.

(14) (a) For the fiscal ~~f~~~~year~~ years 2019-2020 and 2020-2021 ~~f~~~~only~~, the Division of Finance shall deposit a portion of the revenues generated by the taxes listed in Subsection (3)(a) into the Sales and Use Tax Base Expansion Restricted Account created by Section 59-12-103.3 in an amount equal to the actual General Fund revenues collected in the completed fiscal year 2019-2020 or 2020-2021 that exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(b) Notwithstanding Subsections (4) through (12), an amount required to be expended or deposited in accordance with Subsections (4) through (12) may not include the amount the Division of Finance deposits in accordance with Subsection (14)(a).

Section 30. Section **59-12-103.3** is enacted to read:

### **59-12-103.3. Sales and Use Tax Base Expansion Restricted Account.**

(1) As used in this section:

(a) "Account" means the Sales and Use Tax Base Expansion Restricted Account created by this section.

(b) "Qualified local revenue" means revenue from the local option sales and use tax imposed under Part 2, Local Sales and Use Tax Act, and Section 59-12-1102 required to be deposited into the account.

(c) "Qualified state revenue" means revenue from the state sales and use tax imposed under Section 59-12-103 required to be deposited into the account.

(2) There is created within the General Fund a restricted account known as the "Sales and Use Tax Base Expansion Restricted Account."

(3) The account shall be funded by:

(a) the qualified local revenue deposited into the account in accordance with Sections 59-12-204 and 59-12-1102; and

(b) the qualified state revenue deposited into the account in accordance with Section 59-12-103.

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



## HB0441S01 compared with HB0441

(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 deposited into the account; and

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

(b) (i) the qualified state revenue deposited into the account; and

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

(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;

(ii) distribute revenues to counties, cities, towns, or metro townships to offset revenue losses from the lowering of local option sales and use tax rates in Chapter 12, Sales and Use Tax Act, enacted by the Legislature on ~~July~~ January 1, 2020; and

(iii) implement future hold harmless distribution formulas for ongoing revenue losses for counties, cities, towns, or metro townships.

(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; and~~

(ii) ~~provide additional tax relief to taxpayers~~ as the Legislature may provide by statute.

Section 31. Section **59-12-103.4** is enacted to read:

**59-12-103.4. Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee study.**

(1) The commission shall:

(a) beginning on ~~February~~ March 1, 2020, make a monthly report by the final day of each month to the Revenue and Taxation Interim Committee by electronic means:

(i) stating the number of sellers who obtain a license under Section 59-12-106 for the first time ~~on or after~~ ~~for the filing period that ended~~ two months before the date of the report;

(ii) stating the amount of state sales and use tax revenue collected from the collections that were due in the filing period that ended ~~the month~~ ~~two months~~ before the time of the report; and

(iii) stating the amount of local option sales and use tax revenue collected from collections that were due in the filing period that ended ~~the month~~ ~~two months~~ before the

## HB0441S01 compared with HB0441

time of the report for each county, city, town, or metro township for each local option sales and use tax authorized under Chapter 12, Sales and Use Tax Act; and

(b) report to the Revenue and Taxation Interim Committee before November 30, 2020, and at any other meeting requested by the committee, the data provided to the Revenue and Taxation Interim Committee by electronic means under this Subsection (1).

(2) The Revenue and Taxation Interim Committee shall, after receiving the commission's reports under Subsection (1):

(a) review the data provided to the committee under Subsection (1); and

(b) make recommendations to the Legislative Management Committee and the Executive Appropriations Committee regarding:

(i) whether the sales and use tax rates should be reduced;

(ii) whether any other provisions of this chapter should be amended or repealed; and

(iii) the distribution of the revenues in the Sales and Use Tax Base Expansion

Restricted Account created by Section 59-12-103.3.

Section 32. Section **59-12-104** is amended to read:

### **59-12-104. 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 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

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

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

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

## HB0441S01 compared with HB0441

providing additional project capacity, as defined in Section 11-13-103;

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

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

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

~~[(b) Subsection (3)(a) applies to:]~~

~~[(i) food and food ingredients; or]~~

~~[(ii) prepared food;]~~

~~[(4)] (3) (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)] (3)(a) or (b);~~

~~[(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]~~

~~[(H) 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;]~~

## HB0441S01 compared with HB0441

(4) 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)]~~ (5) 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 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)]~~ (6) sales made to or by religious or charitable institutions in the conduct of their

## HB0441S01 compared with HB0441

regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

~~[(9)]~~ (7) 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)]~~ (8) (a) amounts paid for an item described in Subsection ~~[(10)]~~ (8)(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)]~~ (8)(a) applies to:

(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)]~~ (9) purchases or leases exempt under Section 19-12-201;

~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:

(i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

## HB0441S01 compared with HB0441

(ii) an institution of higher education if:

(A) the item described in Subsection [~~(12)~~] (10)(c) is not available to the general public; or

(B) the item described in Subsection [~~(12)~~] (10)(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)~~] (10)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections [~~(12)~~] (10)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

[~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible personal property [~~or~~], a product transferred electronically, or a service by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property [~~or~~], product transferred electronically, or service by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property [~~or~~], product transferred electronically, or service;

(b) this Subsection [~~(13)~~] (11) does not apply if:

(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, or service;

(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, or service;

(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)~~] (21);  
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

## HB0441S01 compared with HB0441

(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, or service;

(ii) a sale of tangible personal property ~~[or]~~, a product transferred electronically, or a service 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 service; 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, or service;

~~[(14)]~~ (12) 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

## HB0441S01 compared with HB0441

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 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, 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;

~~[(15)]~~ (13) (a) sales of the following if the requirements of Subsection ~~[(15)]~~ (13)(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)]~~ (13)(a)(i) through (iv); and



## HB0441S01 compared with HB0441

(b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(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)]~~ (13)(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 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)]~~ (14) (a) (i) except as provided in Subsection ~~[(18)]~~ (14)(b), sales of tangible personal property ~~[or]~~, a product transferred electronically, or a service used or consumed

## HB0441S01 compared with HB0441

primarily and directly in farming operations, regardless of whether the tangible personal property [or], a product transferred electronically, or service:

(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, or a service if the tangible personal property [or], a product transferred electronically, or service is exempt under Subsection [~~(18)~~] (14)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection [~~(18)~~] (14)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; 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)~~] (14)(b)(ii)(B), tangible personal property [or], a product transferred electronically, or a service if the tangible personal property [or], a product transferred electronically, or service is used in an activity other than farming; and

(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, and services 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)~~] (15) sales of hay;

## HB0441S01 compared with HB0441

~~[(20)]~~ (16) 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)]~~ (16)(a); or

(c) a member of the immediate family of the producer described in Subsection ~~[(20)]~~ (16)(a);

~~[(21)]~~ (17) 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)]~~ (18) 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)]~~ (19) a product stored in the state for resale;

~~[(24)]~~ (20) (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)]~~ (20)(a)(i)(A); and

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

(C) used for the personal use or enjoyment of the nonresident person described in Subsection ~~[(24)]~~ (20)(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)]~~ (20)(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; and

## HB0441S01 compared with HB0441

(b) the exemption provided for in Subsection ~~[(24)]~~ (20)(a) does not apply to:

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

(ii) a sale of a vehicle exempt under Subsection ~~[(33)]~~ (28); ~~[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)]~~ (21) a product or service purchased for resale 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)]~~ (22) 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)]~~ (23) 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;

~~[(28)]~~ (24) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

~~[(29)]~~ (25) 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)]~~ (26) 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:

## HB0441S01 compared with HB0441

(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)]~~ (27) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

~~[(33)]~~ (28) 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)]~~ (29) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

~~[(35)]~~ (30) sales relating to schools and fundraising sales;

~~[(36)]~~ (31) sales or rentals of durable medical equipment if:

(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;]~~

## HB0441S01 compared with HB0441

~~[(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)] (32) 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)] (33) (a) sales of photocopies by:~~

~~(i) a governmental entity; or~~

~~(ii) an entity within the state system of public education, including:~~

~~(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)] (34) (a) sales made to or by:~~

## HB0441S01 compared with HB0441

- (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)~~] (35) 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)~~] (36) an amount paid by or charged to a purchaser for accommodations and services described in Subsection [~~59-12-103(t)(i)~~] 59-12-103(1)(h) to the extent the amount is exempt under Section 59-12-104.2;
- [~~(46)~~] (37) 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)~~] (38) (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; and
  - (b) for a residential use customer only, the exemption under Subsection [~~(47)~~] (38)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection [~~(47)~~] (38)(a) that exceeds the tariff rate under the tariff described in Subsection [~~(47)~~] (38)(a) that the customer would have paid absent the tariff;[~~(48)~~] (39) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;
- [~~(49)~~] sales of water in a:
  - [~~(a)~~] pipe;
  - [~~(b)~~] conduit;
  - [~~(c)~~] ditch; or
  - [~~(d)~~] reservoir;[~~(50)~~] (40) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

