

1 **SALES AND USE TAX AND INCOME TAX AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kay L. McIff**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ increases the state sales and use tax rate on food and food ingredients to the general
- 15 state sales and use tax rate;
- 16 ▶ adjusts the general state sales and use tax rate;
- 17 ▶ provides that food and food ingredients are taxable for purposes of certain local
- 18 option sales and use taxes;
- 19 ▶ adjusts certain local option sales and use tax rates;
- 20 ▶ repeals the Rural Health Care Facilities Account;
- 21 ▶ creates a refundable low-income tax credit; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides effective dates.

27 **Utah Code Sections Affected:**



28 AMENDS:

- 29 **10-1-405**, as last amended by Laws of Utah 2009, Chapter 212
- 30 **11-41-102**, as last amended by Laws of Utah 2008, Chapters 286 and 384
- 31 **59-1-401**, as last amended by Laws of Utah 2010, Chapter 233
- 32 **59-12-102**, as last amended by Laws of Utah 2010, Chapters 88, 142, 234, and 263
- 33 **59-12-103**, as last amended by Laws of Utah 2010, Chapter 412
- 34 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
- 35 **59-12-108**, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384
- 36 **59-12-401**, as last amended by Laws of Utah 2010, Chapter 9
- 37 **59-12-402**, as last amended by Laws of Utah 2010, Chapter 9
- 38 **59-12-703**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 39 **59-12-802**, as last amended by Laws of Utah 2008, Chapter 384
- 40 **59-12-804**, as last amended by Laws of Utah 2008, Chapter 384
- 41 **59-12-1302**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 42 **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 43 **59-12-2003**, as last amended by Laws of Utah 2010, Chapter 263
- 44 **59-12-2103**, as enacted by Laws of Utah 2008, Chapter 323
- 45 **59-12-2204**, as enacted by Laws of Utah 2010, Chapter 263
- 46 **59-12-2213**, as enacted by Laws of Utah 2010, Chapter 263
- 47 **59-12-2215**, as enacted by Laws of Utah 2010, Chapter 263
- 48 **59-12-2216**, as enacted by Laws of Utah 2010, Chapter 263

49 ENACTS:

- 50 **59-10-1102.1**, Utah Code Annotated 1953
- 51 **59-10-1109**, Utah Code Annotated 1953

52 REPEALS:

- 53 **26-9-4**, as last amended by Laws of Utah 2010, Chapter 278



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

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

57 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
 58 **Rulemaking authority -- Charge for services.**

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

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

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

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

66 (A) except for:

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

68 (II) Section 59-12-104;

69 (III) Section 59-12-104.1;

70 (IV) Section 59-12-104.2;

71 (V) Section 59-12-104.3;

72 (VI) Section 59-12-107.1; and

73 (VII) Section 59-12-123; and

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

77 (b) a uniform interlocal agreement:

78 (i) between:

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

80 (B) the commission;

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

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

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

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

86 (i) transmit money collected under this part:

87 (A) monthly; and

88 (B) by electronic funds transfer by the commission to the municipality;

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

90 (iii) charge the municipality for the commission's services under this section in an
91 amount:

92 (A) sufficient to reimburse the commission for the cost to the commission in rendering
93 the services; and

94 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
95 license tax imposed by the ordinance of the municipality; and

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

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

102 (3) The administrative fee charged under Subsection (2)(a) shall be:

103 (a) deposited in the Sales and Use Tax Administrative Fees Account; and

104 (b) used for administration of municipal telecommunications license taxes under this
105 part.

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

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

110 (i) within the municipality;

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

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

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

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

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

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

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

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

124 **11-41-102. Definitions.**

125 As used in this chapter:

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

127 (a) (i) county; or

128 (ii) municipality; and

129 (b) person.

130 (2) "Municipality" means a:

131 (a) city; or

132 (b) town.

133 (3) "Payment" includes:

134 (a) a payment;

135 (b) a rebate;

136 (c) a refund; or

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

138 (4) "Regional retail business" means a:

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

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

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

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

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

146 (i) imposed on transactions within a:

147 (A) county; or

148 (B) municipality; and

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

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

152 authorized under:

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

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

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

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

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

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

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

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

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

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

163 (i) to a person;

164 (ii) by a:

165 (A) county; or

166 (B) municipality;

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

168 (A) county; or

169 (B) municipality; and

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

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

172 infrastructure.

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

174 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**

175 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**

176 **interest.**

177 (1) As used in this section:

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

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

181 (ii) at least 30 days before implementing the commission's GenTax system as described

182 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website

183 stating:

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

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

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

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

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

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

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

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

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

200 (I) this title;

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

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

203 (IV) Section 19-6-410.5;

204 (V) Section 19-6-714;

205 (VI) Section 19-6-805;

206 (VII) Section 34A-2-202;

207 (VIII) Section 40-6-14;

208 (IX) Section 69-2-5;

209 (X) Section 69-2-5.5; or

210 (XI) Section 69-2-5.6; or

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

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

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

- 214 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 215 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 216 (D) Chapter 3, Tax Equivalent Property Act; or
- 217 (E) Chapter 4, Privilege Tax.
- 218 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 219 tax, fee, or charge.
- 220 (2) (a) The due date for filing a return is:
- 221 (i) if the person filing the return is not allowed by law an extension of time for filing
- 222 the return, the day on which the return is due as provided by law; or
- 223 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 224 return, the earlier of:
- 225 (A) the date the person files the return; or
- 226 (B) the last day of that extension of time as allowed by law.
- 227 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person:
- 228 (i) files a return after the due date described in Subsection (2)(a); or
- 229 (ii) fails to file a return and the commission estimates a tax, fee, or charge in
- 230 accordance with Section 59-1-1406.
- 231 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 232 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 233 tax, fee, or charge:
- 234 (A) \$20; or
- 235 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 236 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 237 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 238 (A) \$20; or
- 239 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 240 filed no later than five days after the due date described in Subsection (2)(a);
- 241 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
- 242 more than five days after the due date but no later than 15 days after the due date described in
- 243 Subsection (2)(a); or
- 244 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is

245 filed more than 15 days after the due date described in Subsection (2)(a).
246 (d) This Subsection (2) does not apply to:
247 (i) an amended return; or
248 (ii) a return with no tax due.
249 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
250 (i) the person files a return on or before the due date for filing a return described in
251 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
252 date;
253 (ii) the person:
254 (A) is subject to a penalty under Subsection (2)(b); and
255 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
256 due date for filing a return described in Subsection (2)(a);
257 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
258 (B) the commission estimates an amount of tax due for that person in accordance with
259 Subsection 59-1-1406(2);
260 (iv) the person:
261 (A) is mailed a notice of deficiency; and
262 (B) within a 30-day period after the day on which the notice of deficiency described in
263 Subsection (3)(a)(iv)(A) is mailed:
264 (I) does not file a petition for redetermination or a request for agency action; and
265 (II) fails to pay the tax, fee, or charge due on a return;
266 (v) (A) the commission:
267 (I) issues an order constituting final agency action resulting from a timely filed petition
268 for redetermination or a timely filed request for agency action; or
269 (II) is considered to have denied a request for reconsideration under Subsection
270 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
271 request for agency action; and
272 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
273 after the date the commission:
274 (I) issues the order constituting final agency action described in Subsection
275 (3)(a)(v)(A)(I); or

276 (II) is considered to have denied the request for reconsideration described in
277 Subsection (3)(a)(v)(A)(II); or
278 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
279 of a final judicial decision resulting from a timely filed petition for judicial review.
280 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
281 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
282 respect to an unactivated tax, fee, or charge:
283 (A) \$20; or
284 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
285 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
286 respect to an activated tax, fee, or charge, beginning on the activation date:
287 (A) \$20; or
288 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
289 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
290 return described in Subsection (2)(a);
291 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
292 fee, or charge due on the return is paid more than five days after the due date for filing a return
293 described in Subsection (2)(a) but no later than 15 days after that due date; or
294 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
295 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
296 return described in Subsection (2)(a).
297 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
298 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
299 shall be added a penalty in an amount determined by applying the interest rate provided under
300 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period
301 of the underpayment.
302 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
303 excess of the required installment over the amount, if any, of the installment paid on or before
304 the due date for the installment.
305 (ii) The period of the underpayment shall run from the due date for the installment to
306 whichever of the following dates is the earlier:

307 (A) the original due date of the tax return, without extensions, for the taxable year; or
308 (B) with respect to any portion of the underpayment, the date on which that portion is
309 paid.

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

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

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

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

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

326 (6) If a person does not file a return within an extension of time allowed by Section
327 59-7-505 or 59-10-516, the person:

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

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

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

331 (A) \$20; or

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

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

335 (A) \$20; or

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

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

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

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

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

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

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

353 (i) The notice of proposed penalty shall:

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

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

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

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

359 or

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

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

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

367 (B) The commission shall mail the notice and demand for payment described in
368 Subsection (7)(b)(iv)(A):

369 (I) to the person's last-known address; and
370 (II) in accordance with Section 59-1-1404.
371 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
372 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
373 (i) a court of competent jurisdiction issues a final unappealable judgment or order
374 determining that:
375 (A) the seller meets one or more of the criteria described in Subsection
376 59-12-107(1)(a); and
377 (B) the commission or a county, city, or town may require the seller to collect a tax
378 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); or
379 (ii) the commission issues a final unappealable administrative order determining that:
380 (A) the seller meets one or more of the criteria described in Subsection
381 59-12-107(1)(a); and
382 (B) the commission or a county, city, or town may require the seller to collect a tax
383 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c).
384 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
385 subject to the penalty under Subsection (7)(a)(ii) if:
386 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
387 determining that:
388 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
389 and
390 (II) the commission or a county, city, or town may require the seller to collect a tax
391 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); or
392 (B) the commission issues a final unappealable administrative order determining that:
393 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
394 and
395 (II) the commission or a county, city, or town may require the seller to collect a tax
396 under Subsections 59-12-103(2)(a) through [~~(c)~~] (c); and
397 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
398 nonfrivolous argument for the extension, modification, or reversal of existing law or the
399 establishment of new law.

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

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

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

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

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

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

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

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

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

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

421 (A) a return;

422 (B) an affidavit;

423 (C) a claim; or

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

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

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

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

- 431 (i) preparing any portion of a document described in Subsection (11)(a)(i);
- 432 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
- 433 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
- 434 (iv) advising in the preparation or presentation of any portion of a document described
- 435 in Subsection (11)(a)(i);
- 436 (v) aiding in the preparation or presentation of any portion of a document described in
- 437 Subsection (11)(a)(i);
- 438 (vi) assisting in the preparation or presentation of any portion of a document described
- 439 in Subsection (11)(a)(i); or
- 440 (vii) counseling in the preparation or presentation of any portion of a document
- 441 described in Subsection (11)(a)(i).
- 442 (c) For purposes of Subsection (11)(a), the penalty:
- 443 (i) shall be imposed by the commission;
- 444 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
- 445 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
- 446 (iii) is in addition to any other penalty provided by law.
- 447 (d) The commission may seek a court order to enjoin a person from engaging in
- 448 conduct that is subject to a penalty under this Subsection (11).
- 449 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 450 commission may make rules prescribing the documents that are similar to Subsections
- 451 (11)(a)(i)(A) through (C).
- 452 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
- 453 provided in Subsections (12)(b) through (e).
- 454 (b) (i) A person who is required by this title or any laws the commission administers or
- 455 regulates to register with or obtain a license or permit from the commission, who operates
- 456 without having registered or secured a license or permit, or who operates when the registration,
- 457 license, or permit is expired or not current, is guilty of a class B misdemeanor.
- 458 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
- 459 penalty may not:
- 460 (A) be less than \$500; or
- 461 (B) exceed \$1,000.

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

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

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

470 (B) exceed \$5,000.

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

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

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

477 (B) exceed \$25,000.

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

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

481 (I) a return;

482 (II) an affidavit;

483 (III) a claim; or

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

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

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

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

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

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

492 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

493 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

494 (D) advising in the preparation or presentation of any portion of a document described
495 in Subsection (12)(e)(i)(A);

496 (E) aiding in the preparation or presentation of any portion of a document described in
497 Subsection (12)(e)(i)(A);

498 (F) assisting in the preparation or presentation of any portion of a document described
499 in Subsection (12)(e)(i)(A); or

500 (G) counseling in the preparation or presentation of any portion of a document
501 described in Subsection (12)(e)(i)(A).

502 (iii) This Subsection (12)(e) applies:

503 (A) regardless of whether the person for which the document described in Subsection
504 (12)(e)(i)(A) is prepared or presented:

505 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

506 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

507 (B) in addition to any other penalty provided by law.

508 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
509 penalty may not:

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

511 (B) exceed \$25,000.

512 (v) The commission may seek a court order to enjoin a person from engaging in
513 conduct that is subject to a penalty under this Subsection (12)(e).

514 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
515 the commission may make rules prescribing the documents that are similar to Subsections
516 (12)(e)(i)(A)(I) through (III).

517 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
518 the later of six years:

519 (i) from the date the tax should have been remitted; or

520 (ii) after the day on which the person commits the criminal offense.

521 (13) Upon making a record of its actions, and upon reasonable cause shown, the
522 commission may waive, reduce, or compromise any of the penalties or interest imposed under
523 this part.

524 Section 4. Section **59-10-1102.1** is enacted to read:

525 **59-10-1102.1. Apportionment of tax credit.**

526 A nonresident individual or a part-year resident individual that claims a tax credit in
527 accordance with Section 59-10-1109 may only claim an apportioned amount of the tax credit
528 equal to the product of:

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

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

534 Section 5. Section **59-10-1109** is enacted to read:

535 **59-10-1109. Refundable low income tax credit.**

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

539 (2) Except as provided in Section 59-10-1102.1 and subject to Subsection (3), a
540 claimant may claim a refundable low income tax credit equal to 5% of the federal earned
541 income tax credit.

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

544 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
545 commission may make rules providing procedures for issuing refunds for a credit claimed
546 under this section.

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

548 **59-12-102. Definitions.**

549 As used in this chapter:

550 (1) "800 service" means a telecommunications service that:

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

552 (b) is typically marketed:

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

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

- 555 (iii) under the name 866 toll-free calling;
- 556 (iv) under the name 877 toll-free calling;
- 557 (v) under the name 888 toll-free calling; or
- 558 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 559 Federal Communications Commission.
- 560 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 561 (i) a subscriber purchases;
- 562 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 563 the subscriber's:
- 564 (A) prerecorded announcement; or
- 565 (B) live service; and
- 566 (iii) is typically marketed:
- 567 (A) under the name 900 service; or
- 568 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 569 Communications Commission.
- 570 (b) "900 service" does not include a charge for:
- 571 (i) a collection service a seller of a telecommunications service provides to a
- 572 subscriber; or
- 573 (ii) the following a subscriber sells to the subscriber's customer:
- 574 (A) a product; or
- 575 (B) a service.
- 576 (3) (a) "Admission or user fees" includes season passes.
- 577 (b) "Admission or user fees" does not include annual membership dues to private
- 578 organizations.
- 579 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 580 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 581 Agreement after November 12, 2002.
- 582 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 583 (a) listed under Subsection (6); and
- 584 (b) that are imposed within a local taxing jurisdiction.
- 585 (6) "Agreement sales and use tax" means a tax imposed under:

- 586 (a) Subsection 59-12-103(2)(a)(i)(A);
- 587 (b) Subsection 59-12-103(2)(b)(i);
- 588 [~~(c) Subsection 59-12-103(2)(c)(i);~~]
- 589 [~~(d) Subsection 59-12-103(2)(d)(i)(A)(I);~~]
- 590 [~~(e)~~] (c) Section 59-12-204;
- 591 [~~(f)~~] (d) Section 59-12-401;
- 592 [~~(g)~~] (e) Section 59-12-402;
- 593 [~~(h)~~] (f) Section 59-12-703;
- 594 [~~(i)~~] (g) Section 59-12-802;
- 595 [~~(j)~~] (h) Section 59-12-804;
- 596 [~~(k)~~] (i) Section 59-12-1102;
- 597 [~~(l)~~] (j) Section 59-12-1302;
- 598 [~~(m)~~] (k) Section 59-12-1402;
- 599 [~~(n)~~] (l) Section 59-12-1802;
- 600 [~~(o)~~] (m) Section 59-12-2003;
- 601 [~~(p)~~] (n) Section 59-12-2103;
- 602 [~~(q)~~] (o) Section 59-12-2213;
- 603 [~~(r)~~] (p) Section 59-12-2214;
- 604 [~~(s)~~] (q) Section 59-12-2215;
- 605 [~~(t)~~] (r) Section 59-12-2216;
- 606 [~~(u)~~] (s) Section 59-12-2217; or
- 607 [~~(v)~~] (t) Section 59-12-2218.
- 608 (7) "Aircraft" is as defined in Section 72-10-102.
- 609 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 610 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
- 611 in Subsection 59-12-107(1)(f) of an airline; and
- 612 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 613 whether the business entity performs the following in this state:
- 614 (i) check, diagnose, overhaul, and repair:
- 615 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 616 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

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

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

621 (A) an inspection;

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

623 (C) changing landing gear; and

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

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

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

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

631 (a) is suitable for human consumption; and

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

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

635 (b) "Ancillary service" includes:

636 (i) a conference bridging service;

637 (ii) a detailed communications billing service;

638 (iii) directory assistance;

639 (iv) a vertical service; or

640 (v) a voice mail service.

641 (11) "Area agency on aging" is as defined in Section 62A-3-101.

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

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

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

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

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

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

655 (14) "Authorized carrier" means:

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

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

661 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
662 stock, the holder of a certificate issued by the United States Surface Transportation Board.

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

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

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

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

668 (B) animal waste;

669 (C) methane produced:

670 (I) at landfills; or

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

672 (D) aquatic plants; and

673 (E) agricultural products.

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

675 (i) black liquor;

676 (ii) treated woods; or

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

678 (A) at landfills; or

- 679 (B) as a byproduct of the treatment of wastewater residuals.
- 680 (16) (a) "Bundled transaction" means the sale of two or more items of tangible personal
681 property, products, or services if the tangible personal property, products, or services are:
- 682 (i) distinct and identifiable; and
- 683 (ii) sold for one nonitemized price.
- 684 (b) "Bundled transaction" does not include:
- 685 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
686 the basis of the selection by the purchaser of the items of tangible personal property included in
687 the transaction;
- 688 (ii) the sale of real property;
- 689 (iii) the sale of services to real property;
- 690 (iv) the retail sale of tangible personal property and a service if:
- 691 (A) the tangible personal property:
- 692 (I) is essential to the use of the service; and
- 693 (II) is provided exclusively in connection with the service; and
- 694 (B) the service is the true object of the transaction;
- 695 (v) the retail sale of two services if:
- 696 (A) one service is provided that is essential to the use or receipt of a second service;
- 697 (B) the first service is provided exclusively in connection with the second service; and
- 698 (C) the second service is the true object of the transaction;
- 699 (vi) a transaction that includes tangible personal property or a product subject to
700 taxation under this chapter and tangible personal property or a product that is not subject to
701 taxation under this chapter if the:
- 702 (A) seller's purchase price of the tangible personal property or product subject to
703 taxation under this chapter is de minimis; or
- 704 (B) seller's sales price of the tangible personal property or product subject to taxation
705 under this chapter is de minimis; and
- 706 (vii) the retail sale of tangible personal property that is not subject to taxation under
707 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 708 (A) that retail sale includes:
- 709 (I) food and food ingredients;

- 710 (II) a drug;
- 711 (III) durable medical equipment;
- 712 (IV) mobility enhancing equipment;
- 713 (V) an over-the-counter drug;
- 714 (VI) a prosthetic device; or
- 715 (VII) a medical supply; and
- 716 (B) subject to Subsection (16)(f):
 - 717 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 718 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 719 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 720 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 721 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a
- 722 service that is distinct and identifiable does not include:
 - 723 (A) packaging that:
 - 724 (I) accompanies the sale of the tangible personal property, product, or service; and
 - 725 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
 - 726 service;
 - 727 (B) tangible personal property, a product, or a service provided free of charge with the
 - 728 purchase of another item of tangible personal property, a product, or a service; or
 - 729 (C) an item of tangible personal property, a product, or a service included in the
 - 730 definition of "purchase price."
- 731 (ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a
- 732 product, or a service is provided free of charge with the purchase of another item of tangible
- 733 personal property, a product, or a service if the sales price of the purchased item of tangible
- 734 personal property, product, or service does not vary depending on the inclusion of the tangible
- 735 personal property, product, or service provided free of charge.
- 736 (d) (i) For purposes of Subsection (16)(a)(ii), property sold for one nonitemized price
- 737 does not include a price that is separately identified by tangible personal property, product, or
- 738 service on the following, regardless of whether the following is in paper format or electronic
- 739 format:
 - 740 (A) a binding sales document; or

- 741 (B) another supporting sales-related document that is available to a purchaser.
- 742 (ii) For purposes of Subsection (16)(d)(i), a binding sales document or another
- 743 supporting sales-related document that is available to a purchaser includes:
 - 744 (A) a bill of sale;
 - 745 (B) a contract;
 - 746 (C) an invoice;
 - 747 (D) a lease agreement;
 - 748 (E) a periodic notice of rates and services;
 - 749 (F) a price list;
 - 750 (G) a rate card;
 - 751 (H) a receipt; or
 - 752 (I) a service agreement.
- 753 (e) (i) For purposes of Subsection (16)(b)(vi), the sales price of tangible personal
- 754 property or a product subject to taxation under this chapter is de minimis if:
 - 755 (A) the seller's purchase price of the tangible personal property or product is 10% or
 - 756 less of the seller's total purchase price of the bundled transaction; or
 - 757 (B) the seller's sales price of the tangible personal property or product is 10% or less of
 - 758 the seller's total sales price of the bundled transaction.
- 759 (ii) For purposes of Subsection (16)(b)(vi), a seller:
 - 760 (A) shall use the seller's purchase price or the seller's sales price to determine if the
 - 761 purchase price or sales price of the tangible personal property or product subject to taxation
 - 762 under this chapter is de minimis; and
 - 763 (B) may not use a combination of the seller's purchase price and the seller's sales price
 - 764 to determine if the purchase price or sales price of the tangible personal property or product
 - 765 subject to taxation under this chapter is de minimis.
- 766 (iii) For purposes of Subsection (16)(b)(vi), a seller shall use the full term of a service
- 767 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 768 (f) For purposes of Subsection (16)(b)(vii)(B), a seller may not use a combination of
- 769 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 770 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
- 771 price of that retail sale.

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

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

776 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

802 (ii) For purposes of Subsection (22)(b)(i), in accordance with Title 63G, Chapter 3,

803 Utah Administrative Rulemaking Act, the commission may make rules defining what
804 constitutes a person's place of employment.

805 (23) "Component part" includes:

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

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

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

811 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

830 (i) by a seller of:

831 (A) tangible personal property;

832 (B) a product transferred electronically; or

833 (C) services; and

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

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

- 838 (i) transportation;
- 839 (ii) shipping;
- 840 (iii) postage;
- 841 (iv) handling;
- 842 (v) crating; or
- 843 (vi) packing.

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

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

- 847 (a) is intended to supplement the diet;
- 848 (b) contains one or more of the following dietary ingredients:
 - 849 (i) a vitamin;
 - 850 (ii) a mineral;
 - 851 (iii) an herb or other botanical;
 - 852 (iv) an amino acid;
 - 853 (v) a dietary substance for use by humans to supplement the diet by increasing the total
854 dietary intake; or
 - 855 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
856 described in Subsections (31)(b)(i) through (v);

857 (c) (i) except as provided in Subsection (31)(c)(ii), is intended for ingestion in:

- 858 (A) tablet form;
- 859 (B) capsule form;
- 860 (C) powder form;
- 861 (D) softgel form;
- 862 (E) gelcap form; or
- 863 (F) liquid form; or

864 (ii) notwithstanding Subsection (31)(c)(i), if the product is not intended for ingestion in

865 a form described in Subsections (31)(c)(i)(A) through (F), is not represented:

866 (A) as conventional food; and

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

868 (I) a meal; or

869 (II) the diet; and

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

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

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

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

875 (i) to:

876 (A) a mass audience; or

877 (B) addressees on a mailing list provided:

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

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

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

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

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

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

886 (a) address information; or

887 (b) telephone number information.

888 (34) (a) "Disposable home medical equipment or supplies" means medical equipment
889 or supplies that:

890 (i) cannot withstand repeated use; and

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

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

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

894 (C) an office of a health care provider described in Subsection (34)(a)(ii)(B); or

895 (D) a person similar to a person described in Subsections (34)(a)(ii)(A) through (C).

- 896 (b) "Disposable home medical equipment or supplies" does not include:
- 897 (i) a drug;
- 898 (ii) durable medical equipment;
- 899 (iii) a hearing aid;
- 900 (iv) a hearing aid accessory;
- 901 (v) mobility enhancing equipment; or
- 902 (vi) tangible personal property used to correct impaired vision, including:
- 903 (A) eyeglasses; or
- 904 (B) contact lenses.
- 905 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 906 commission may by rule define what constitutes medical equipment or supplies.
- 907 (35) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 908 compound, substance, or preparation that is:
- 909 (i) recognized in:
- 910 (A) the official United States Pharmacopoeia;
- 911 (B) the official Homeopathic Pharmacopoeia of the United States;
- 912 (C) the official National Formulary; or
- 913 (D) a supplement to a publication listed in Subsections (35)(a)(i)(A) through (C);
- 914 (ii) intended for use in the:
- 915 (A) diagnosis of disease;
- 916 (B) cure of disease;
- 917 (C) mitigation of disease;
- 918 (D) treatment of disease; or
- 919 (E) prevention of disease; or
- 920 (iii) intended to affect:
- 921 (A) the structure of the body; or
- 922 (B) any function of the body.
- 923 (b) "Drug" does not include:
- 924 (i) food and food ingredients;
- 925 (ii) a dietary supplement;
- 926 (iii) an alcoholic beverage; or

927 (iv) a prosthetic device.

928 (36) (a) Except as provided in Subsection (36)(c), "durable medical equipment" means
929 equipment that:

930 (i) can withstand repeated use;

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

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

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

934 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
935 equipment described in Subsection (36)(a).

936 (c) Notwithstanding Subsection (36)(a), "durable medical equipment" does not include
937 mobility enhancing equipment.

938 (37) "Electronic" means:

939 (a) relating to technology; and

940 (b) having:

941 (i) electrical capabilities;

942 (ii) digital capabilities;

943 (iii) magnetic capabilities;

944 (iv) wireless capabilities;

945 (v) optical capabilities;

946 (vi) electromagnetic capabilities; or

947 (vii) capabilities similar to Subsections (37)(b)(i) through (vi).