## HB0441S01 compared with HB0441

~~[(51)]~~ (41) (a) sales of an item described in Subsection ~~[(51)]~~ (41)(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)]~~ (41)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

~~[(52)]~~ (42) amounts paid on a sale-leaseback transaction;

~~[(53)]~~ (43) 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 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;]~~



## HB0441S01 compared with HB0441

~~[(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)] (44) (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 Subsection [(55)] (44)(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;~~

## HB0441S01 compared with HB0441

- (F) lighting;
- (G) fencing;
- (H) pipes; or
- (I) other equipment used for locating a power line or pole; and

(b) this Subsection [~~(55)~~] (44) 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)~~] (44)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection [~~(55)~~] (44)(a)(i) is operational as described in Subsection [~~(55)~~] (44)(a)(iii); or

(B) the increased capacity described in Subsection [~~(55)~~] (44)(a)(i) is operational as described in Subsection [~~(55)~~] (44)(a)(iii);

[~~(56)~~] (45) (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, 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)~~] (45)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

## HB0441S01 compared with HB0441

- (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)~~] (45) 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)~~] (45)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection [~~(56)~~] (45)(a)(i) is operational as described in Subsection [~~(56)~~] (45)(a)(iii); or

(B) the increased capacity described in Subsection [~~(56)~~] (45)(a)(i) is operational as described in Subsection [~~(56)~~] (45)(a)(iii);

[~~(57)~~] (46) (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
- (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)~~] (46)(a)(i);

## HB0441S01 compared with HB0441

(b) this Subsection [~~(57)~~] (46) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection [~~(57)~~] (46)(a)(i); or

(B) the increase in capacity of the facility described in Subsection [~~(57)~~] (46)(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)~~] (46)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection [~~(57)~~] (46)(a)(i) is operational; or

(B) the increased capacity described in Subsection [~~(57)~~] (46)(a)(i) is operational;

[~~(58)~~] (47) (a) subject to Subsection [~~(58)~~] (47)(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;

(b) the exemption under Subsection [~~(58)~~] (47)(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)~~] (47) 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)~~] (47) 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)~~] (47) 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

## HB0441S01 compared with HB0441

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)] (48)~~ 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)] (49)~~ (a) purchases or leases of an item described in Subsection ~~[(61)] (49)~~(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)] (49)~~(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)] (50)~~ (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)] (50)~~(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that

## HB0441S01 compared with HB0441

are used in the research and development of alternative energy technology;

~~[(63)]~~ (51) (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)]~~

(51)(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)]~~ (51)(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)]~~ (51)(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)]~~ (28); ~~[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)]~~ (52) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

## HB0441S01 compared with HB0441

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection ~~[(64)]~~ (52)(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)]~~ (53) 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)]~~ (54) 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)]~~ (54)(b); and

(B) located at the international airport described in Subsection ~~[(66)]~~ (54)(b);

~~[(67)]~~ (55) 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

## HB0441S01 compared with HB0441

(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 new airport described in Subsection ~~[(67)]~~ (55)(b);

(B) located at the new airport described in Subsection ~~[(67)]~~ (55)(b); and

(C) as part of the construction of the new airport described in Subsection ~~[(67)]~~

(55)(b);

~~[(68)]~~ (56) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

~~[(69)]~~ (57) purchases and sales described in Section 63H-4-111;

~~[(70)]~~ (58) (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)]~~ (59) 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)]~~ (60) amounts paid or charged for construction materials used in the construction



## HB0441S01 compared with HB0441

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
- (c) installed or converted to real property;

~~[(74)]~~ (61) 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)]~~ (61)(a); and

(ii) that have an economic life of three or more years;

~~[(75)]~~ (62) 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)]~~ (63) (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

## HB0441S01 compared with HB0441

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

(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)]~~ (64) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection ~~[59-12-103(1)(i)]~~ 59-12-103(1)(h);

~~[(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)]~~ (65) 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)]~~ (66) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

~~[(81)]~~ (67) amounts paid or charged for a purchase or lease of tangible personal

## HB0441S01 compared with HB0441

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;
  - (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)]~~ (68) 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)]~~ (69) amounts paid or charged for a purchase or lease of molten magnesium;

~~[(84)]~~ (70) 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;

~~[(85)] 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;~~

~~[(86)]~~ (71) 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

## HB0441S01 compared with HB0441

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);

~~[(87)]~~ (72) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205; ~~[and]~~

~~[(88)]~~ (73) 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~~[-]~~;

(74) sales of an item of tangible personal property or a service by a person under 18 years of age if:

(a) the service is **solely** provided by the person described in this Subsection (74); or

(b) the item of tangible personal property is handcrafted solely by the person described in this Subsection (74); and

(75) amounts paid or charged for a sale of a service if the service is an economic activity classified in one of the following NAICS Codes of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Sector 11, Agriculture, Forestry, Fishing and Hunting;

(b) (i) except as provided in Subsection (75)(b)(ii), NAICS Sector 23, Construction, if the service is provided for the construction of a:

## HB0441S01 compared with HB0441

(A) new single-family residential housing unit;

(B) new multifamily residential housing unit;

(C) new industrial building;

(D) new commercial or institutional building;

(E) highway;

(F) street; or

(G) bridge;

(ii) the exemption under Subsection (75)(b)(i) is not allowed and the service is subject to the taxes imposed by this chapter to the extent that the service is an economic activity classified in:

(A) NAICS Code 237990, Other Heavy and Civil Engineering Construction;

(B) NAICS Code 238210, Electrical Contractors and Other Wiring Installation Contractors; or

(C) NAICS Code 238220, Plumbing, Heating, and Air-Conditioning Contractors;

(c) NAICS Code 237210, Land Subdivision;

(d) NAICS Sectors 31-33, Manufacturing;

(e) NAICS Sector 42, Wholesale Trade;

(f) NAICS Code 481111, Scheduled Passenger Air Transportation;

(g) NAICS Code 4841, General Freight Trucking;

(h) NAICS Code 4842, Specialized Freight Trucking;

(i) NAICS Code 4851, Urban Transit Systems;

(j) NAICS Code 4852, Interurban and Rural Bus Transportation;

(k) NAICS Code 4854, School and Employee Bus Transportation;

(l) NAICS Code 4881, Support Activities for Air Transportation;

(m) NAICS Code 491, Postal Service;

(n) NAICS Code 519120, Libraries and Archives;

(o) NAICS Code 5211, Monetary Authorities-Central Bank;

(p) NAICS Code 5221, Depository Credit Intermediation;

(q) NAICS Code 5222, Nondepository Credit Intermediation;

(r) NAICS Code 5223, Activities Related to Credit Intermediation;

(s) NAICS Code 523110, Investment Banking and Securities Dealing;

## HB0441S01 compared with HB0441

(t) NAICS Code 5241, Insurance Carriers;

(u) NAICS Code 5242, Agencies, Brokerages, and Other Insurance Related Activities;

(v) NAICS Code 5251, Insurance and Employee Benefit Funds;

(w) NAICS Code 5259, Other Investment Pools and Funds;

(x) NAICS Code 531110, Lessors of Residential Buildings and Dwellings;

(y) NAICS Code 531120, Lessors of Nonresidential Buildings (except Miniwarehouses);

(z) NAICS Code 531210, Offices of Real Estate Agents and Brokers;

(aa) NAICS Sector 55, Management of Companies and Enterprises;

(bb) NAICS Code 561330, Professional Employer Organizations;

(cc) NAICS Code 6111, Elementary and Secondary Schools;

(dd) NAICS Code 6112, Junior Colleges;

(ee) NAICS Code 6113, Colleges, Universities, and Professional Schools;

(ff) NAICS Code 611410, Business and Secretarial Schools;

(gg) NAICS Code 611420, Computer Training;

(hh) NAICS Code 611511, Cosmetology and Barber Schools;

(ii) NAICS Code 611513, Apprenticeship Training;

(jj) NAICS Code 611519, Other Technical and Trade Schools;

(kk) NAICS Code 611710, Educational Support Services;

(ll) (i) except as provided in Subsection (75)(ll)(ii), NAICS Sector 62, Health Care and Social Assistance; and

(ii) the exemption under Subsection (75)(ll)(i) is not allowed and the service is subject to the taxes imposed by this chapter to the extent that the service described in Subsection (75)(ll)(i) is a cosmetic medical procedure;

(mm) NAICS Code 8131, Religious Organizations;

(nn) NAICS Code 8132, Grantmaking and Giving Services;

(oo) NAICS Code 8133, Social Advocacy Organizations;

(pp) NAICS Code 8134, Civic and Social Organizations; or

(qq) NAICS Sector 92, Public Administration.