948 (38) "Employee" is as defined in Section 59-10-401.

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

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

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

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

953 (a) is powered by turbine engines;

954 (b) operates on jet fuel; and

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

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

- 958 (42) (a) "Food and food ingredients" means substances:
- 959 (i) regardless of whether the substances are in:
- 960 (A) liquid form;
- 961 (B) concentrated form;
- 962 (C) solid form;
- 963 (D) frozen form;
- 964 (E) dried form; or
- 965 (F) dehydrated form; and
- 966 (ii) that are:
- 967 (A) sold for:
- 968 (I) ingestion by humans; or
- 969 (II) chewing by humans; and
- 970 (B) consumed for the substance's:
- 971 (I) taste; or
- 972 (II) nutritional value.
- 973 (b) "Food and food ingredients" includes an item described in Subsection (78)(b)(iii).
- 974 (c) "Food and food ingredients" does not include:
- 975 (i) an alcoholic beverage;
- 976 (ii) tobacco; or
- 977 (iii) prepared food.
- 978 (43) (a) "Fundraising sales" means sales:
- 979 (i) (A) made by a school; or
- 980 (B) made by a school student;
- 981 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 982 materials, or provide transportation; and
- 983 (iii) that are part of an officially sanctioned school activity.
- 984 (b) For purposes of Subsection (43)(a)(iii), "officially sanctioned school activity"
- 985 means a school activity:
- 986 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 987 district governing the authorization and supervision of fundraising activities;
- 988 (ii) that does not directly or indirectly compensate an individual teacher or other

989 educational personnel by direct payment, commissions, or payment in kind; and

990 (iii) the net or gross revenues from which are deposited in a dedicated account

991 controlled by the school or school district.

992 (44) "Geothermal energy" means energy contained in heat that continuously flows

993 outward from the earth that is used as the sole source of energy to produce electricity.

994 (45) "Governing board of the agreement" means the governing board of the agreement

995 that is:

996 (a) authorized to administer the agreement; and

997 (b) established in accordance with the agreement.

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

999 (i) the executive branch of the state, including all departments, institutions, boards,
1000 divisions, bureaus, offices, commissions, and committees;

1001 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1002 Office of the Court Administrator, and similar administrative units in the judicial branch;

1003 (iii) the legislative branch of the state, including the House of Representatives, the
1004 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1005 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1006 Analyst;

1007 (iv) the National Guard;

1008 (v) an independent entity as defined in Section 63E-1-102; or

1009 (vi) a political subdivision as defined in Section 17B-1-102.

1010 (b) "Governmental entity" does not include the state systems of public and higher
1011 education, including:

1012 (i) a college campus of the Utah College of Applied Technology;

1013 (ii) a school;

1014 (iii) the State Board of Education;

1015 (iv) the State Board of Regents; or

1016 (v) a state institution of higher education as defined in Section 53B-3-102.

1017 (47) "Hydroelectric energy" means water used as the sole source of energy to produce
1018 electricity.

1019 (48) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

1020 other fuels:

1021 (a) in mining or extraction of minerals;

1022 (b) in agricultural operations to produce an agricultural product up to the time of

1023 harvest or placing the agricultural product into a storage facility, including:

1024 (i) commercial greenhouses;

1025 (ii) irrigation pumps;

1026 (iii) farm machinery;

1027 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not

1028 registered under Title 41, Chapter 1a, Part 2, Registration; and

1029 (v) other farming activities;

1030 (c) in manufacturing tangible personal property at an establishment described in SIC

1031 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

1032 Executive Office of the President, Office of Management and Budget;

1033 (d) by a scrap recycler if:

1034 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

1035 one or more of the following items into prepared grades of processed materials for use in new

1036 products:

1037 (A) iron;

1038 (B) steel;

1039 (C) nonferrous metal;

1040 (D) paper;

1041 (E) glass;

1042 (F) plastic;

1043 (G) textile; or

1044 (H) rubber; and

1045 (ii) the new products under Subsection (48)(d)(i) would otherwise be made with

1046 nonrecycled materials; or

1047 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

1048 cogeneration facility as defined in Section 54-2-1.

1049 (49) (a) Except as provided in Subsection (49)(b), "installation charge" means a charge

1050 for installing:

- 1051 (i) tangible personal property; or
- 1052 (ii) a product transferred electronically.
- 1053 (b) "Installation charge" does not include a charge for repairs or renovations of:
- 1054 (i) tangible personal property; or
- 1055 (ii) a product transferred electronically.
- 1056 (50) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1057 personal property or a product transferred electronically for:
- 1058 (i) (A) a fixed term; or
- 1059 (B) an indeterminate term; and
- 1060 (ii) consideration.
- 1061 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1062 amount of consideration may be increased or decreased by reference to the amount realized
- 1063 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 1064 Code.
- 1065 (c) "Lease" or "rental" does not include:
- 1066 (i) a transfer of possession or control of property under a security agreement or
- 1067 deferred payment plan that requires the transfer of title upon completion of the required
- 1068 payments;
- 1069 (ii) a transfer of possession or control of property under an agreement that requires the
- 1070 transfer of title:
- 1071 (A) upon completion of required payments; and
- 1072 (B) if the payment of an option price does not exceed the greater of:
- 1073 (I) \$100; or
- 1074 (II) 1% of the total required payments; or
- 1075 (iii) providing tangible personal property along with an operator for a fixed period of
- 1076 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 1077 designed.
- 1078 (d) For purposes of Subsection (50)(c)(iii), an operator is necessary for equipment to
- 1079 perform as designed if the operator's duties exceed the:
- 1080 (i) set-up of tangible personal property;
- 1081 (ii) maintenance of tangible personal property; or

- 1082 (iii) inspection of tangible personal property.
- 1083 (51) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 1084 if the tangible storage media is not physically transferred to the purchaser.
- 1085 (52) "Local taxing jurisdiction" means a:
- 1086 (a) county that is authorized to impose an agreement sales and use tax;
- 1087 (b) city that is authorized to impose an agreement sales and use tax; or
- 1088 (c) town that is authorized to impose an agreement sales and use tax.
- 1089 (53) "Manufactured home" is as defined in Section 58-56-3.
- 1090 (54) For purposes of Section 59-12-104, "manufacturing facility" means:
- 1091 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 1092 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 1093 Management and Budget;
- 1094 (b) a scrap recycler if:
- 1095 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1096 one or more of the following items into prepared grades of processed materials for use in new
- 1097 products:
- 1098 (A) iron;
- 1099 (B) steel;
- 1100 (C) nonferrous metal;
- 1101 (D) paper;
- 1102 (E) glass;
- 1103 (F) plastic;
- 1104 (G) textile; or
- 1105 (H) rubber; and
- 1106 (ii) the new products under Subsection (54)(b)(i) would otherwise be made with
- 1107 nonrecycled materials; or
- 1108 (c) a cogeneration facility as defined in Section 54-2-1.
- 1109 (55) "Member of the immediate family of the producer" means a person who is related
- 1110 to a producer described in Subsection 59-12-104(20)(a) as a:
- 1111 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1112 (i) an adopted child or adopted stepchild; or

- 1113 (ii) a foster child or foster stepchild;
- 1114 (b) grandchild or stepgrandchild;
- 1115 (c) grandparent or stepgrandparent;
- 1116 (d) nephew or stepnephew;
- 1117 (e) niece or stepniece;
- 1118 (f) parent or stepparent;
- 1119 (g) sibling or stepsibling;
- 1120 (h) spouse;
- 1121 (i) person who is the spouse of a person described in Subsections (55)(a) through (g);

1122 or

- 1123 (j) person similar to a person described in Subsections (55)(a) through (i) as
- 1124 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1125 Administrative Rulemaking Act.

1126 (56) "Mobile home" is as defined in Section 58-56-3.

1127 (57) "Mobile telecommunications service" is as defined in the Mobile

1128 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1129 (58) (a) "Mobile wireless service" means a telecommunications service, regardless of

1130 the technology used, if:

- 1131 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1132 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1133 (iii) the origination point described in Subsection (58)(a)(i) and the termination point
- 1134 described in Subsection (58)(a)(ii) are not fixed.

1135 (b) "Mobile wireless service" includes a telecommunications service that is provided

1136 by a commercial mobile radio service provider.

1137 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1138 commission may by rule define "commercial mobile radio service provider."

1139 (59) (a) Except as provided in Subsection (59)(c), "mobility enhancing equipment"

1140 means equipment that is:

- 1141 (i) primarily and customarily used to provide or increase the ability to move from one
- 1142 place to another;
- 1143 (ii) appropriate for use in a:

- 1144 (A) home; or
- 1145 (B) motor vehicle; and
- 1146 (iii) not generally used by persons with normal mobility.
- 1147 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 1148 the equipment described in Subsection (59)(a).
- 1149 (c) Notwithstanding Subsection (59)(a), "mobility enhancing equipment" does not
- 1150 include:
 - 1151 (i) a motor vehicle;
 - 1152 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
 - 1153 vehicle manufacturer;
 - 1154 (iii) durable medical equipment; or
 - 1155 (iv) a prosthetic device.
- 1156 (60) "Model 1 seller" means a seller registered under the agreement that has selected a
- 1157 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 1158 functions for agreement sales and use taxes other than the seller's obligation under Section
- 1159 59-12-124 to remit a tax on the seller's own purchases.
- 1160 (61) "Model 2 seller" means a seller registered under the agreement that:
 - 1161 (a) except as provided in Subsection (61)(b), has selected a certified automated system
 - 1162 to perform the seller's sales tax functions for agreement sales and use taxes; and
 - 1163 (b) notwithstanding Subsection (61)(a), retains responsibility for remitting all of the
 - 1164 sales tax:
 - 1165 (i) collected by the seller; and
 - 1166 (ii) to the appropriate local taxing jurisdiction.
- 1167 (62) (a) Subject to Subsection (62)(b), "model 3 seller" means a seller registered under
- 1168 the agreement that has:
 - 1169 (i) sales in at least five states that are members of the agreement;
 - 1170 (ii) total annual sales revenues of at least \$500,000,000;
 - 1171 (iii) a proprietary system that calculates the amount of tax:
 - 1172 (A) for an agreement sales and use tax; and
 - 1173 (B) due to each local taxing jurisdiction; and
 - 1174 (iv) entered into a performance agreement with the governing board of the agreement.

1175 (b) For purposes of Subsection (62)(a), "model 3 seller" includes an affiliated group of
1176 sellers using the same proprietary system.

1177 (63) "Model 4 seller" means a seller that is registered under the agreement and is not a
1178 model 1 seller, model 2 seller, or model 3 seller.

1179 (64) "Modular home" means a modular unit as defined in Section 58-56-3.

1180 (65) "Motor vehicle" is as defined in Section 41-1a-102.

1181 (66) "Oil shale" means a group of fine black to dark brown shales containing
1182 bituminous material that yields petroleum upon distillation.

1183 (67) (a) "Other fuels" means products that burn independently to produce heat or
1184 energy.

1185 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1186 personal property.

1187 (68) (a) "Paging service" means a telecommunications service that provides
1188 transmission of a coded radio signal for the purpose of activating a specific pager.

1189 (b) For purposes of Subsection (68)(a), the transmission of a coded radio signal
1190 includes a transmission by message or sound.

1191 (69) "Pawnbroker" is as defined in Section 13-32a-102.

1192 (70) "Pawn transaction" is as defined in Section 13-32a-102.

1193 (71) (a) "Permanently attached to real property" means that for tangible personal
1194 property attached to real property:

1195 (i) the attachment of the tangible personal property to the real property:

1196 (A) is essential to the use of the tangible personal property; and

1197 (B) suggests that the tangible personal property will remain attached to the real
1198 property in the same place over the useful life of the tangible personal property; or

1199 (ii) if the tangible personal property is detached from the real property, the detachment
1200 would:

1201 (A) cause substantial damage to the tangible personal property; or

1202 (B) require substantial alteration or repair of the real property to which the tangible
1203 personal property is attached.

1204 (b) "Permanently attached to real property" includes:

1205 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 1206 (A) essential to the operation of the tangible personal property; and
- 1207 (B) attached only to facilitate the operation of the tangible personal property;
- 1208 (ii) a temporary detachment of tangible personal property from real property for a
- 1209 repair or renovation if the repair or renovation is performed where the tangible personal
- 1210 property and real property are located; or
- 1211 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 1212 Subsection (71)(c)(iii) or (iv).
- 1213 (c) "Permanently attached to real property" does not include:
- 1214 (i) the attachment of portable or movable tangible personal property to real property if
- 1215 that portable or movable tangible personal property is attached to real property only for:
- 1216 (A) convenience;
- 1217 (B) stability; or
- 1218 (C) for an obvious temporary purpose;
- 1219 (ii) the detachment of tangible personal property from real property except for the
- 1220 detachment described in Subsection (71)(b)(ii);
- 1221 (iii) an attachment of the following tangible personal property to real property if the
- 1222 attachment to real property is only through a line that supplies water, electricity, gas,
- 1223 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1224 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1225 (A) a computer;
- 1226 (B) a telephone;
- 1227 (C) a television; or
- 1228 (D) tangible personal property similar to Subsections (71)(c)(iii)(A) through (C) as
- 1229 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1230 Administrative Rulemaking Act; or
- 1231 (iv) an item listed in Subsection (111)(c).
- 1232 (72) "Person" includes any individual, firm, partnership, joint venture, association,
- 1233 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 1234 municipality, district, or other local governmental entity of the state, or any group or
- 1235 combination acting as a unit.
- 1236 (73) "Place of primary use":

1237 (a) for telecommunications service other than mobile telecommunications service,
1238 means the street address representative of where the customer's use of the telecommunications
1239 service primarily occurs, which shall be:

1240 (i) the residential street address of the customer; or

1241 (ii) the primary business street address of the customer; or

1242 (b) for mobile telecommunications service, is as defined in the Mobile

1243 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1244 (74) (a) "Postpaid calling service" means a telecommunications service a person
1245 obtains by making a payment on a call-by-call basis:

1246 (i) through the use of a:

1247 (A) bank card;

1248 (B) credit card;

1249 (C) debit card; or

1250 (D) travel card; or

1251 (ii) by a charge made to a telephone number that is not associated with the origination
1252 or termination of the telecommunications service.

1253 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1254 service, that would be a prepaid wireless calling service if the service were exclusively a
1255 telecommunications service.

1256 (75) "Postproduction" means an activity related to the finishing or duplication of a
1257 medium described in Subsection 59-12-104(54)(a).

1258 (76) "Prepaid calling service" means a telecommunications service:

1259 (a) that allows a purchaser access to telecommunications service that is exclusively
1260 telecommunications service;

1261 (b) that:

1262 (i) is paid for in advance; and

1263 (ii) enables the origination of a call using an:

1264 (A) access number; or

1265 (B) authorization code;

1266 (c) that is dialed:

1267 (i) manually; or

- 1268 (ii) electronically; and
- 1269 (d) sold in predetermined units or dollars that decline:
- 1270 (i) by a known amount; and
- 1271 (ii) with use.
- 1272 (77) "Prepaid wireless calling service" means a telecommunications service:
- 1273 (a) that provides the right to utilize:
- 1274 (i) mobile wireless service; and
- 1275 (ii) other service that is not a telecommunications service, including:
- 1276 (A) the download of a product transferred electronically;
- 1277 (B) a content service; or
- 1278 (C) an ancillary service;
- 1279 (b) that:
- 1280 (i) is paid for in advance; and
- 1281 (ii) enables the origination of a call using an:
- 1282 (A) access number; or
- 1283 (B) authorization code;
- 1284 (c) that is dialed:
- 1285 (i) manually; or
- 1286 (ii) electronically; and
- 1287 (d) sold in predetermined units or dollars that decline:
- 1288 (i) by a known amount; and
- 1289 (ii) with use.
- 1290 (78) (a) "Prepared food" means:
- 1291 (i) food:
- 1292 (A) sold in a heated state; or
- 1293 (B) heated by a seller;
- 1294 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1295 item; or
- 1296 (iii) except as provided in Subsection (78)(c), food sold with an eating utensil provided
- 1297 by the seller, including a:
- 1298 (A) plate;

- 1299 (B) knife;
- 1300 (C) fork;
- 1301 (D) spoon;
- 1302 (E) glass;
- 1303 (F) cup;
- 1304 (G) napkin; or
- 1305 (H) straw.
- 1306 (b) "Prepared food" does not include:
- 1307 (i) food that a seller only:
- 1308 (A) cuts;
- 1309 (B) repackages; or
- 1310 (C) pasteurizes; or
- 1311 (ii) (A) the following:
- 1312 (I) raw egg;
- 1313 (II) raw fish;
- 1314 (III) raw meat;
- 1315 (IV) raw poultry; or
- 1316 (V) a food containing an item described in Subsections (78)(b)(ii)(A)(I) through (IV);
- 1317 and
- 1318 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1319 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1320 Subsection (78)(b)(ii)(A) to prevent food borne illness; or
- 1321 (iii) the following if sold without eating utensils provided by the seller:
- 1322 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1323 classification under the 2002 North American Industry Classification System of the federal
- 1324 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1325 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1326 Manufacturing;
- 1327 (B) food and food ingredients sold in an unheated state:
- 1328 (I) by weight or volume; and
- 1329 (II) as a single item; or

1330 (C) a bakery item, including:

1331 (I) a bagel;

1332 (II) a bar;

1333 (III) a biscuit;

1334 (IV) bread;

1335 (V) a bun;

1336 (VI) a cake;

1337 (VII) a cookie;

1338 (VIII) a croissant;

1339 (IX) a danish;

1340 (X) a donut;

1341 (XI) a muffin;

1342 (XII) a pastry;

1343 (XIII) a pie;

1344 (XIV) a roll;

1345 (XV) a tart;

1346 (XVI) a torte; or

1347 (XVII) a tortilla.

1348 (c) Notwithstanding Subsection (78)(a)(iii), an eating utensil provided by the seller
1349 does not include the following used to transport the food:

1350 (i) a container; or

1351 (ii) packaging.

1352 (79) "Prescription" means an order, formula, or recipe that is issued:

1353 (a) (i) orally;

1354 (ii) in writing;

1355 (iii) electronically; or

1356 (iv) by any other manner of transmission; and

1357 (b) by a licensed practitioner authorized by the laws of a state.

1358 (80) (a) Except as provided in Subsection (80)(b)(ii) or (iii), "prewritten computer
1359 software" means computer software that is not designed and developed:

1360 (i) by the author or other creator of the computer software; and

- 1361 (ii) to the specifications of a specific purchaser.
- 1362 (b) "Prewritten computer software" includes:
- 1363 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1364 software is not designed and developed:
- 1365 (A) by the author or other creator of the computer software; and
- 1366 (B) to the specifications of a specific purchaser;
- 1367 (ii) notwithstanding Subsection (80)(a), computer software designed and developed by
- 1368 the author or other creator of the computer software to the specifications of a specific purchaser
- 1369 if the computer software is sold to a person other than the purchaser; or
- 1370 (iii) notwithstanding Subsection (80)(a) and except as provided in Subsection (80)(c),
- 1371 prewritten computer software or a prewritten portion of prewritten computer software:
- 1372 (A) that is modified or enhanced to any degree; and
- 1373 (B) if the modification or enhancement described in Subsection (80)(b)(iii)(A) is
- 1374 designed and developed to the specifications of a specific purchaser.
- 1375 (c) Notwithstanding Subsection (80)(b)(iii), "prewritten computer software" does not
- 1376 include a modification or enhancement described in Subsection (80)(b)(iii) if the charges for
- 1377 the modification or enhancement are:
- 1378 (i) reasonable; and
- 1379 (ii) separately stated on the invoice or other statement of price provided to the
- 1380 purchaser.
- 1381 (81) (a) "Private communication service" means a telecommunications service:
- 1382 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1383 channels between or among termination points; and
- 1384 (ii) regardless of the manner in which the one or more communications channels are
- 1385 connected.
- 1386 (b) "Private communications service" includes the following provided in connection
- 1387 with the use of one or more communications channels:
- 1388 (i) an extension line;
- 1389 (ii) a station;
- 1390 (iii) switching capacity; or
- 1391 (iv) another associated service that is provided in connection with the use of one or

1392 more communications channels as defined in Section 59-12-215.

1393 (82) (a) "Prosthetic device" means a device that is worn on or in the body to:

1394 (i) artificially replace a missing portion of the body;

1395 (ii) prevent or correct a physical deformity or physical malfunction; or

1396 (iii) support a weak or deformed portion of the body.

1397 (b) "Prosthetic device" includes:

1398 (i) parts used in the repairs or renovation of a prosthetic device;

1399 (ii) replacement parts for a prosthetic device;

1400 (iii) a dental prosthesis; or

1401 (iv) a hearing aid.

1402 (c) "Prosthetic device" does not include:

1403 (i) corrective eyeglasses; or

1404 (ii) contact lenses.

1405 (83) (a) "Protective equipment" means an item:

1406 (i) for human wear; and

1407 (ii) that is:

1408 (A) designed as protection:

1409 (I) to the wearer against injury or disease; or

1410 (II) against damage or injury of other persons or property; and

1411 (B) not suitable for general use.

1412 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1413 commission shall make rules:

1414 (i) listing the items that constitute "protective equipment"; and

1415 (ii) that are consistent with the list of items that constitute "protective equipment"

1416 under the agreement.

1417 (84) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1418 printed matter, other than a photocopy:

1419 (i) regardless of:

1420 (A) characteristics;

1421 (B) copyright;

1422 (C) form;

- 1423 (D) format;
- 1424 (E) method of reproduction; or
- 1425 (F) source; and
- 1426 (ii) made available in printed or electronic format.
- 1427 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1428 commission may by rule define the term "photocopy."
- 1429 (85) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1430 (i) valued in money; and
- 1431 (ii) for which tangible personal property, a product transferred electronically, or
- 1432 services are:
 - 1433 (A) sold;
 - 1434 (B) leased; or
 - 1435 (C) rented.
- 1436 (b) "Purchase price" and "sales price" include:
- 1437 (i) the seller's cost of the tangible personal property, a product transferred
- 1438 electronically, or services sold;
- 1439 (ii) expenses of the seller, including:
 - 1440 (A) the cost of materials used;
 - 1441 (B) a labor cost;
 - 1442 (C) a service cost;
 - 1443 (D) interest;
 - 1444 (E) a loss;
 - 1445 (F) the cost of transportation to the seller; or
 - 1446 (G) a tax imposed on the seller;
- 1447 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1448 (iv) consideration a seller receives from a person other than the purchaser if:
 - 1449 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 1450 and
 - 1451 (II) the consideration described in Subsection (85)(b)(iv)(A)(I) is directly related to a
 - 1452 price reduction or discount on the sale;
 - 1453 (B) the seller has an obligation to pass the price reduction or discount through to the

1454 purchaser;

1455 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1456 the seller at the time of the sale to the purchaser; and

1457 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1458 seller to claim a price reduction or discount; and

1459 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1460 coupon, or other documentation with the understanding that the person other than the seller
1461 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1462 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1463 organization allowed a price reduction or discount, except that a preferred customer card that is
1464 available to any patron of a seller does not constitute membership in a group or organization
1465 allowed a price reduction or discount; or

1466 (III) the price reduction or discount is identified as a third party price reduction or
1467 discount on the:

1468 (Aa) invoice the purchaser receives; or

1469 (Bb) certificate, coupon, or other documentation the purchaser presents.

1470 (c) "Purchase price" and "sales price" do not include:

1471 (i) a discount:

1472 (A) in a form including:

1473 (I) cash;

1474 (II) term; or

1475 (III) coupon;

1476 (B) that is allowed by a seller;

1477 (C) taken by a purchaser on a sale; and

1478 (D) that is not reimbursed by a third party; or

1479 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1480 provided to the purchaser:

1481 (A) the following from credit extended on the sale of tangible personal property or
1482 services:

1483 (I) a carrying charge;

1484 (II) a financing charge; or

- 1485 (III) an interest charge;
- 1486 (B) a delivery charge;
- 1487 (C) an installation charge;
- 1488 (D) a manufacturer rebate on a motor vehicle; or
- 1489 (E) a tax or fee legally imposed directly on the consumer.
- 1490 (86) "Purchaser" means a person to whom:
 - 1491 (a) a sale of tangible personal property is made;
 - 1492 (b) a product is transferred electronically; or
 - 1493 (c) a service is furnished.
- 1494 (87) "Regularly rented" means:
 - 1495 (a) rented to a guest for value three or more times during a calendar year; or
 - 1496 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 1497 value.
- 1498 (88) "Renewable energy" means:
 - 1499 (a) biomass energy;
 - 1500 (b) hydroelectric energy;
 - 1501 (c) geothermal energy;
 - 1502 (d) solar energy; or
 - 1503 (e) wind energy.
- 1504 (89) (a) "Renewable energy production facility" means a facility that:
 - 1505 (i) uses renewable energy to produce electricity; and
 - 1506 (ii) has a production capacity of 20 kilowatts or greater.
- 1507 (b) A facility is a renewable energy production facility regardless of whether the
- 1508 facility is:
 - 1509 (i) connected to an electric grid; or
 - 1510 (ii) located on the premises of an electricity consumer.
- 1511 (90) "Rental" is as defined in Subsection (50).
- 1512 (91) "Repairs or renovations of tangible personal property" means:
 - 1513 (a) a repair or renovation of tangible personal property that is not permanently attached
 - 1514 to real property; or
 - 1515 (b) attaching tangible personal property or a product that is transferred electronically to

1516 other tangible personal property if the other tangible personal property to which the tangible
1517 personal property or product that is transferred electronically is attached is not permanently
1518 attached to real property.

1519 (92) "Research and development" means the process of inquiry or experimentation
1520 aimed at the discovery of facts, devices, technologies, or applications and the process of
1521 preparing those devices, technologies, or applications for marketing.

1522 (93) (a) "Residential telecommunications services" means a telecommunications
1523 service or an ancillary service that is provided to an individual for personal use:

1524 (i) at a residential address; or

1525 (ii) at an institution, including a nursing home or a school, if the telecommunications
1526 service or ancillary service is provided to and paid for by the individual residing at the
1527 institution rather than the institution.

1528 (b) For purposes of Subsection (93)(a), a residential address includes an:

1529 (i) apartment; or

1530 (ii) other individual dwelling unit.

1531 (94) "Residential use" means the use in or around a home, apartment building, sleeping
1532 quarters, and similar facilities or accommodations.