Section 33. Section **59-12-104.2** is amended to read:

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

## HB0441S01 compared with HB0441

### **Nation.**

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

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

(b) consists of:

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

(A) within the limits of an Indian reservation under the jurisdiction of the federal government; and

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

(ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.

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

(i) the accommodations and services described in Subsection 59-12-103(1)[(†)](h) are provided within:

(A) the state; and

(B) a tribal taxing area;

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

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

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

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

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

(ii) a person may not require the state to provide a refund, a credit, or similar tax relief

## HB0441S01 compared with HB0441

if the difference described in Subsection (3) is equal to or less than \$0.

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

(a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(~~(f)~~)(h); less

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

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

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

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

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

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

Section 34. Section **59-12-104.5** is amended to read:

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

The Revenue and Taxation Interim Committee shall:

(1) review Subsection 59-12-104(~~(28)~~)(24) 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; and

(2) review Subsection 59-12-104(~~(21)~~)(17) 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,



## HB0441S01 compared with HB0441

even if state or local sales taxes are collected within the state on purchases of food under that program.

Section 35. Section **59-12-104.6** is amended to read:

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

(1) As used in this section:

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

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

(i) makes a lodging related purchase; and

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

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

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

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

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

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

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

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

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

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

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

## HB0441S01 compared with HB0441

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

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

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

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

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

(b) standards for determining and verifying the amount of a lodging related purchase by an exempt purchaser; and

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

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

Section 36. 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 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

## HB0441S01 compared with HB0441

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)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(g), 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;

(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

## HB0441S01 compared with HB0441

(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) Each 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 the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year:

(A) receives gross revenue from the sale of tangible personal property, any product transferred electronically, or services for storage, use, or consumption in the state of more than \$100,000; or

(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.

(d) 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) or (2)(c) may voluntarily:

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

(ii) remit the tax to the commission as provided in this part.

(e) 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 this Subsection (2) to:

(i) pay 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

## HB0441S01 compared with HB0441

(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.

(f) 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.

(g) 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.

(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

## HB0441S01 compared with HB0441

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, in the commission's opinion, will 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 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

## HB0441S01 compared with HB0441

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)~~ ~~(8)~~ 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 quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar 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 that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that 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)~~(19) or ~~(25)~~ (21) based on

## HB0441S01 compared with HB0441

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

(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;



## HB0441S01 compared with HB0441

(ii) described in Subsection (2)(d); 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)(d) 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)(d) 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

(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

## HB0441S01 compared with HB0441

(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) A seller that has an annual tax liability of less than \$400 shall remit the taxes due under this chapter on a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.~~

~~{ (8) (9) }~~ 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:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(i) the retailer represents that the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

(ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

~~{ (9) (10) }~~ 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:

(a) 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

## HB0441S01 compared with HB0441

(b) 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 tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

~~ff(10)-ff(11)}~~ (a) For purposes of this Subsection ~~ff(10)-ff(11)}~~:

(i) Except as provided in Subsection ~~ff(10)-ff(11)}~~(a)(ii), "bad debt" means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) "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;

(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;

## HB0441S01 compared with HB0441

(B) the qualifying purchaser's sale of that tangible personal property converted into real 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)~~ ~~§(11)~~(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)~~ ~~§(11)~~ 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)~~ ~~§(11)~~, 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)~~ ~~§(11)~~(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:

## HB0441S01 compared with HB0441

- (A) interest charges;
- (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)~~~~§(11)~~; 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)~~~~§(12)~~ (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 that 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 that 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 37. 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

## **HB0441S01 compared with HB0441**

(ii) if the location of the transaction is within the county as determined under Sections 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 Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(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 Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(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

## HB0441S01 compared with HB0441

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.

(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.

## HB0441S01 compared with HB0441

(8) (a) Notwithstanding any other provision of this section or Section 59-12-205, for a filing period beginning on or after January 1, 2020, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (8).

(b) For a county, city, or town that imposes a sales and use tax under this part, the commission shall calculate and retain an amount each month by subtracting from the sales and use tax collected under this part for that month from that county, city, or town any amount that exceeds an amount equal to the quotient of the revenue distribution determined for that county, city, or town under Subsection 59-12-205(7)(b) for that county, city, or town divided by 12.

(c) The commission shall deposit an amount the commission retains in accordance with this Subsection (8) into the Sales and Use Tax Base Expansion Restricted Account created by Section 59-12-103.3.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for making the deposit described in this Subsection (8).

(e) An amount the commission deposits into the Sales and Use Tax Base Expansion Restricted Account shall be expended as provided in Section 59-12-103.3.

Section 38. Section **59-12-205** is amended to read:

**59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.**

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to [Subsection] Subsections (6) and (7):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and



## HB0441S01 compared with HB0441

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) [~~Beginning~~] Subject to Subsection (7), beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

## HB0441S01 compared with HB0441

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

## HB0441S01 compared with HB0441

(b) ~~[Am]~~ Subject to Subsection (7), an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A-8-609.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-8a-606.

(c) The commission shall make the calculation and distribution described in this Subsection (5) after making the distributions described in Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

(7) (a) As used in this Subsection (7):

(i) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United

## HB0441S01 compared with HB0441

States Department of Labor.

(i) "Population estimate" means the population estimate as published by the Utah Population Committee created by Section 63C-20-103.

(b) Notwithstanding the provisions of this section, beginning on or after January 1, 2020, the commission may not distribute to a county, city, or town, in accordance with the distribution requirements of this section, an amount that exceeds the amount equal to the participating local government's tax revenue distribution amount under this section for the previous fiscal year multiplied by the sum of:

(i) one;

(ii) the actual percent change in the population estimate used in the December distribution with the population estimate used for the prior December for the same distribution; and

(iii) the actual percent change of the consumer price index during the 12 months ending in November of the current year.

Section 39. Section **59-12-211** is amended to read:

**59-12-211. Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases -- Exceptions.**

(1) As used in this section:

(a) (i) "Receipt" and "receive" mean:

(A) taking possession of tangible personal property;

(B) making first use of a service; or

(C) for a product transferred electronically, the earlier of:

(I) taking possession of the product transferred electronically; or

(II) making first use of the product transferred electronically.

(ii) "Receipt" and "receive" do not include possession by a shipping company on behalf of a purchaser.

(b) "Transportation equipment" means:

(i) a locomotive or rail car that is used to carry a person or property in interstate commerce;

(ii) a truck or truck-tractor:

## HB0441S01 compared with HB0441

- (A) with a gross vehicle weight rating of 10,001 pounds or more;
  - (B) registered under Section 41-1a-301; and
  - (C) operated under the authority of a carrier authorized and certificated:
    - (I) by the United States Department of Transportation or another federal authority; and
    - (II) to engage in carrying a person or property in interstate commerce;
  - (iii) a trailer, semitrailer, or passenger bus that is:
    - (A) registered under Section 41-1a-301; and
    - (B) operated under the authority of a carrier authorized and certificated:
      - (I) by the United States Department of Transportation or another federal authority; and
      - (II) to engage in carrying a person or property in interstate commerce;
  - (iv) an aircraft that is operated by an air carrier authorized and certificated:
    - (A) by the United States Department of Transportation or another federal or foreign authority; and
    - (B) to engage in carrying a person or property in interstate commerce; or
  - (v) a container designed for use on, or a component part attached or secured on, an item of equipment listed in Subsections (1)(b)(i) through (iv).
- (2) Except as provided in Subsections (8) and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.
- (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller, the location of the transaction is the location where the purchaser takes receipt of the tangible personal property or service.
- (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location indicated by an address for or other information on the purchaser if:
- (a) the address or other information is available from the seller's business records; and
  - (b) use of the address or other information from the seller's records does not constitute bad faith.

## HB0441S01 compared with HB0441

(5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the location indicated by an address for the purchaser if:

- (i) the address is obtained during the consummation of the transaction; and
- (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

(b) An address used under Subsection (5)(a) includes the address of a purchaser's payment instrument if no other address is available.

(6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location:

(a) indicated by the address from which:

(i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is subject to taxation under this chapter, the tangible personal property is shipped;

(ii) for computer software delivered electronically or for a product transferred electronically that is subject to taxation under this chapter, the computer software or product transferred electronically is first available for transmission by the seller; or

(iii) for a service that is subject to taxation under this chapter, the service is provided;

or

(b) as determined by the seller with respect to a prepaid wireless calling service:

(i) provided in Subsection (6)(a)(iii); or

(ii) associated with the mobile telephone number.

(7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP Code that is located within two or more local taxing jurisdictions.

(b) If the location of a transaction determined under Subsections (3) through (6) is in a shared ZIP Code, the location of the transaction is:

(i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or

(ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that:

## HB0441S01 compared with HB0441

(A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

(B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.

(c) Notwithstanding any provision under this chapter authorizing or requiring the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales and use tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).

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

(i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or

(ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).