1533 (95) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1534 than:

1535 (a) resale;

1536 (b) sublease; or

1537 (c) subrent.

1538 (96) (a) "Retailer" means any person engaged in a regularly organized business in
1539 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1540 who is selling to the user or consumer and not for resale.

1541 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1542 engaged in the business of selling to users or consumers within the state.

1543 (97) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1544 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1545 Subsection 59-12-103(1), for consideration.

1546 (b) "Sale" includes:

- 1547 (i) installment and credit sales;
- 1548 (ii) any closed transaction constituting a sale;
- 1549 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1550 chapter;
- 1551 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1552 title as security for the payment of the price; and
- 1553 (v) any transaction under which right to possession, operation, or use of any article of
- 1554 tangible personal property is granted under a lease or contract and the transfer of possession
- 1555 would be taxable if an outright sale were made.
- 1556 (98) "Sale at retail" is as defined in Subsection (95).
- 1557 (99) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1558 personal property or a product transferred electronically that is subject to a tax under this
- 1559 chapter is transferred:
- 1560 (a) by a purchaser-lessee;
- 1561 (b) to a lessor;
- 1562 (c) for consideration; and
- 1563 (d) if:
- 1564 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1565 of the tangible personal property or product transferred electronically;
- 1566 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1567 lessor is intended as a form of financing:
- 1568 (A) for the tangible personal property or product transferred electronically; and
- 1569 (B) to the purchaser-lessee; and
- 1570 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1571 is required to:
- 1572 (A) capitalize the tangible personal property or product transferred electronically for
- 1573 financial reporting purposes; and
- 1574 (B) account for the lease payments as payments made under a financing arrangement.
- 1575 (100) "Sales price" is as defined in Subsection (85).
- 1576 (101) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1577 amounts charged by a school:

1578 (i) sales that are directly related to the school's educational functions or activities

1579 including:

1580 (A) the sale of:

1581 (I) textbooks;

1582 (II) textbook fees;

1583 (III) laboratory fees;

1584 (IV) laboratory supplies; or

1585 (V) safety equipment;

1586 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1587 that:

1588 (I) a student is specifically required to wear as a condition of participation in a
1589 school-related event or school-related activity; and

1590 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1591 place of ordinary clothing;

1592 (C) sales of the following if the net or gross revenues generated by the sales are
1593 deposited into a school district fund or school fund dedicated to school meals:

1594 (I) food and food ingredients; or

1595 (II) prepared food; or

1596 (D) transportation charges for official school activities; or

1597 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1598 event or school-related activity.

1599 (b) "Sales relating to schools" does not include:

1600 (i) bookstore sales of items that are not educational materials or supplies;

1601 (ii) except as provided in Subsection (101)(a)(i)(B):

1602 (A) clothing;

1603 (B) clothing accessories or equipment;

1604 (C) protective equipment; or

1605 (D) sports or recreational equipment; or

1606 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1607 event or school-related activity if the amounts paid or charged are passed through to a person:

1608 (A) other than a:

- 1609 (I) school;
- 1610 (II) nonprofit organization authorized by a school board or a governing body of a
- 1611 private school to organize and direct a competitive secondary school activity; or
- 1612 (III) nonprofit association authorized by a school board or a governing body of a
- 1613 private school to organize and direct a competitive secondary school activity; and
- 1614 (B) that is required to collect sales and use taxes under this chapter.
- 1615 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1616 commission may make rules defining the term "passed through."
- 1617 (102) For purposes of this section and Section 59-12-104, "school":
- 1618 (a) means:
- 1619 (i) an elementary school or a secondary school that:
- 1620 (A) is a:
- 1621 (I) public school; or
- 1622 (II) private school; and
- 1623 (B) provides instruction for one or more grades kindergarten through 12; or
- 1624 (ii) a public school district; and
- 1625 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1626 (103) "Seller" means a person that makes a sale, lease, or rental of:
- 1627 (a) tangible personal property;
- 1628 (b) a product transferred electronically; or
- 1629 (c) a service.
- 1630 (104) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1631 means tangible personal property or a product transferred electronically if the tangible personal
- 1632 property or product transferred electronically is:
- 1633 (i) used primarily in the process of:
- 1634 (A) (I) manufacturing a semiconductor;
- 1635 (II) fabricating a semiconductor; or
- 1636 (III) research or development of a:
- 1637 (Aa) semiconductor; or
- 1638 (Bb) semiconductor manufacturing process; or
- 1639 (B) maintaining an environment suitable for a semiconductor; or

- 1640 (ii) consumed primarily in the process of:
- 1641 (A) (I) manufacturing a semiconductor;
- 1642 (II) fabricating a semiconductor; or
- 1643 (III) research or development of a:
- 1644 (Aa) semiconductor; or
- 1645 (Bb) semiconductor manufacturing process; or
- 1646 (B) maintaining an environment suitable for a semiconductor.
- 1647 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1648 includes:
- 1649 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1650 transferred electronically described in Subsection (104)(a); or
- 1651 (ii) a chemical, catalyst, or other material used to:
- 1652 (A) produce or induce in a semiconductor a:
- 1653 (I) chemical change; or
- 1654 (II) physical change;
- 1655 (B) remove impurities from a semiconductor; or
- 1656 (C) improve the marketable condition of a semiconductor.
- 1657 (105) "Senior citizen center" means a facility having the primary purpose of providing
- 1658 services to the aged as defined in Section 62A-3-101.
- 1659 (106) "Simplified electronic return" means the electronic return:
- 1660 (a) described in Section 318(C) of the agreement; and
- 1661 (b) approved by the governing board of the agreement.
- 1662 (107) "Solar energy" means the sun used as the sole source of energy for producing
- 1663 electricity.
- 1664 (108) (a) "Sports or recreational equipment" means an item:
- 1665 (i) designed for human use; and
- 1666 (ii) that is:
- 1667 (A) worn in conjunction with:
- 1668 (I) an athletic activity; or
- 1669 (II) a recreational activity; and
- 1670 (B) not suitable for general use.

1671 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1672 commission shall make rules:

1673 (i) listing the items that constitute "sports or recreational equipment"; and

1674 (ii) that are consistent with the list of items that constitute "sports or recreational
1675 equipment" under the agreement.

1676 (109) "State" means the state of Utah, its departments, and agencies.

1677 (110) "Storage" means any keeping or retention of tangible personal property or any
1678 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1679 sale in the regular course of business.

1680 (111) (a) Except as provided in Subsection (111)(d) or (e), "tangible personal property"
1681 means personal property that:

1682 (i) may be:

1683 (A) seen;

1684 (B) weighed;

1685 (C) measured;

1686 (D) felt; or

1687 (E) touched; or

1688 (ii) is in any manner perceptible to the senses.

1689 (b) "Tangible personal property" includes:

1690 (i) electricity;

1691 (ii) water;

1692 (iii) gas;

1693 (iv) steam; or

1694 (v) prewritten computer software.

1695 (c) "Tangible personal property" includes the following regardless of whether the item
1696 is attached to real property:

1697 (i) a dishwasher;

1698 (ii) a dryer;

1699 (iii) a freezer;

1700 (iv) a microwave;

1701 (v) a refrigerator;

- 1702 (vi) a stove;
- 1703 (vii) a washer; or
- 1704 (viii) an item similar to Subsections (111)(c)(i) through (vii) as determined by the
- 1705 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1706 Rulemaking Act.
- 1707 (d) "Tangible personal property" does not include a product that is transferred
- 1708 electronically.
- 1709 (e) "Tangible personal property" does not include the following if attached to real
- 1710 property, regardless of whether the attachment to real property is only through a line that
- 1711 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1712 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1713 Rulemaking Act:
- 1714 (i) a hot water heater;
- 1715 (ii) a water filtration system; or
- 1716 (iii) a water softener system.
- 1717 (112) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
- 1718 and require further processing other than mechanical blending before becoming finished
- 1719 petroleum products.
- 1720 (113) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 1721 software" means an item listed in Subsection (113)(b) if that item is purchased or leased
- 1722 primarily to enable or facilitate one or more of the following to function:
- 1723 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1724 (ii) telecommunications transmission equipment, machinery, or software.
- 1725 (b) The following apply to Subsection (113)(a):
- 1726 (i) a pole;
- 1727 (ii) software;
- 1728 (iii) a supplementary power supply;
- 1729 (iv) temperature or environmental equipment or machinery;
- 1730 (v) test equipment;
- 1731 (vi) a tower; or
- 1732 (vii) equipment, machinery, or software that functions similarly to an item listed in

1733 Subsections (113)(b)(i) through (vi) as determined by the commission by rule made in
1734 accordance with Subsection (113)(c).

1735 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1736 commission may by rule define what constitutes equipment, machinery, or software that
1737 functions similarly to an item listed in Subsections (113)(b)(i) through (vi).

1738 (114) "Telecommunications equipment, machinery, or software required for 911
1739 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1740 Sec. 20.18.

1741 (115) "Telecommunications maintenance or repair equipment, machinery, or software"
1742 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1743 one or more of the following, regardless of whether the equipment, machinery, or software is
1744 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1745 following:

1746 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1747 (b) telecommunications switching or routing equipment, machinery, or software; or

1748 (c) telecommunications transmission equipment, machinery, or software.

1749 (116) (a) "Telecommunications service" means the electronic conveyance, routing, or
1750 transmission of audio, data, video, voice, or any other information or signal to a point, or
1751 among or between points.

1752 (b) "Telecommunications service" includes:

1753 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1754 processing application is used to act:

1755 (A) on the code, form, or protocol of the content;

1756 (B) for the purpose of electronic conveyance, routing, or transmission; and

1757 (C) regardless of whether the service:

1758 (I) is referred to as voice over Internet protocol service; or

1759 (II) is classified by the Federal Communications Commission as enhanced or value
1760 added;

1761 (ii) an 800 service;

1762 (iii) a 900 service;

1763 (iv) a fixed wireless service;

- 1764 (v) a mobile wireless service;
- 1765 (vi) a postpaid calling service;
- 1766 (vii) a prepaid calling service;
- 1767 (viii) a prepaid wireless calling service; or
- 1768 (ix) a private communications service.
- 1769 (c) "Telecommunications service" does not include:
- 1770 (i) advertising, including directory advertising;
- 1771 (ii) an ancillary service;
- 1772 (iii) a billing and collection service provided to a third party;
- 1773 (iv) a data processing and information service if:
- 1774 (A) the data processing and information service allows data to be:
- 1775 (I) (Aa) acquired;
- 1776 (Bb) generated;
- 1777 (Cc) processed;
- 1778 (Dd) retrieved; or
- 1779 (Ee) stored; and
- 1780 (II) delivered by an electronic transmission to a purchaser; and
- 1781 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1782 or information;
- 1783 (v) installation or maintenance of the following on a customer's premises:
- 1784 (A) equipment; or
- 1785 (B) wiring;
- 1786 (vi) Internet access service;
- 1787 (vii) a paging service;
- 1788 (viii) a product transferred electronically, including:
- 1789 (A) music;
- 1790 (B) reading material;
- 1791 (C) a ring tone;
- 1792 (D) software; or
- 1793 (E) video;
- 1794 (ix) a radio and television audio and video programming service;

- 1795 (A) regardless of the medium; and
- 1796 (B) including:
 - 1797 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1798 programming service by a programming service provider;
 - 1799 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1800 (III) audio and video programming services delivered by a commercial mobile radio
 - 1801 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1802 (x) a value-added nonvoice data service; or
 - 1803 (xi) tangible personal property.
- 1804 (117) (a) "Telecommunications service provider" means a person that:
 - 1805 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1806 (ii) engages in an activity described in Subsection (117)(a)(i) for the shared use with or
 - 1807 resale to any person of the telecommunications service.
- 1808 (b) A person described in Subsection (117)(a) is a telecommunications service provider
- 1809 whether or not the Public Service Commission of Utah regulates:
 - 1810 (i) that person; or
 - 1811 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1812 manages.
- 1813 (118) (a) "Telecommunications switching or routing equipment, machinery, or
- 1814 software" means an item listed in Subsection (118)(b) if that item is purchased or leased
- 1815 primarily for switching or routing:
 - 1816 (i) an ancillary service;
 - 1817 (ii) data communications;
 - 1818 (iii) voice communications; or
 - 1819 (iv) telecommunications service.
- 1820 (b) The following apply to Subsection (118)(a):
 - 1821 (i) a bridge;
 - 1822 (ii) a computer;
 - 1823 (iii) a cross connect;
 - 1824 (iv) a modem;
 - 1825 (v) a multiplexer;

- 1826 (vi) plug in circuitry;
- 1827 (vii) a router;
- 1828 (viii) software;
- 1829 (ix) a switch; or
- 1830 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1831 Subsections (118)(b)(i) through (ix) as determined by the commission by rule made in
- 1832 accordance with Subsection (118)(c).

1833 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1834 commission may by rule define what constitutes equipment, machinery, or software that
1835 functions similarly to an item listed in Subsections (118)(b)(i) through (ix).

1836 (119) (a) "Telecommunications transmission equipment, machinery, or software"
1837 means an item listed in Subsection (119)(b) if that item is purchased or leased primarily for
1838 sending, receiving, or transporting:

- 1839 (i) an ancillary service;
 - 1840 (ii) data communications;
 - 1841 (iii) voice communications; or
 - 1842 (iv) telecommunications service.
- 1843 (b) The following apply to Subsection (119)(a):
- 1844 (i) an amplifier;
 - 1845 (ii) a cable;
 - 1846 (iii) a closure;
 - 1847 (iv) a conduit;
 - 1848 (v) a controller;
 - 1849 (vi) a duplexer;
 - 1850 (vii) a filter;
 - 1851 (viii) an input device;
 - 1852 (ix) an input/output device;
 - 1853 (x) an insulator;
 - 1854 (xi) microwave machinery or equipment;
 - 1855 (xii) an oscillator;
 - 1856 (xiii) an output device;

- 1857 (xiv) a pedestal;
- 1858 (xv) a power converter;
- 1859 (xvi) a power supply;
- 1860 (xvii) a radio channel;
- 1861 (xviii) a radio receiver;
- 1862 (xix) a radio transmitter;
- 1863 (xx) a repeater;
- 1864 (xxi) software;
- 1865 (xxii) a terminal;
- 1866 (xxiii) a timing unit;
- 1867 (xxiv) a transformer;
- 1868 (xxv) a wire; or
- 1869 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1870 Subsections (119)(b)(i) through (xxv) as determined by the commission by rule made in
- 1871 accordance with Subsection (119)(c).

1872 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1873 commission may by rule define what constitutes equipment, machinery, or software that

1874 functions similarly to an item listed in Subsections (119)(b)(i) through (xxv).

1875 (120) "Tobacco" means:

- 1876 (a) a cigarette;
- 1877 (b) a cigar;
- 1878 (c) chewing tobacco;
- 1879 (d) pipe tobacco; or
- 1880 (e) any other item that contains tobacco.

1881 (121) "Unassisted amusement device" means an amusement device, skill device, or

1882 ride device that is started and stopped by the purchaser or renter of the right to use or operate

1883 the amusement device, skill device, or ride device.

1884 (122) (a) "Use" means the exercise of any right or power over tangible personal

1885 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

1886 incident to the ownership or the leasing of that tangible personal property, product transferred

1887 electronically, or service.

1888 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1889 property, a product transferred electronically, or a service in the regular course of business and
1890 held for resale.

1891 (123) "Value-added nonvoice data service" means a service:

1892 (a) that otherwise meets the definition of a telecommunications service except that a
1893 computer processing application is used to act primarily for a purpose other than conveyance,
1894 routing, or transmission; and

1895 (b) with respect to which a computer processing application is used to act on data or
1896 information:

- 1897 (i) code;
- 1898 (ii) content;
- 1899 (iii) form; or
- 1900 (iv) protocol.

1901 (124) (a) Subject to Subsection (124)(b), "vehicle" means the following that are
1902 required to be titled, registered, or titled and registered:

- 1903 (i) an aircraft as defined in Section 72-10-102;
- 1904 (ii) a vehicle as defined in Section 41-1a-102;
- 1905 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1906 (iv) a vessel as defined in Section 41-1a-102.

1907 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1908 (i) a vehicle described in Subsection (124)(a); or
- 1909 (ii) (A) a locomotive;
- 1910 (B) a freight car;
- 1911 (C) railroad work equipment; or
- 1912 (D) other railroad rolling stock.

1913 (125) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1914 exchanging a vehicle as defined in Subsection (124).

1915 (126) (a) "Vertical service" means an ancillary service that:

- 1916 (i) is offered in connection with one or more telecommunications services; and
- 1917 (ii) offers an advanced calling feature that allows a customer to:
1918 (A) identify a caller; and

1919 (B) manage multiple calls and call connections.
1920 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1921 conference bridging service.

1922 (127) (a) "Voice mail service" means an ancillary service that enables a customer to
1923 receive, send, or store a recorded message.

1924 (b) "Voice mail service" does not include a vertical service that a customer is required
1925 to have in order to utilize a voice mail service.

1926 (128) (a) Except as provided in Subsection (128)(b), "waste energy facility" means a
1927 facility that generates electricity:

1928 (i) using as the primary source of energy waste materials that would be placed in a
1929 landfill or refuse pit if it were not used to generate electricity, including:

1930 (A) tires;

1931 (B) waste coal; or

1932 (C) oil shale; and

1933 (ii) in amounts greater than actually required for the operation of the facility.

1934 (b) "Waste energy facility" does not include a facility that incinerates:

1935 (i) municipal solid waste;

1936 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1937 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1938 (129) "Watercraft" means a vessel as defined in Section 73-18-2.

1939 (130) "Wind energy" means wind used as the sole source of energy to produce
1940 electricity.

1941 (131) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1942 location by the United States Postal Service.

1943 Section 7. Section **59-12-103** is amended to read:

1944 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1945 **tax revenues.**

1946 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1947 charged for the following transactions:

1948 (a) retail sales of tangible personal property made within the state;

1949 (b) amounts paid for:

1950 (i) telecommunications service, other than mobile telecommunications service, that
1951 originates and terminates within the boundaries of this state;

1952 (ii) mobile telecommunications service that originates and terminates within the
1953 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1954 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1955 (iii) an ancillary service associated with a:

1956 (A) telecommunications service described in Subsection (1)(b)(i); or
1957 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

1958 (c) sales of the following for commercial use:

1959 (i) gas;
1960 (ii) electricity;
1961 (iii) heat;
1962 (iv) coal;
1963 (v) fuel oil; or
1964 (vi) other fuels;

1965 (d) sales of the following for residential use:

1966 (i) gas;
1967 (ii) electricity;
1968 (iii) heat;
1969 (iv) coal;
1970 (v) fuel oil; or
1971 (vi) other fuels;

1972 (e) sales of prepared food;

1973 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1974 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1975 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1976 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1977 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1978 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1979 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1980 horseback rides, sports activities, or any other amusement, entertainment, recreation,

1981 exhibition, cultural, or athletic activity;

1982 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1983 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1984 (i) the tangible personal property; and

1985 (ii) parts used in the repairs or renovations of the tangible personal property described
1986 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1987 of that tangible personal property;

1988 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1989 assisted cleaning or washing of tangible personal property;

1990 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1991 accommodations and services that are regularly rented for less than 30 consecutive days;

1992 (j) amounts paid or charged for laundry or dry cleaning services;

1993 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1994 this state the tangible personal property is:

1995 (i) stored;

1996 (ii) used; or

1997 (iii) otherwise consumed;

1998 (l) amounts paid or charged for tangible personal property if within this state the
1999 tangible personal property is:

2000 (i) stored;

2001 (ii) used; or

2002 (iii) consumed; and

2003 (m) amounts paid or charged for a sale:

2004 (i) (A) of a product that:

2005 (I) is transferred electronically; and

2006 (II) would be subject to a tax under this chapter if the product was transferred in a
2007 manner other than electronically; or

2008 (B) of a repair or renovation of a product that:

2009 (I) is transferred electronically; and

2010 (II) would be subject to a tax under this chapter if the product was transferred in a
2011 manner other than electronically; and

- 2012 (ii) regardless of whether the sale provides:
- 2013 (A) a right of permanent use of the product; or
- 2014 (B) a right to use the product that is less than a permanent use, including a right:
- 2015 (I) for a definite or specified length of time; and
- 2016 (II) that terminates upon the occurrence of a condition.

2017 (2) (a) Except as provided in [~~Subsections (2)(b) through (e)~~] Subsection (2)(b) or (c),

2018 a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the

2019 sum of:

- 2020 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 2021 (A) [~~4.70%~~] beginning on January 1, 2009, and ending on June 30, 2011, 4.70%, and
- 2022 beginning on July 1, 2011, 4.42%; and
- 2023 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 2024 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 2025 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 2026 State Sales and Use Tax Act; and

2027 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

2028 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2029 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

2030 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2031 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

2032 transaction under this chapter other than this part.

2033 (b) Except as provided in Subsection (2)[~~(d) or (e)~~](c), a state tax and a local tax is

2034 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

- 2035 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 2036 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 2037 transaction under this chapter other than this part.

2038 [~~(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is~~

2039 ~~imposed on amounts paid or charged for food and food ingredients equal to the sum of:]~~

2040 [~~(i) a state tax imposed on the amounts paid or charged for food and food ingredients at~~

2041 ~~a tax rate of 1.75%; and]~~

2042 [~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the~~

2043 ~~amounts paid or charged for food and food ingredients under this chapter other than this part.]~~

2044 ~~[(d) (i) For a bundled transaction that is attributable to food and food ingredients and~~
 2045 ~~tangible personal property other than food and food ingredients, a state tax and a local tax is~~
 2046 ~~imposed on the entire bundled transaction equal to the sum of:]~~

2047 ~~[(A) a state tax imposed on the entire bundled transaction equal to the sum of:]~~

2048 ~~[(f) the tax rate described in Subsection (2)(a)(i)(A); and]~~

2049 ~~[(H) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State~~
 2050 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~
 2051 ~~59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18;~~
 2052 ~~Additional State Sales and Use Tax Act; and]~~

2053 ~~[(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State~~
 2054 ~~Sales and Use Tax Act, if the location of the transaction as determined under Sections~~
 2055 ~~59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which~~
 2056 ~~the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and]~~

2057 ~~[(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates~~
 2058 ~~described in Subsection (2)(a)(ii).]~~

2059 ~~[(ii) (c) (i) Subject to Subsection (2)[(d)(iii)](c)(ii), for a bundled transaction [other~~
 2060 ~~than a bundled transaction described in Subsection (2)(d)(i)]:~~

2061 (A) if the sales price of the bundled transaction is attributable to tangible personal
 2062 property, a product, or a service that is subject to taxation under this chapter and tangible
 2063 personal property, a product, or service that is not subject to taxation under this chapter, the
 2064 entire bundled transaction is subject to taxation under this chapter unless:

2065 (I) the seller is able to identify by reasonable and verifiable standards the tangible
 2066 personal property, product, or service that is not subject to taxation under this chapter from the
 2067 books and records the seller keeps in the seller's regular course of business; or

2068 (II) state or federal law provides otherwise; or

2069 (B) if the sales price of a bundled transaction is attributable to two or more items of
 2070 tangible personal property, products, or services that are subject to taxation under this chapter
 2071 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
 2072 higher tax rate unless:

2073 (I) the seller is able to identify by reasonable and verifiable standards the tangible

2074 personal property, product, or service that is subject to taxation under this chapter at the lower
2075 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2076 (II) state or federal law provides otherwise.

2077 ~~[(iii)]~~ (ii) For purposes of Subsection (2)~~[(d)(ii)]~~(c)(i), books and records that a seller
2078 keeps in the seller's regular course of business includes books and records the seller keeps in
2079 the regular course of business for nontax purposes.

2080 ~~[(e)]~~ (d) Subject to Subsections (2)~~[(f) and (g)]~~(e) and (f), a tax rate repeal or tax rate
2081 change for a tax rate imposed under the following shall take effect on the first day of a calendar
2082 quarter:

2083 (i) Subsection (2)(a)(i)(A); or

2084 (ii) Subsection (2)(b)(i)~~[:];~~

2085 ~~[(iii) Subsection (2)(c)(i); or]~~

2086 ~~[(iv) Subsection (2)(d)(i)(A)(I).]~~

2087 ~~[(f)]~~ (e) (i) A tax rate increase shall take effect on the first day of the first billing period
2088 that begins after the effective date of the tax rate increase if the billing period for the
2089 transaction begins before the effective date of a tax rate increase imposed under:

2090 (A) Subsection (2)(a)(i)(A); or

2091 (B) Subsection (2)(b)(i)~~[:];~~

2092 ~~[(C) Subsection (2)(c)(i); or]~~

2093 ~~[(D) Subsection (2)(d)(i)(A)(I).]~~

2094 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2095 billing period that began before the effective date of the repeal of the tax or the tax rate
2096 decrease if the billing period for the transaction begins before the effective date of the repeal of
2097 the tax or the tax rate decrease imposed under:

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

2099 (B) Subsection (2)(b)(i)~~[:];~~

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

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

2102 ~~[(g)]~~ (f) (i) For a tax rate described in Subsection (2)~~[(g)]~~(f)(ii), if a tax due on a
2103 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
2104 tax rate repeal or change in a tax rate takes effect:

2105 (A) on the first day of a calendar quarter; and
 2106 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

2107 (ii) Subsection (2)~~(g)~~(f)(i) applies to the tax rates described in the following:

2108 (A) Subsection (2)(a)(i)(A); or

2109 (B) Subsection (2)(b)(i)[~~;~~].

2110 [~~(C) Subsection (2)(c)(i); or~~]

2111 [~~(D) Subsection (2)(d)(i)(A)(I).~~]

2112 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

2113 the commission may by rule define the term "catalogue sale."

2114 (3) (a) The following state taxes shall be deposited into the General Fund:

2115 (i) the tax imposed by Subsection (2)(a)(i)(A); and

2116 (ii) the tax imposed by Subsection (2)(b)(i)[~~;~~].

2117 [~~(iii) the tax imposed by Subsection (2)(c)(i); or~~]

2118 [~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).~~]

2119 (b) The following local taxes shall be distributed to a county, city, or town as provided

2120 in this chapter:

2121 (i) the tax imposed by Subsection (2)(a)(ii); and

2122 (ii) the tax imposed by Subsection (2)(b)(ii)[~~;~~].

2123 [~~(iii) the tax imposed by Subsection (2)(c)(ii); and~~]

2124 [~~(iv) the tax imposed by Subsection (2)(d)(i)(B).~~]

2125 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2126 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

2127 through (g):

2128 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2129 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2130 (B) for the fiscal year; or

2131 (ii) \$17,500,000.