(8) The location of a transaction made with a direct payment permit described in Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or service by the purchaser occurs.

(9) The location of a purchase of direct mail is the location determined in accordance with Section 59-12-123.

(10) (a) Except as provided in Subsection (10)(b), the location of a transaction determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within which:

(i) the nine-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located; or

(ii) the five-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located if:

(A) a nine-digit ZIP Code is not available for the location determined under Subsections (3) through (6), (8), or (9); or

(B) after exercising due diligence, a seller or certified service provider is unable to determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6), (8), or (9).

## HB0441S01 compared with HB0441

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the local taxing jurisdiction within which a transaction is located if a seller or certified service provider is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

(11) (a) As used in this Subsection (11), "florist delivery transaction" means a transaction commenced by a florist that transmits an order:

(i) by:

(A) telegraph;

(B) telephone; or

(C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(ii) for delivery to another place:

(A) in this state; or

(B) outside this state.

(b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and ending on December 31, 2009, the location of a florist delivery transaction is the business location of the florist that commences the florist delivery transaction.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) define:

(A) "business location"; and

(B) "florist";

(ii) define what constitutes a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(iii) provide procedures for determining when a transaction is commenced.

(12) (a) Notwithstanding any other provision of this section and except as provided in Subsection (12)(b), [~~if a purchaser uses computer software and there is not a transfer of a copy of that software to the purchaser~~] if there is not a transfer of a copy of tangible personal property, a product transferred electronically, or a service described in Subsection 59-12-103(1)(m) to the purchaser, the location of the transaction is determined in accordance with Subsections (4) and (5).

(b) If a purchaser uses [~~computer software described in Subsection (12)(a)~~] tangible



## HB0441S01 compared with HB0441

personal property, a product transferred electronically, or a service described in Subsection (12)(a) at more than one location, the location of the transaction shall be determined in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurs during the return filing period.

(b) The form described in Subsection (13)(a) shall be filed with the commission as required under this chapter.

(14) This section does not apply to:

(a) amounts charged by a seller for:

(i) telecommunications service except for a prepaid calling service or a prepaid wireless calling service as provided in Subsection (6)(b) or Section 59-12-215; or

(ii) the retail sale or transfer of:

(A) a motor vehicle other than a motor vehicle that is transportation equipment;

(B) an aircraft other than an aircraft that is transportation equipment;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(iii) except as provided in Section 59-12-214, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment;

(b) a tax a person pays in accordance with Subsection 59-12-107(2)(f); or

(c) a retail sale of tangible personal property or a product transferred electronically if:

(i) the seller receives the order for the tangible personal property or product transferred electronically in this state;

(ii) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;

(iii) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (5); and

(iv) at the time the seller receives the order, the record keeping system that the seller

## HB0441S01 compared with HB0441

uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

Section 40. Section **59-12-301** is amended to read:

**59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(~~(i)~~)(h) at a rate of not to exceed 4.25% beginning on or after October 1, 2006.

(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

(2) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(a) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and

(b) expended as provided in Section 63N-3-403.

(3) Subject to Subsection (4), a county legislative body:

(a) may increase or decrease the tax authorized under this part; and

(b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection (4):

(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.

(b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county 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 (4)(b)(ii) from the county.

(ii) The notice described in Subsection (4)(b)(i)(B) shall state:

## HB0441S01 compared with HB0441

- (A) that the county 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 (4)(b)(ii)(A);
- (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and
- (D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) 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 this section.

(ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

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

(iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)~~(f)~~(h).

(d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a 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 (4)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (4)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (4)(d)(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 (4)(d)(ii)(A);

## HB0441S01 compared with HB0441

(C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) 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 this section.

(ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

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

(iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)[~~(f)~~](h).

Section 41. Section **59-12-302** is amended to read:

### **59-12-302. Collection of tax -- Administrative charge.**

(1) Except as provided in Subsection (2) or (3), the tax authorized under this part shall be 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.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [~~(6)~~] (7).

## HB0441S01 compared with HB0441

(4) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 42. Section **59-12-352** is amended to read:

**59-12-352. Transient room tax authority for municipalities and military installation development authority -- Purposes for which revenues may be used.**

(1) (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)[(†)](h).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)[(†)](h) 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 municipality.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5) (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)[(†)](h) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

Section 43. Section **59-12-353** is amended to read:

**59-12-353. Additional municipal transient room tax to repay bonded or other indebtedness.**

## HB0441S01 compared with HB0441

(1) Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(~~f~~)(h) if the governing body of the municipality:

(a) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

(b) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a) to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

(2) The governing body of a municipality may impose the tax under this section until the sooner of:

(a) the day on which the following have been paid in full:

(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and

(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); or

(b) 25 years from the day on which the municipality levied the tax under this section.

Section 44. Section **59-12-354** is amended to read:

### **59-12-354. Collection of tax -- Administrative charge.**

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be 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.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to the municipality within which the revenue was collected; and

## HB0441S01 compared with HB0441

(ii) 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.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through [(6)] (7).

Section 45. Section **59-12-355** is amended to read:

### **59-12-355. Enactment or repeal of tax -- Tax rate change -- Effective date --**

#### **Notice requirements.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, 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:

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

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) 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:

## HB0441S01 compared with HB0441

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)[~~(f)~~](h).

(3) (a) Except as provided in Subsection (3)(c), 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:

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

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and



## HB0441S01 compared with HB0441

(B) 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:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)~~(f)~~(h).

Section 46. 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 of up to a rate equal to the product of:

(i) 1.1%; and

(ii) the rate reduction factor.

(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;

## HB0441S01 compared with HB0441

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

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

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

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

(d) A city or town imposing a tax under this section shall impose the tax on the 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

## HB0441S01 compared with HB0441

(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 47. 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 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 on the transactions described in Subsection 59-12-103(1) located within the municipality 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~~] a rate equal to the product of:

(i) .5%; and

(ii) the rate reduction factor.

(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 Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

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

(c) For purposes of this Subsection (1), the location of a transaction shall be

## HB0441S01 compared with HB0441

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).

(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

## HB0441S01 compared with HB0441

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 48. Section **59-12-402.1** is amended to read:

**59-12-402.1. State correctional facility sales and use tax -- Base -- Rate -- 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%~~] a rate equal to the product of:

- (a) .5%; and
- (b) the rate reduction factor.

(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;

## HB0441S01 compared with HB0441

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home;

(b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; 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 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 49. Section **59-12-403** is amended to read:

**59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date --**

**Notice requirements -- Administration, collection, and enforcement of tax --**

**Administrative charge.**

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, 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:

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

## HB0441S01 compared with HB0441

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), 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 or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, 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 Section 59-12-401, 59-12-402, or 59-12-402.1.

(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 (2)(a) 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 (2)(a).

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

(3) (a) Except as provided in Subsection (3)(c) or (d), 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:

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

(ii) after a 90-day period beginning on the date the commission receives notice meeting

## HB0441S01 compared with HB0441

the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), 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 or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, 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 Section 59-12-401, 59-12-402, or 59-12-402.1.

(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 (3)(a) 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 (3)(a).

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

(4) (a) Except as provided in Subsection (4)(b), 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

(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 ~~[(6)]~~ (7).



## HB0441S01 compared with HB0441

(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 part.

Section 50. Section **59-12-603** is amended to read:

**59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(~~h~~)(h).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

## HB0441S01 compared with HB0441

- (i) financing tourism promotion; and
- (ii) the development, operation, and maintenance of:
  - (A) an airport facility;
  - (B) a convention facility;
  - (C) a cultural facility;
  - (D) a recreation facility; or
  - (E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

- (ii) combine the sale of:
  - (A) ski lift tickets; and
  - (B) accommodations and services described in Subsection 59-12-103(1)[~~(i)~~](h).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

- (a) an airport facility;
- (b) a convention facility;
- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under

## HB0441S01 compared with HB0441

Section 59-12-106.

(5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be 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

## HB0441S01 compared with HB0441

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) 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) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(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 (9)(c), if, on or after July 1, 2004, a county 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 (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

## HB0441S01 compared with HB0441

- (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
- (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
- (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(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 or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins 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 shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), 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 (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

- (A) that the annexation described in Subsection (9)(d)(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 (9)(d)(ii)(A);
- (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
- (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(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 the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins 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

## HB0441S01 compared with HB0441

rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 51. 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 at a rate equal to the product of .1% and the rate reduction factor, 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%~~] (insert the rate currently in effect) sales and use tax for (list the purposes for which the revenue collected from the sales and use tax shall be expended)?"

(c) A county legislative body may not impose a tax under this section on:

(i) 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;

(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

## **HB0441S01 compared with HB0441**

(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.

(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

## HB0441S01 compared with HB0441

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 [~~(6)~~] (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.

(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.



## HB0441S01 compared with HB0441

(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

(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

## HB0441S01 compared with HB0441

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 52. 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 of up to a rate equal to the product of:

- (i) 1%; and
- (ii) the rate reduction factor.