2132 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

2133 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

2134 Department of Natural Resources to:

2135 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

2136 protect sensitive plant and animal species; or

2137 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2138 act, to political subdivisions of the state to implement the measures described in Subsections
2139 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2140 (ii) Money transferred to the Department of Natural Resources under Subsection
2141 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2142 person to list or attempt to have listed a species as threatened or endangered under the
2143 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2144 (iii) At the end of each fiscal year:

2145 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2146 Conservation and Development Fund created in Section 73-10-24;

2147 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2148 Program Subaccount created in Section 73-10c-5; and

2149 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2150 Program Subaccount created in Section 73-10c-5.

2151 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2152 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2153 created in Section 4-18-6.

2154 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2155 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2156 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2157 water rights.

2158 (ii) At the end of each fiscal year:

2159 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2160 Conservation and Development Fund created in Section 73-10-24;

2161 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2162 Program Subaccount created in Section 73-10c-5; and

2163 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2164 Program Subaccount created in Section 73-10c-5.

2165 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2166 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development

2167 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2168 (ii) In addition to the uses allowed of the Water Resources Conservation and
2169 Development Fund under Section 73-10-24, the Water Resources Conservation and
2170 Development Fund may also be used to:

2171 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2172 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2173 quantifying surface and ground water resources and describing the hydrologic systems of an
2174 area in sufficient detail so as to enable local and state resource managers to plan for and
2175 accommodate growth in water use without jeopardizing the resource;

2176 (B) fund state required dam safety improvements; and

2177 (C) protect the state's interest in interstate water compact allocations, including the
2178 hiring of technical and legal staff.

2179 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2180 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2181 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2182 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2183 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2184 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2185 (i) provide for the installation and repair of collection, treatment, storage, and
2186 distribution facilities for any public water system, as defined in Section 19-4-102;

2187 (ii) develop underground sources of water, including springs and wells; and

2188 (iii) develop surface water sources.

2189 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2190 2006, the difference between the following amounts shall be expended as provided in this
2191 Subsection (5), if that difference is greater than \$1:

2192 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2193 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2194 (ii) \$17,500,000.

2195 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2196 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2197 credits; and

2198 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2199 restoration.

2200 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2201 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2202 created in Section 73-10-24.

2203 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2204 remaining difference described in Subsection (5)(a) shall be:

2205 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2206 credits; and

2207 (B) expended by the Division of Water Resources for cloud-seeding projects
2208 authorized by Title 73, Chapter 15, Modification of Weather.

2209 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2210 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2211 created in Section 73-10-24.

2212 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2213 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2214 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2215 Division of Water Resources for:

2216 (i) preconstruction costs:

2217 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2218 26, Bear River Development Act; and

2219 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2220 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2221 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2222 Chapter 26, Bear River Development Act;

2223 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2224 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2225 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2226 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2227 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2228 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

2229 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2230 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2231 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2232 incurred for employing additional technical staff for the administration of water rights.

2233 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2234 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2235 Fund created in Section 73-10-24.

2236 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2237 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2238 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2239 the Transportation Fund created by Section 72-2-102.

2240 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
2241 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
2242 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
2243 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
2244 transactions under Subsection (1).

2245 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
2246 have been paid off and the highway projects completed that are intended to be paid from
2247 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
2248 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
2249 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
2250 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2251 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2252 ~~[(8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in~~
2253 ~~Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into~~
2254 ~~the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the~~
2255 ~~taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the~~
2256 ~~following taxes, which represents a portion of the approximately 17% of sales and use tax~~
2257 ~~revenues generated annually by the sales and use tax on vehicles and vehicle-related products:]~~

2258 ~~[(i) the tax imposed by Subsection (2)(a)(i)(A);]~~

2259 ~~[(ii) the tax imposed by Subsection (2)(b)(i);]~~

2260 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~
 2261 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).]~~
 2262 ~~[(b)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
 2263 Subsection (7)(a), and until Subsection (8)~~[(c)]~~(b) applies, for a fiscal year beginning on or
 2264 after July 1, 2011, the Division of Finance shall deposit into the Centennial Highway Fund
 2265 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
 2266 (3)(a) equal to ~~[8.3%]~~ 7.6% of the revenues collected from the following taxes, which
 2267 represents a portion of the approximately 17% of sales and use tax revenues generated annually
 2268 by the sales and use tax on vehicles and vehicle-related products:
 2269 (i) the tax imposed by Subsection (2)(a)(i)(A); and
 2270 (ii) the tax imposed by Subsection (2)(b)(i)[;].
 2271 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~
 2272 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).]~~
 2273 ~~[(c)]~~ (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited
 2274 under Subsection (7)(b), when the highway general obligation bonds have been paid off and the
 2275 highway projects completed that are intended to be paid from revenues deposited in the
 2276 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
 2277 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
 2278 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
 2279 listed under Subsection (3)(a) equal to ~~[8.3%]~~ 7.6% of the revenues collected from the
 2280 following taxes, which represents a portion of the approximately 17% of sales and use tax
 2281 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:
 2282 (i) the tax imposed by Subsection (2)(a)(i)(A); and
 2283 (ii) the tax imposed by Subsection (2)(b)(i)[;].
 2284 ~~[(iii) the tax imposed by Subsection (2)(c)(i); and]~~
 2285 ~~[(iv) the tax imposed by Subsection (2)(d)(i)(A)(F).]~~
 2286 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
 2287 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
 2288 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.
 2289 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
 2290 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit

2291 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2292 Critical Highway Needs Fund created by Section 72-2-125.

2293 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
2294 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
2295 have been paid off and the highway projects completed that are included in the prioritized
2296 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
2297 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
2298 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
2299 of 2005 created by Section 72-2-124.

2300 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2301 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2302 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

2303 (11) (a) [(i)] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~
2304 ~~(11)(a)(ii), and~~] until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
2305 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
2306 amount of tax revenue generated by a [~~.025%~~] .022% tax rate on the transactions described in
2307 Subsection (1).

2308 [~~(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit~~
2309 ~~into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged~~
2310 ~~for food and food ingredients, except for tax revenue generated by a bundled transaction~~
2311 ~~attributable to food and food ingredients and tangible personal property other than food and~~
2312 ~~food ingredients described in Subsection (2)(c).]~~

2313 (b) [(i)] Notwithstanding Subsection (3)(a), [~~except as provided in Subsection~~
2314 ~~(11)(b)(ii),]~~ and in addition to any amounts deposited under Subsections (7), (9), and (10),
2315 when the general obligation bonds authorized by Section 63B-16-101 have been paid off and
2316 the highway projects completed that are included in the prioritized project list under Subsection
2317 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance
2318 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2319 amount of tax revenue generated by a [~~.025%~~] .022% tax rate on the transactions described in
2320 Subsection (1).

2321 [(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit

2322 into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2323 charged for food and food ingredients, except for tax revenue generated by a bundled
2324 transaction attributable to food and food ingredients and tangible personal property other than
2325 food and food ingredients described in Subsection (2)(e).]

2326 (12) [(a)] Notwithstanding Subsection (3)(a), [and except as provided in Subsection
2327 (12)(b);] beginning on January 1, 2009, the Division of Finance shall deposit into the
2328 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
2329 [:.025%] .022% tax rate on the transactions described in Subsection (1) to be expended to
2330 address chokepoints in construction management.

2331 [(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
2332 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
2333 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
2334 and food ingredients and tangible personal property other than food and food ingredients
2335 described in Subsection (2)(e).]

2336 Section 8. Section **59-12-104.2** is amended to read:

2337 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
2338 **Nation.**

2339 (1) As used in this section "tribal taxing area" means the geographical area that:

2340 (a) is subject to the taxing authority of the Navajo Nation; and

2341 (b) consists of:

2342 (i) notwithstanding the issuance of a patent, all land:

2343 (A) within the limits of an Indian reservation under the jurisdiction of the federal
2344 government; and

2345 (B) including any rights-of-way running through the reservation; and

2346 (ii) all Indian allotments the Indian titles to which have not been extinguished,
2347 including any rights-of-way running through an Indian allotment.

2348 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
2349 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
2350 imposed by Subsection 59-12-103(2)(a)(i)(A) [or (2)(d)(i)(A)(I)] to the extent permitted under
2351 Subsection (2)(b) if:

2352 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are

2353 provided within:

2354 (A) the state; and

2355 (B) a tribal taxing area;

2356 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
2357 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

2358 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
2359 regard to whether or not the purchaser that pays or is charged for the accommodations and
2360 services is an enrolled member of the Navajo Nation; and

2361 (iv) the requirements of Subsection (4) are met.

2362 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
2363 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
2364 Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~]:

2365 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
2366 if that difference is greater than \$0; and

2367 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
2368 if the difference described in Subsection (3) is equal to or less than \$0.

2369 (3) The difference described in Subsection (2)(b) is equal to the difference between:

2370 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) [~~or (2)(d)(i)(A)(F)~~]
2371 on the amounts paid by or charged to a purchaser for accommodations and services described
2372 in Subsection 59-12-103(1)(i); less

2373 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
2374 charged to a purchaser for the accommodations and services described in Subsection
2375 59-12-103(1)(i).

2376 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
2377 imposed on amounts paid by or charged to a purchaser for accommodations and services
2378 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
2379 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
2380 calendar quarter after a 90-day period beginning on the date the commission receives notice
2381 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2382 (b) The notice described in Subsection (4)(a) shall state:

2383 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on

2384 amounts paid by or charged to a purchaser for accommodations and services described in
2385 Subsection 59-12-103(1)(i);
2386 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
2387 and
2388 (iii) the new rate of the tax described in Subsection (4)(b)(i).
2389 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:
2390 (a) shall review the exemption provided for in this section one or more times every five
2391 years;
2392 (b) shall determine on or before the November interim meeting of the year in which the
2393 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
2394 whether the exemption should be:
2395 (i) continued;
2396 (ii) modified; or
2397 (iii) repealed; and
2398 (c) may review any other issue related to the exemption provided for in this section as
2399 determined by the Revenue and Taxation Interim Committee.

2400 Section 9. Section **59-12-108** is amended to read:

2401 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
2402 **Certain amounts allocated to local taxing jurisdictions.**

2403 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
2404 chapter of \$50,000 or more for the previous calendar year shall:

2405 (i) file a return with the commission:

2406 (A) monthly on or before the last day of the month immediately following the month
2407 for which the seller collects a tax under this chapter; and

2408 (B) for the month for which the seller collects a tax under this chapter; and

2409 (ii) except as provided in Subsection (1)(b), remit with the return required by
2410 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
2411 fee, or charge described in Subsection (1)(c):

2412 (A) if that seller's tax liability under this chapter for the previous calendar year is less
2413 than \$96,000, by any method permitted by the commission; or

2414 (B) if that seller's tax liability under this chapter for the previous calendar year is

2415 \$96,000 or more, by electronic funds transfer.

2416 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
2417 the amount the seller is required to remit to the commission for each tax, fee, or charge
2418 described in Subsection (1)(c) if that seller:

2419 (i) is required by Section 59-12-107 to file the return electronically; or

2420 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107(1)(a); and

2421 (B) files a simplified electronic return.

2422 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

2423 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

2424 (ii) a fee under Section 19-6-716;

2425 (iii) a fee under Section 19-6-805;

2426 (iv) a charge under Section 69-2-5;

2427 (v) a charge under Section 69-2-5.5;

2428 (vi) a charge under Section 69-2-5.6; or

2429 (vii) a tax under this chapter.

2430 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
2431 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
2432 for making same-day payments other than by electronic funds transfer if making payments by
2433 electronic funds transfer fails.

2434 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2435 commission shall establish by rule procedures and requirements for determining the amount a
2436 seller is required to remit to the commission under this Subsection (1).

2437 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
2438 seller described in Subsection (4) may retain each month the amount allowed by this
2439 Subsection (2).