(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;
  - (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) 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;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in

## HB0441S01 compared with HB0441

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 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:

## HB0441S01 compared with HB0441

(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 ~~(6)~~ (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 53. 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; and

(iii) of up to a rate equal to the product of:

(A) 1%; and

(B) the rate reduction factor.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

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

(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

## HB0441S01 compared with HB0441

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

(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 ~~[(6)]~~ (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 54. Section **59-12-1102** is amended to read:

**59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**

## HB0441S01 compared with HB0441

**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)~~] (7), 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 Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(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:

(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

## HB0441S01 compared with HB0441

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 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~~] Subsections (5) and (7), 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~~] Subsections (5) and (7), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or

## HB0441S01 compared with HB0441

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~~] Subsections (5) and (7), 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

(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 [~~(6)~~] (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



## HB0441S01 compared with HB0441

(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.

(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

## HB0441S01 compared with HB0441

(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 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.

## HB0441S01 compared with HB0441

(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."

(7) (a) As used in this Subsection (7):

(i) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(ii) "Population estimate" means the population estimate as published by the Utah Population Committee created by Section 63C-20-103.

(b) Notwithstanding the provisions of this section, beginning on or after January 1, 2020, the commission may not distribute to a county, in accordance with the distribution requirements of this section, an amount that exceeds the amount equal to the county's tax revenue distribution amount under this section for the previous fiscal year multiplied by the sum of:

(i) one;

(ii) the actual percent change in the population estimate used in the December distribution with the population estimate used for the prior December for the same distribution;  
and

(iii) the actual percent change of the consumer price index during the 12 months ending in November of the current year.

(8) (a) For a filing period beginning on or after January 1, 2020, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (8).

## HB0441S01 compared with HB0441

(b) For a county that imposes a sales and use tax under this section, the commission shall calculate and retain an amount each month by subtracting from the sales and use tax collected under this part for that month from that county any amount that exceeds an amount equal to the quotient of the revenue distribution determined for that county, city, or town under Subsection (7)(b) for that county, city, or town divided by 12.

(c) The commission shall deposit the amount the commission retains in accordance with this Subsection (8) into the Sales and Use Tax Base Expansion Restricted Account created by Section 59-12-103.3.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for making the deposit described in this Subsection (8).

(e) An amount the commission deposits into the Sales and Use Tax Base Expansion Restricted Account shall be expended as provided in Section 59-12-103.3.

Section 55. 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%~~] a rate equal to the product of:

(a) 1%; and

(b) the rate reduction factor.

(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:

(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 Section 59-12-104 to the extent the sales and uses

## HB0441S01 compared with HB0441

are exempt from taxation under Section 59-12-104; 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)(i) 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)(i)(A);

(C) the effective date of the tax described in Subsection (5)(b)(i)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(b)(i)(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

## HB0441S01 compared with HB0441

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.

(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

## HB0441S01 compared with HB0441

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 ~~[(6)]~~ (7).

Section 56. 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.**

(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%]~~ at a rate equal to the product of .1% and the rate reduction factor 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

## HB0441S01 compared with HB0441

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%~~] (insert the rate currently in effect) 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 Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(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 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.



## HB0441S01 compared with HB0441

(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

(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 ~~[(6)]~~ (7).

## HB0441S01 compared with HB0441

(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 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

## HB0441S01 compared with HB0441

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).

(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

## HB0441S01 compared with HB0441

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.

(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

## HB0441S01 compared with HB0441

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 57. 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 at a rate equal to the product of:

(i) .3%; and

(ii) the rate reduction factor;

(b) ~~[-.30%]~~ under Section 59-12-2215 at a rate equal to the product of:

(i) .3%; and

## HB0441S01 compared with HB0441

(ii) the rate reduction factor; or

(c) [~~.30%~~] under Section 59-12-2216 at a rate equal to the product of:

(i) .3%; and

(ii) the rate reduction factor.

(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%~~] at a rate equal to the product of:

(A) .3%; and

(B) the rate reduction factor; and

(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%~~] a rate equal to the product of .3% and the rate reduction factor, 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:

## HB0441S01 compared with HB0441

(i) 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

(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.

(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 58. 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) As used in this section, "eligible city or town" means a city or town that imposed a tax under this part on July 1, 2016.

(b) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), the legislative body of an eligible city or town 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; and

(iii) of up to a rate equal to the product of:

(A) .2%; and

(B) the rate reduction factor.

## HB0441S01 compared with HB0441

(c) A city or town legislative body that imposes a tax under Subsection (1)(b) 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.

(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.

(2) (a) A city or town legislative body may not impose a tax under this section on:

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

(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) An eligible city or town may impose a tax under this part 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.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through [~~(6)~~] (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.



## HB0441S01 compared with HB0441

(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 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

## HB0441S01 compared with HB0441

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."

Section 59. Section **59-12-2206** is amended to read:

**59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenue monthly by electronic funds transfer --**

## HB0441S01 compared with HB0441

### Transfer of revenue to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

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

(i) Part 1, Tax Collection; or

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

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through ~~[(6)]~~ (7).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenue collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) (a) Subject to Section 59-12-2207, and except as provided in Subsection (5)(b), the state treasurer shall transfer revenue collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

(ii) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenue.

(b) The commission shall transmit a portion of the revenue collected within a county, city, or town from a sales and use tax under this part that would be transferred to a public transit district or an eligible political subdivision under Subsection (5)(a) to the county, city, or town to fund public transit fixed guideway safety oversight under Section 72-1-214 if the county, city, or town legislative body:

(i) provides written notice to the commission and the state treasurer requesting the transfer; and

## HB0441S01 compared with HB0441

(ii) specifies the amount of revenue required to be transmitted to the county, city, or town.

Section 60. Section **59-12-2213** is amended to read:

**59-12-2213. County, city, or town option sales and use tax to fund a system for public transit -- Base -- Rate.**

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax under this section [~~of up to~~]:

(a) for a county, city, or town other than a county, city, or town described in Subsection (1)(b), [~~.25%~~] on the transactions described in Subsection 59-12-103(1) located within the county, city, or town to fund a system for public transit of up to a rate equal to the product of:

(i) .25%; and

(ii) the rate reduction factor; or

(b) for a county, city, or town within which a tax is not imposed under Section 59-12-2216, [~~.30%~~] on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a system for public transit of up to a rate equal to the product of:

(i) .3%; and

(ii) the rate reduction factor.

(2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if the county, city, or town imposes the sales and use tax under Section 59-12-2216 on or before July 1, 2011.

Section 61. Section **59-12-2214** is amended to read:

**59-12-2214. County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate -- Voter approval exception.**

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax [~~of .25%~~] on the transactions described in Subsection 59-12-103(1) located within the county, city, or town at a rate equal to the product of:

## HB0441S01 compared with HB0441

(a) .25%; and

(b) the rate reduction factor.

(2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) to fund a system for public transit;

(b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

(A) that city or town is located within a county of the second class;

(B) that city or town owns or operates the airport facility; and

(C) an airline is headquartered in that city or town; or

(c) for a combination of Subsections (2)(a) and (b).

(3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

(a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and

(b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class Highway Projects Fund created by Section 72-2-121.

(4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:

(a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011;

(b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

(i) Section 59-12-2213; or

(ii) Section 59-12-2215; and

(c) the county, city, or town obtained voter approval to impose the sales and use tax

## HB0441S01 compared with HB0441

under:

- (i) Section 59-12-2213; or
- (ii) Section 59-12-2215.

Section 62. Section **59-12-2215** is amended to read:

**59-12-2215. City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.**

(1) Subject to the other provisions of this part, a city or town may impose a sales and use tax [~~of up to .30%~~] on the transactions described in Subsection 59-12-103(1) located within the city or town of up to a rate equal to the product of:

- (a) .3%; and
- (b) the rate reduction factor.

(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

- (a) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;
- (b) to fund a system for public transit; or
- (c) for a combination of Subsections (2)(a) and (b).

Section 63. Section **59-12-2216** is amended to read:

**59-12-2216. County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.**

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax [~~of up to .30%~~] on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county of up to a rate equal to the product of:

- (a) .3%; and
- (b) the rate reduction factor.

(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:

## HB0441S01 compared with HB0441

(a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;

(b) a project or service relating to a system for public transit, except for a fixed guideway, for the portion of the project or service that is performed within the county;

(c) the following relating to a state highway within the county:

(i) a project within the county if the project:

(A) begins on or after the day on which a county legislative body imposes a tax under this section; and

(B) involves an environmental study, an improvement, new construction, or a renovation;

(ii) debt service on a project described in Subsection (2)(c)(i); or

(iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

(d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating to a highway that is:

(i) a principal arterial highway or minor arterial highway;

(ii) included in a metropolitan planning organization's regional transportation plan; and

(iii) not a state highway.

(3) A county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in Subsection (2).

(4) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this section.

(5) The revenues collected from a sales and use tax under this section shall be:

(a) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(b) expended as provided in this section.

(6) If a county legislative body allocates revenues collected from a sales and use tax under this section for a state highway project described in Subsection (2)(c)(i), before beginning the state highway project within the county, the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

## HB0441S01 compared with HB0441

(b) enter into an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

(7) If after a county legislative body imposes a sales and use tax under this section the county legislative body seeks to change an allocation specified in the resolution under Subsection (2), the county legislative body may change the allocation by:

(a) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the items described in Subsection (2);

(b) obtaining approval to change the allocation of the sales and use tax by a majority of all of the members of the county legislative body; and

(c) subject to Subsection (8):

(i) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(a) and approved by the county legislative body in accordance with Subsection (7)(b).

(9) Revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(c) shall be:

(a) deposited into the Highway Projects Within Counties Fund created by Section 72-2-121.1; and

(b) expended as provided in Section 72-2-121.1.

(10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation if the transfer of the revenues is required under an interlocal agreement:

(i) entered into on or before January 1, 2010; and



## HB0441S01 compared with HB0441

(ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) The Department of Transportation shall expend the revenues described in Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

Section 64. Section **59-12-2217** is amended to read:

**59-12-2217. County option sales and use tax for transportation -- Base -- Rate --  
Written prioritization process -- Approval by county legislative body.**

(1) Subject to the other provisions of this part, and subject to Subsection (10), a county legislative body may impose a sales and use tax [~~of up to .25%~~] on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county of up to a rate equal to the product of:

(a) .25%; and

(b) the rate reduction factor.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7);

and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service described in Subsection (2)(a); or

(c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).

(3) If a project or service described in Subsection (2) is for:

(a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be

## HB0441S01 compared with HB0441

part of the:

(i) county and municipal master plan; and

(ii) (A) statewide long-range plan; or

(B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.

(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:

(a) a principal arterial highway;

(b) a minor arterial highway;

(c) a collector road in a county of the second class; or

(d) a major collector highway in a rural area.

(5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first class, 25% or more shall be expended for the purpose described in Subsection (2)(b).

(6) (a) As provided in this Subsection (6), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).

(b) The written prioritization process described in Subsection (6)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria

## HB0441S01 compared with HB0441

system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

(i) the written prioritization process; or

(ii) any proposed amendment to the written prioritization process.

(7) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

(i) the written prioritization process; and

(ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.

## HB0441S01 compared with HB0441

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and

(ii) make the reasons described in Subsection (7)(d)(i) publicly available.

(e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.

(8) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

(a) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and

(b) expended as provided in Section 72-2-121.

(9) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(10) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (10)(a), any sales and use tax

## HB0441S01 compared with HB0441

imposed under this section on or before June 30, 2022, may remain in effect.

Section 65. Section **59-12-2218** is amended to read:

**59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.**

(1) Subject to the other provisions of this part, and subject to Subsection (11), the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or

## HB0441S01 compared with HB0441

town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate [of]:

(a) [~~10%~~, or] equal to the product of:

(i) .1%; and

(ii) the rate reduction factor; or

(b) [~~25%~~] equal to the product of:

(i) .25%; and

(ii) the rate reduction factor.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town; or

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class

## HB0441S01 compared with HB0441

State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town;

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104; or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;

## HB0441S01 compared with HB0441

(F) street lighting; or

(G) a combination of Subsections (4)(f)(i)(A) through (F);

(ii) the construction of an active transportation facility that:

(A) is for nonmotorized vehicles and multimodal transportation; and

(B) connects an origin with a destination; or

(iii) a combination of Subsections (4)(f)(i) and (ii); or

(g) deposited or expended for a combination of Subsections (4)(a) through (f).

(5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this section for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:

(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or

(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.

(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax [~~rate of .05%~~] at a rate equal to the product of .05% and the rate reduction factor as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5.

(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.

(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:

(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

(ii) has continuously imposed a tax described in Subsection (2)(b):

(A) beginning after July 1, 2010; and

(B) for a five-year period.

(7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

(i) expend the revenues in accordance with Subsection (4); or

(ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:



## HB0441S01 compared with HB0441

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than ~~[-10%]~~ a rate equal to the product of .1% and the rate reduction factor but not to exceed the revenues collected from a tax rate ~~[of .25%]~~ equal to the product of .25% and the rate reduction factor for a purpose described in Subsection (7)(b)(i) if:

(A) that city or town owns or operates an airport facility; and

(B) an airline is headquartered in that city or town.

(ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than ~~[-10%]~~ a rate equal to the product of .1% and the rate reduction factor but not to exceed the revenues collected from a tax rate ~~[of .25%]~~ equal to the product of .25% and the rate reduction factor for:

(A) a project or service relating to the airport facility; and

(B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than ~~[-10%]~~ a rate equal to the product of .1% and the rate reduction factor but not to exceed the revenues collected from a tax rate ~~[of .25%]~~ equal to the product of .25% and the rate reduction factor for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(d) A city or town legislative body that expends the revenues collected from a sales and

## HB0441S01 compared with HB0441

use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):

(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(A) determine the tax rate, the percentage of which is greater than [~~10%~~] a rate equal to the product of .1% and the rate reduction factor but does not exceed [~~25%~~] a rate equal to the product of .25% and the rate reduction factor, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than [~~10%~~] a rate equal to the product of .1% and the rate reduction factor but does not exceed [~~25%~~] a rate equal to the product of .25% and the rate reduction factor, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than [~~10%~~] a rate equal to the product of .1% and the rate reduction factor but does not exceed [~~25%~~] a rate equal to the product of .25% and the rate reduction factor, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in

## HB0441S01 compared with HB0441

accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

(i) are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

(ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

## HB0441S01 compared with HB0441

(A) in accordance with Subsection (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax;  
and

(C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

(10) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

## HB0441S01 compared with HB0441

(11) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county, city, or town is annexed into a large public transit district, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the county, city, or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county, city, or town is annexed into a large public transit district, the county, city, or town legislative body may not pass the ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (11)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 66. Section **59-12-2219** is amended to read:

**59-12-2219. County, city, and town option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.**

(1) As used in this section:

(a) "Class B road" means the same as that term is defined in Section 72-3-103.

(b) "Class C road" means the same as that term is defined in Section 72-3-104.

(c) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection (10)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, and subject to Subsection (17), a county legislative body may impose a sales and use tax [~~of .25%~~] on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county at a rate equal to the product of:

(a) .25%; and

(b) the rate reduction factor.

## HB0441S01 compared with HB0441

(3) Subject to Subsections (11) and (12), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through (10).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(c) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be distributed to the county legislative body.

(5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district that also has a county of the first class annexed into the same public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(iii) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be

## HB0441S01 compared with HB0441

distributed as provided in Subsection (8); and

(iii) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(ii) [~~.15%~~] a rate equal to the product of .15% and the rate reduction factor shall be distributed to the county legislative body.

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(iii) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(iii) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be

## HB0441S01 compared with HB0441

distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(ii) [~~.15%~~] a rate equal to the product of .15% and the rate reduction factor shall be distributed to the county legislative body.

(7) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8);

(ii) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (9); and

(iii) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8);

(ii) [~~.10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (9); and

(iii) [~~.05%~~] a rate equal to the product of .05% and the rate reduction factor shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales



## HB0441S01 compared with HB0441

and use tax revenue described in Subsections (7)(a) and (b), as follows:

(i) [~~10%~~] a rate equal to the product of .1% and the rate reduction factor shall be distributed as provided in Subsection (8); and

(ii) [~~15%~~] a rate equal to the product of .15% and the rate reduction factor shall be distributed to the county legislative body.

(8) (a) Subject to Subsection (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), (9)(d)(ii)(A), and (12)(c)(i) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), (9)(d)(ii)(A), and (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), (9)(d)(ii)(A), and (12)(c)(i) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

(9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (9)(e), allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying

## HB0441S01 compared with HB0441

the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that obtains approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (9).

(d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or

## HB0441S01 compared with HB0441

(7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (9)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (8); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (9)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (9)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (9)(e) and approved by the county legislative body in accordance with Subsection (9)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a) or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (9)(g)(ii) from the county.

(ii) The notice described in Subsection (9)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (9)(a) or (e); and

(B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be

## HB0441S01 compared with HB0441

allocated to a public transit district or an eligible political subdivision.

(10) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(11) (a) (i) Notwithstanding Subsections (4) through (10), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (11)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (11)(a)(i) before June 30, 2019, the county may expend that revenue for:

- (A) reducing transportation related debt;
- (B) a regionally significant transportation facility; or
- (C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (4) through (10).

(c) Subject to Subsection (12), for a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (4) through (10).

## HB0441S01 compared with HB0441

(12) (a) Beginning on July 1, 2020, if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (12)(b) may impose a [~~.25%~~] sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town at a rate equal to the product of:

- (i) .25%; and
- (ii) the rate reduction factor.

(b) The following cities or towns may impose the sales and use tax as described in Subsection (12)(a):

- (i) in a county of the first, second, or third class, a city or town that:
  - (A) has been annexed into a public transit district; or
  - (B) is an eligible political subdivision; or
- (ii) a city or town that:
  - (A) is in a county of the third or smaller class; and
  - (B) has been annexed into a large public transit district.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

- (i) [~~.125%~~] a rate equal to the product of .125% and the rate reduction factor to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (8); and
- (ii) [~~.125%~~] a rate equal to the product of .125% and the rate reduction factor, as applicable, to:

- (A) the large public transit district in which the city or town is annexed; or
- (B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (12)(c).

(13) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

- (a) a class B road;
- (b) a class C road;

## HB0441S01 compared with HB0441

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections (13)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections (13)(a) through (e).

(14) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(15) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (15)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

(16) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(17) (a) (i) (A) Notwithstanding any other provision in this section, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(B) A city legislative body may not pass an ordinance to impose a sales and use tax

## HB0441S01 compared with HB0441

under this section on or after July 1, 2022.

(ii) (A) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(B) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (17)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 67. Section **59-12-2220** is amended to read:

**59-12-2220. County option sales and use tax to fund a system for public transit -- Base -- Rate.**

(1) Subject to the other provisions of this part and subject to the requirements of this section, beginning on July 1, 2019, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is annexed into a large public transit district; and

(ii) the county has imposed the maximum amount of sales and use tax authorizations

allowed pursuant to Section 59-12-2203 and authorized under the following sections:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection

## HB0441S01 compared with HB0441

59-12-103(1) located within the county, including the cities and towns within the county if:

- (i) the county is an eligible political subdivision as defined in Section 59-12-2219; or
- (ii) a city or town within the boundary of the county is an eligible political subdivision

as defined in Section 59-12-2219; or

(c) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county, if there is a small public transit district within the boundary of the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate [~~of up to .2%~~] equal to the product of:

- (a) .2%; and
- (b) the rate reduction factor.

(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:

- (a) a public transit district;
- (b) an eligible political subdivision; or
- (c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.

(4) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2023.

(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.

(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.

(6) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county has budgeted for transportation or public transit as of the date the tax becomes effective for a county.



## HB0441S01 compared with HB0441

(b) The limitation under Subsection (6)(a) does not apply to a designated transportation or public transit capital or reserve account a county may have established prior to the date the tax becomes effective.

Section 68. Section **59-28-103** is amended to read:

### **59-28-103. Imposition -- Rate -- Revenue distribution.**

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)~~(f)~~(h) at a rate of .32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)~~(f)~~(h).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the state collects from the tax under this chapter into the Hospitality and Tourism Management Education Account created in Section 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(ii) The commission may not deposit more than \$300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section 63N-9-205 to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202.

Section 69. Section **59-28-105** is amended to read:

### **59-28-105. Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this chapter if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates or boundaries regarding a tax under this chapter; or
- (2) indicating the taxability of transactions described in Subsection

## HB0441S01 compared with HB0441

59-12-103(1)(~~h~~)(h).

Section 70. Section **59-30-101** is enacted to read:

### CHAPTER 30. REAL ESTATE TRANSFER TAX ACT

#### **59-30-101. Title.**

This chapter is known as the "Real Estate Transfer Tax Act."

Section 71. Section **59-30-102** is enacted to read:

#### **59-30-102. Definitions.**

As used in this chapter:

(1) "Centrally assessed property" means property that is assessed by the commission in accordance with Section 59-2-201.

(2) "Locally assessed property" has the same meaning as that term is defined in Section 59-1-404.

(3) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(4) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(~~5~~) "Property" includes land, tenements, real estate, and real property and all rights to and interests in land, tenements, real estate, or real property.

(~~6~~) "Tax" means the state real estate transfer tax imposed under this act.

(~~7~~) "Transfer" means the conveyance of title to or other transfer of a present interest or beneficial interest or any other interest in real property by any method, including the interest in real property acquired through the acquisition of a controlling interest in any entity with an interest in the property.

(~~8~~) "Value" means ~~the current or fair market worth determined by the legal monetary exchange at the time of the transfer~~ fair market value as of the January 1 lien date immediately prior to the date of transfer unless the county board of equalization, the commission, or a court of competent jurisdiction has determined a different value, in which case, the value in that final decision shall be the value.

Section 72. Section **59-30-103** is enacted to read:

#### **59-30-103. Imposition of tax -- Rate.**

(1) (a) ~~There~~ Except as provided in Section 59-30-104, there is imposed, in addition

## HB0441S01 compared with HB0441

to all other taxes, a tax upon the following written instruments executed within this state when the instrument is recorded:

(i) contracts for the sale or exchange of property or any interest in the property or any combination of sales or exchanges or any assignment or transfer of property or any interest in the property, ~~for consideration~~; and

(ii) deeds or instruments of conveyance of property or any interest in property, for consideration.

(b) ~~{There}~~ ~~Except as provided in Section 59-30-104, there~~ is imposed, in addition to all other taxes, a tax upon the following written ~~{instrument}~~ ~~instruments~~ executed outside of this state when the instrument is recorded if the contract or transfer evidenced by the written instrument concerns property wholly located within this state:

(i) contracts for the sale or exchange of property or any interest in the property or any combination of sales or exchanges or any assignment or transfer of property or any interest in the property, ~~for consideration~~; and

(ii) deeds or instruments of conveyance of property or any interest in property, for consideration.

(2) The tax imposed under Subsection (1) is levied at the rate of \$.075 for each \$100 or fraction of \$100 of the ~~{total}~~ value of the property being transferred.

(3) (a) A written instrument subject to the tax imposed by this chapter shall state on its face the ~~{total}~~ value of the real property being transferred unless an affidavit is attached to the written instrument declaring the ~~{total}~~ value of the real property being transferred.

(b) The form of the affidavit shall be prescribed by the State Tax Commission.

(c) If the sale or transfer is of a combination of real and personal property, the tax shall be imposed only upon the transfer of the real property if the values of the real and personal property are stated separately on the face of the written instrument or if an affidavit is attached to the written instrument setting forth the respective values of the real and personal property.

(4) The person who is the purchaser of the property is liable for the tax imposed under this chapter.

Section 73. Section **59-30-104** is enacted to read:

### **59-30-104. Exemptions.**

The following written instruments and transfers of property are exempt from the tax

## HB0441S01 compared with HB0441

imposed under this chapter:

(1) a written instrument where the value of consideration is less than \$100;

(2) a written instrument evidencing a contract or transfer that is not to be performed wholly within this state only to the extent the written instrument includes land lying outside of this state;

(3) a written instrument that the state is prohibited from taxing under the United States Constitution or federal statutes;

(4) a written instrument given as security or an assignment or discharge of the security interest;

(5) a written instrument evidencing a lease, including an oil and gas lease, or a transfer of a leasehold interest;

(6) a written instrument evidencing an interest that is assessable as personal property;

(7) a written instrument evidencing the transfer of a right and interest for underground gas storage purposes;

(8) any of the following written instruments:

(a) a written instrument in which the grantor is:

(i) the United States;

(ii) the state;

(iii) any political subdivision of the state; or

(iv) an officer of the United States, the state, or a political subdivision of the state if the officer is acting in the officer's official capacity;

(b) a written instrument given in foreclosure or in lieu of foreclosure of a loan made, guaranteed, or insured by:

(i) the United States;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) an officer of the United States, the state, or a political subdivision of the state if the officer is acting in the officer's official capacity; or

(c) a written instrument given to the United States, the state, or an officer of the United States or the state as grantee, pursuant to the terms or guarantee or insurance of a loan guaranteed or insured by the grantee;

## HB0441S01 compared with HB0441

(9) a conveyance from a spouse or married couple creating or disjoining a tenancy by the entireties in the grantors or the grantor and the grantor's spouse;

(10) a conveyance from an individual to that individual's child, stepchild, or adopted child;

(11) a conveyance from an individual to that individual's grandchild, stepgrandchild, or adopted grandchild;

(12) a judgment or order of a court of record making or ordering a transfer, unless a specific monetary consideration is specified or ordered by the court for the transfer;

(13) a written instrument used to straighten boundary lines where no monetary consideration is given;

(14) a written instrument to confirm title already vested in a grantee, including a quitclaim deed to correct a flaw in title;

(15) a land contract in which the legal title does not pass to the grantee until the total consideration specified in the contract has been paid;

(16) a conveyance that ~~meets one of the following:~~

~~—— (a) is a transfer between a limited liability company pass-through entity and its members one or more pass-through entity taxpayers if the ownership interest in the limited liability company are pass-through entity is held by the same persons pass-through entity taxpayers and in the same proportion as in the partnership pass-through entity prior to the transfer;~~

~~(b) 17) a transfer between a partnership and its partners if the ownership interests in the partnership are held by the same persons and in the same proportion as in the partnership prior to the transfer; or~~

~~—— (c) conveyance that is a transfer in connection with the reorganization of an entity and the beneficial ownership is not changed;~~

~~(17) 18) a written instrument evidencing the transfer of mineral rights and interests;~~

~~(18) 19) a written instrument creating or disjoining a joint tenancy between two or more persons where at least one of the persons already owns the property; or~~

~~(19) 20) a written instrument that conveys or transfers property or an interest in the property to a receiver, administrator, or trustee, whether special or general, in a bankruptcy or insolvency proceeding.~~

## HB0441S01 compared with HB0441

Section 74. Section **59-30-105** is enacted to read:

### **59-30-105. Collection and remittance of tax.**

(1) A tax imposed under this part shall be collected from the purchaser at the time the instrument of conveyance is submitted for recording.

(2) (a) The tax imposed under this chapter shall be paid to the county ~~{treasurer}~~ recorder where the real property is located not later than 15 days after the delivery of the instrument effecting the conveyance by the seller or grantor to the buyer or grantee.

(b) For purposes of this Subsection (2), the date of the instrument effecting the transfer is presumed to be the date of delivery of the instrument.

(c) The county treasurer shall remit a tax collected under this section to the commission monthly on or before the last day of the month~~;~~

~~—— (3) (a) After the tax is paid, if the buyer or the~~ immediately following the month for which the tax was collected.

Section 75. Section **59-30-106** is enacted to read:

### **59-30-106. Application for refund.**

(1) If a ~~buyer or a~~ seller who has paid the tax on behalf of the buyer believes that the property was eligible for an exemption under Section 59-30-104 ~~and did not receive the exemption~~ at the time of the transfer, the buyer or the seller who has paid the tax on behalf of the buyer may ~~{request}~~ apply for a refund ~~{from}~~ of the ~~{State Tax Commission in a form and manner determined by the State Tax Commission}.~~

~~—— (b) The State Tax Commission shall pay the refund if it~~ tax in accordance with the requirements of this section.

(2) A buyer or a seller who has paid the tax on behalf of the buyer shall apply to the county board of equalization in the county where the real property is located for a refund.

(3) (a) If an application for a refund under Subsection (2) is for a locally assessed property, the county board of equalization shall:

(i) determine if the applicant is eligible for a refund under the provisions of this chapter; and

(ii) if the county board of equalization determines that the ~~{property was eligible for the exemption}~~ applicant is eligible for a refund, provide the Division of Finance the following information to issue the refund:

## HB0441S01 compared with HB0441

- (A) the applicant's name;
- (B) the applicant's address;
- (C) the amount of the refund to be issued; and
- (D) the reason for the refund.

(b) The decision of the county board of equalization described in Subsection (3)(a)

shall:

- (i) be in writing; and
- (ii) include:

- (A) a statement of facts; and
- (B) the statutory basis for its decision.

(c) A copy of the decision described in Subsection (3)(b) shall be sent to the person applying for the exemption.

(d) The county board of equalization shall render the decision described in this Subsection (3) 30 days after the day on which the application for the exemption is filed.

(4) (a) If an application for a refund under Subsection (2) is for centrally assessed property, the county board of equalization shall forward the applicant's name, address, and refund request, including the amount of the refund request and the reason for the refund request, to the Property Tax Division.

(b) The Property Tax Division shall:

(i) determine if the applicant is eligible for a refund under the provisions of this chapter; and

(ii) if the Property Tax Division determines that the applicant is eligible for a refund, provide the Division of Finance the following information to issue the refund:

- (A) the applicant's name;
- (B) the applicant's address;
- (C) the amount of the refund to be issued; and
- (D) the reason for the refund.

(c) The decision of the Property Tax Division described in Subsection (4)(b) shall:

- (i) be in writing; and
- (ii) include:

- (A) a statement of facts; and

## HB0441S01 compared with HB0441

(B) the statutory basis for its decision.

(d) A copy of the decision described in Subsection (4)(c) shall be sent to the person applying for the exemption.

(e) The Property Tax Division shall render the decision described in this Subsection (4) 30 days after the day on which the application for the exemption is filed.

(5) An applicant dissatisfied with the finding of the county board of equalization or the Property Tax Division may appeal to the commission under Section ~~{59-30-104 at the time of the transfer.~~

~~Section 75}~~59-30-107.

(6) The Division of Finance shall issue a refund to an applicant if the Division of Finance receives the information described in Subsection (3)(a)(ii) or (4)(b)(ii).

Section 76. Section ~~{59-30-106}~~59-30-107 is enacted to read:

**59-30-107. Appeal to commission -- Duties of auditor -- Decision by commission.**

(1) Any person dissatisfied with the decision of the county board of equalization or the Property Tax Division concerning the determination of an exemption from a tax imposed under this chapter, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board of equalization or the Property Tax Division.

(2) The auditor shall:

(a) file one notice with the commission; and

(b) certify and transmit to the commission the written decision of the county board of equalization or Property Tax Division as required by Section 59-30-106.

(3) In reviewing the county board of equalization's or Property Tax Division's decision, the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the order of the county board of equalization or property tax division.

(4) In reviewing evidence submitted to the commission by or on behalf of an owner, a county board of equalization, or the Property Tax Division, the commission shall consider and weigh the accuracy, reliability, and comparability of the evidence presented by the owner, the



## HB0441S01 compared with HB0441

county board of equalization, or the Property Tax Division.

(5) The commission shall decide all appeals taken pursuant to this section within 90 days and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision or order.

Section 77. Section 59-30-108 is enacted to read:

~~59-30-106~~59-30-108. Deposit of tax revenue.

The commission shall deposit revenues generated by the tax imposed by this chapter into the General Fund.

Section ~~{76}~~78. Section ~~{59-30-107}~~59-30-109 is enacted to read:

~~59-30-107~~59-30-109. Rulemaking authority.

The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this chapter.

Section ~~{77}~~79. Section ~~{59-30-108}~~63H-1-205 is ~~{enacted}~~amended to read:

~~{~~59-30-108. Penalties and interest.

~~\_\_\_\_\_~~A purchaser that fails to comply with any provision of this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

~~\_\_\_\_\_~~Section 78. Section 63H-1-205 is amended to read:

~~{~~63H-1-205. MIDA accommodations tax.

(1) As used in this section:

(a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(~~{~~)(h).

(b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located on authority-owned or other government-owned property within the project area.

(3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.

## HB0441S01 compared with HB0441

(5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:

- (a) Title 59, Chapter 12, Sales and Use Tax Act; or
- (b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:

- (a) the same procedures used to administer, collect, and enforce the tax under:
  - (i) Title 59, Chapter 12, Part 1, Tax Collection; or
  - (ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
- (b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(8) (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.

(10) (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:

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

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

## HB0441S01 compared with HB0441

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section ~~{79}~~80. Section **63M-4-702** is amended to read:

### **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.**

(1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(71) shall annually report to the office whether the refiner's facility that is located within the state will have an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

(2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is eligible for the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(71):

(i) on a form provided by the State Tax Commission that shall be retained by the refiner claiming the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(71);

(ii) if the refiner's refinery that is located within the state had an average sulfur level of 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar year; and

(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(71).

(b) The certification provided by the office under Subsection (2)(a) shall be renewed annually.

## HB0441S01 compared with HB0441

(c) The office:

(i) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average gasoline sulfur level; or

(ii) may establish another reporting mechanism through rules made under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Section ~~{80}~~81. **Repealer.**

This bill repeals:

Section **59-12-104.4, Seller recordkeeping for purposes of higher education textbook exemption -- Rulemaking authority.**

Section ~~{81}~~82. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2020.

(2) The actions affecting the following sections take effect for a taxable year beginning on or after January 1, 2020:

(a) Section 35A-9-214;

(b) Section 59-9-101;

(c) Section 59-7-104;

(d) Section 59-7-201;

(e) Section 59-7-610;

(f) Section 59-7-620;

(g) Section 59-10-104;

(h) Section 59-10-529.1;

(i) Section 59-10-1002.2;

(j) Section 59-10-1007;

(k) Section 59-10-1017;

(l) Section 59-10-1017.1;

(m) Section 59-10-1018;

(n) Section 59-10-1019;

(o) Section 59-10-1022;

**HB0441S01 compared with HB0441**

(p) Section 59-10-1023;

(q) Section 59-10-1028;

(r) Section 59-10-1035;

(s) Section 59-10-1036;

(t) Section 59-10-1041;

(u) Section 59-10-1102.1; and

(v) Section 59-10-1112.