2440 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
2441 each month 1.31% of any amounts the seller is required to remit to the commission:

2442 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
2443 and a local tax imposed in accordance with the following, for the month for which the seller is
2444 filing a return in accordance with Subsection (1):

2445 (A) Subsection 59-12-103(2)(a); and

2446 (B) Subsection 59-12-103(2)(b); and
2447 [~~C~~] Subsection 59-12-103(2)(d); and]
2448 (ii) for an agreement sales and use tax.
2449 [~~c~~] (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
2450 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
2451 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
2452 accordance with Subsection 59-12-103(2)(c).]
2453 [(i) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
2454 equal to the sum of:]
2455 [~~A~~] 1.31% of any amounts the seller is required to remit to the commission for:]
2456 [~~F~~] the state tax and the local tax imposed in accordance with Subsection
2457 59-12-103(2)(c);]
2458 [~~H~~] the month for which the seller is filing a return in accordance with Subsection (1);
2459 and]
2460 [~~III~~] an agreement sales and use tax; and]
2461 [~~B~~] 1.31% of the difference between:]
2462 [~~F~~] the amounts the seller would have been required to remit to the commission:]
2463 [~~Aa~~] in accordance with Subsection 59-12-103(2)(a) if the transaction had been
2464 subject to the state tax and the local tax imposed in accordance with Subsection
2465 59-12-103(2)(a);]
2466 [~~Bb~~] for the month for which the seller is filing a return in accordance with Subsection
2467 (1); and]
2468 [~~Cc~~] for an agreement sales and use tax; and]
2469 [~~H~~] the amounts the seller is required to remit to the commission for:]
2470 [~~Aa~~] the state tax and the local tax imposed in accordance with Subsection
2471 59-12-103(2)(c);]
2472 [~~Bb~~] the month for which the seller is filing a return in accordance with Subsection (1);
2473 and]
2474 [~~Cc~~] an agreement sales and use tax.];
2475 [~~d~~] (c) A seller subject to Subsection (1) or a seller described in Subsection (4) may
2476 retain each month 1% of any amounts the seller is required to remit to the commission:

- 2477 (i) for the month for which the seller is filing a return in accordance with Subsection
2478 (1); and
- 2479 (ii) under:
- 2480 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2481 (B) Subsection 59-12-603(1)(a)(i)(A); or
- 2482 (C) Subsection 59-12-603(1)(a)(i)(B).
- 2483 (3) A state government entity that is required to remit taxes monthly in accordance
2484 with Subsection (1) may not retain any amount under Subsection (2).
- 2485 (4) A seller that has a tax liability under this chapter for the previous calendar year of
2486 less than \$50,000 may:
- 2487 (a) voluntarily meet the requirements of Subsection (1); and
- 2488 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
2489 amounts allowed by Subsection (2).
- 2490 (5) Penalties for late payment shall be as provided in Section 59-1-401.
- 2491 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
2492 to the commission under this part, the commission shall each month calculate an amount equal
2493 to the difference between:
- 2494 (i) the total amount retained for that month by all sellers had the [percentages]
2495 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~] been 1.5%; and
- 2496 (ii) the total amount retained for that month by all sellers at the [percentages]
2497 percentage listed under [~~Subsections~~] Subsection (2)(b) [~~and (2)(c)(ii)~~].
- 2498 (b) The commission shall each month allocate the amount calculated under Subsection
2499 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
2500 tax that the commission distributes to each county, city, and town for that month compared to
2501 the total agreement sales and use tax that the commission distributes for that month to all
2502 counties, cities, and towns.
- 2503 (c) The amount the commission calculates under Subsection (6)(a) may not include an
2504 amount collected from a tax that:
- 2505 (i) the state imposes within a county, city, or town, including the unincorporated area
2506 of a county; and
- 2507 (ii) is not imposed within the entire state.

2508 Section 10. Section **59-12-401** is amended to read:

2509 **59-12-401. Resort communities tax authority for cities, towns, and military**
 2510 **installation development authority -- Base -- Rate -- Collection fees.**

2511 (1) (a) ~~It~~ Except as provided in Subsection (1)(b), in addition to other sales and use
 2512 taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is
 2513 greater than or equal to 66% of the municipality's permanent census population may impose a
 2514 sales and use tax at a tax rate of up to 1.1% on the transactions described in Subsection
 2515 59-12-103(1) located within the city or town.

2516 (b) (i) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(a)
 2517 is a tax rate of up to .97%.

2518 (ii) Notwithstanding the notice requirements of Section 59-12-403, a city or town is not
 2519 required to provide notice to the commission of a tax rate decrease made in accordance with
 2520 Subsection (1)(b)(i).

2521 ~~(b)~~ (c) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under
 2522 this section on:

2523 (i) the sale of:

2524 (A) a motor vehicle;

2525 (B) an aircraft;

2526 (C) a watercraft;

2527 (D) a modular home;

2528 (E) a manufactured home; or

2529 (F) a mobile home; or

2530 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 2531 are exempt from taxation under Section 59-12-104~~;~~ and.

2532 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
 2533 ~~food ingredients.]~~

2534 ~~(e)~~ (d) For purposes of this Subsection (1), the location of a transaction shall be
 2535 determined in accordance with Sections 59-12-211 through 59-12-215.

2536 ~~(d) A city or town imposing a tax under this section shall impose the tax on amounts~~
 2537 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
 2538 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~

2539 ~~property other than food and food ingredients.]~~

2540 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2541 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2542 the state from its collection fees received in connection with the implementation of Subsection
2543 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2544 provided for in Subsection (1).

2545 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2546 those cities and towns according to the amount of revenue the respective cities and towns
2547 generate in that year through imposition of that tax.

2548 (3) (a) Subject to 63H-1-203, the military installation development authority created in
2549 Section 63H-1-201 may impose a tax under this section on the transactions described in
2550 Subsection 59-12-103(1) located within a project area described in a project area plan adopted
2551 by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act,
2552 as though the authority were a city or a town.

2553 (b) For purposes of calculating the permanent census population within a project area,
2554 the board as defined in Section 63H-1-102 shall:

- 2555 (i) count the population;
- 2556 (ii) adopt a resolution verifying the population number; and
- 2557 (iii) provide the commission any information required in Section 59-12-405.

2558 Section 11. Section **59-12-402** is amended to read:

2559 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
2560 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
2561 **Notice requirements -- Ordinance requirements -- Prohibition of military installation**
2562 **development authority.**

2563 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
2564 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
2565 66% of the municipality's permanent census population may, in addition to the sales tax
2566 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
2567 amount that is less than or equal to .5% on the transactions described in Subsection
2568 59-12-103(1) located within the municipality.

2569 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not

2570 impose a tax under this section on:

2571 (i) the sale of:

2572 (A) a motor vehicle;

2573 (B) an aircraft;

2574 (C) a watercraft;

2575 (D) a modular home;

2576 (E) a manufactured home; or

2577 (F) a mobile home; or

2578 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2579 are exempt from taxation under Section 59-12-104[~~;~~ and].

2580 [~~(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
2581 ~~food ingredients.~~]

2582 (c) For purposes of this Subsection (1), the location of a transaction shall be
2583 determined in accordance with Sections 59-12-211 through 59-12-215.

2584 [~~(d) A municipality imposing a tax under this section shall impose the tax on amounts~~
2585 ~~paid or charged for food and food ingredients if the food and food ingredients are sold as part~~
2586 ~~of a bundled transaction attributable to food and food ingredients and tangible personal~~
2587 ~~property other than food and food ingredients.~~]

2588 (2) (a) An amount equal to the total of any costs incurred by the state in connection
2589 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
2590 the state from its collection fees received in connection with the implementation of Subsection
2591 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
2592 provided for in Subsection (1).

2593 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among
2594 those cities and towns according to the amount of revenue the respective cities and towns
2595 generate in that year through imposition of that tax.

2596 (3) To impose an additional resort communities sales tax under this section, the
2597 governing body of the municipality shall:

2598 (a) pass a resolution approving the tax; and

2599 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
2600 in Subsection (4).

2601 (4) To obtain voter approval for an additional resort communities sales tax under
2602 Subsection (3)(b), a municipality shall:

2603 (a) hold the additional resort communities sales tax election during:

2604 (i) a regular general election; or

2605 (ii) a municipal general election; and

2606 (b) publish notice of the election:

2607 (i) 15 days or more before the day on which the election is held; and

2608 (ii) (A) in a newspaper of general circulation in the municipality; and

2609 (B) as required in Section 45-1-101.

2610 (5) An ordinance approving an additional resort communities sales tax under this
2611 section shall provide an effective date for the tax as provided in Section 59-12-403.

2612 (6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the
2613 voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the
2614 municipality imposed a license fee or tax on businesses based on gross receipts pursuant to
2615 Section 10-1-203.

2616 (b) The exception from the voter approval requirements in Subsection (6)(a) does not
2617 apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only
2618 one class of businesses based on gross receipts pursuant to Section 10-1-203.

2619 (7) A military installation development authority authorized to impose a resort
2620 communities tax under Section 59-12-401 may not impose an additional resort communities
2621 sales tax under this section.

2622 Section 12. Section **59-12-703** is amended to read:

2623 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of**
2624 **tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2625 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
2626 that county, by majority vote of all members of the legislative body, so that each resident of the
2627 county, except residents in municipalities that have already imposed a sales and use tax under
2628 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
2629 Organizations or Facilities, has an opportunity to express the resident's opinion on the
2630 imposition of a local sales and use tax of .1% on the transactions described in Subsection
2631 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,

2632 cultural, and zoological organizations, and rural radio stations, in that county.

2633 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
2634 tax under this section on:

2635 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2636 are exempt from taxation under Section 59-12-104; or

2637 (B) sales and uses within municipalities that have already imposed a sales and use tax
2638 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
2639 Zoological Organizations or Facilities~~;~~ and].

2640 [~~(C) except as provided in Subsection (1)(c), amounts paid or charged for food and~~
2641 ~~food ingredients.]~~

2642 (b) For purposes of this Subsection (1), the location of a transaction shall be
2643 determined in accordance with Sections 59-12-211 through 59-12-215.

2644 [~~(c) A county legislative body imposing a tax under this section shall impose the tax on~~
2645 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
2646 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
2647 ~~property other than food and food ingredients.]~~

2648 [~~(d)~~ (c)] The election shall follow the procedures outlined in Title 11, Chapter 14,
2649 Local Government Bonding Act.

2650 (2) (a) If the county legislative body determines that a majority of the county's
2651 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2652 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
2653 majority vote of all members of the legislative body on the transactions:

2654 (i) described in Subsection (1); and

2655 (ii) within the county, including the cities and towns located in the county, except those
2656 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
2657 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
2658 Facilities.

2659 (b) A county legislative body may revise county ordinances to reflect statutory changes
2660 to the distribution formula or eligible recipients of revenues generated from a tax imposed
2661 under Subsection (2)(a):

2662 (i) after the county legislative body submits an opinion question to residents of the

2663 county in accordance with Subsection (1) giving them the opportunity to express their opinion
2664 on the proposed revisions to county ordinances; and

2665 (ii) if the county legislative body determines that a majority of those voting on the
2666 opinion question have voted in favor of the revisions.

2667 (3) The money generated from any tax imposed under Subsection (2) shall be used for
2668 funding:

2669 (a) recreational and zoological facilities located within the county or a city or town
2670 located in the county, except a city or town that has already imposed a sales and use tax under
2671 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
2672 Organizations or Facilities; and

2673 (b) ongoing operating expenses of:

2674 (i) recreational facilities described in Subsection (3)(a);

2675 (ii) botanical, cultural, and zoological organizations within the county; and

2676 (iii) rural radio stations within the county.

2677 (4) (a) A tax authorized under this part shall be:

2678 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2679 accordance with:

2680 (A) the same procedures used to administer, collect, and enforce the tax under:

2681 (I) Part 1, Tax Collection; or

2682 (II) Part 2, Local Sales and Use Tax Act; and

2683 (B) Chapter 1, General Taxation Policies; and

2684 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
2685 period in accordance with this section.

2686 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
2687 Subsections 59-12-205(2) through (6).

2688 (5) (a) For purposes of this Subsection (5):

2689 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,

2690 ~~[Annexation to County]~~ Part 2, County Annexation.

2691 (ii) "Annexing area" means an area that is annexed into a county.

2692 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2693 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

2694 (A) on the first day of a calendar quarter; and
2695 (B) after a 90-day period beginning on the date the commission receives notice meeting
2696 the requirements of Subsection (5)(b)(ii) from the county.

2697 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
2698 (A) that the county will enact or repeal a tax under this part;
2699 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
2700 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
2701 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
2702 tax.

2703 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:
2704 (A) that begins after the effective date of the enactment of the tax; and
2705 (B) if the billing period for the transaction begins before the effective date of the
2706 enactment of the tax under this section.

2707 (ii) The repeal of a tax shall take effect on the first day of the last billing period:
2708 (A) that began before the effective date of the repeal of the tax; and
2709 (B) if the billing period for the transaction begins before the effective date of the repeal
2710 of the tax imposed under this section.

2711 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2712 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2713 Subsection (5)(b)(i) takes effect:
2714 (A) on the first day of a calendar quarter; and
2715 (B) beginning 60 days after the effective date of the enactment or repeal under
2716 Subsection (5)(b)(i).

2717 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2718 commission may by rule define the term "catalogue sale."

2719 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2720 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
2721 part for an annexing area, the enactment or repeal shall take effect:
2722 (A) on the first day of a calendar quarter; and
2723 (B) after a 90-day period beginning on the date the commission receives notice meeting
2724 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

- 2725 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
- 2726 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
2727 repeal of a tax under this part for the annexing area;
- 2728 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
- 2729 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
- 2730 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 2731 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:
- 2732 (A) that begins after the effective date of the enactment of the tax; and
- 2733 (B) if the billing period for the transaction begins before the effective date of the
2734 enactment of the tax under this section.
- 2735 (ii) The repeal of a tax shall take effect on the first day of the last billing period:
- 2736 (A) that began before the effective date of the repeal of the tax; and
- 2737 (B) if the billing period for the transaction begins before the effective date of the repeal
2738 of the tax imposed under this section.
- 2739 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2740 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
2741 Subsection (5)(e)(i) takes effect:
- 2742 (A) on the first day of a calendar quarter; and
- 2743 (B) beginning 60 days after the effective date of the enactment or repeal under
2744 Subsection (5)(e)(i).
- 2745 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2746 commission may by rule define the term "catalogue sale."
- 2747 Section 13. Section **59-12-802** is amended to read:
- 2748 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
2749 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**
- 2750 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
2751 may impose a sales and use tax of up to 1%:
- 2752 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
2753 and
- 2754 (ii) subject to Subsection (3), to fund:
- 2755 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in

2756 that county; or

2757 (B) for a county of the sixth class:

2758 (I) emergency medical services in that county;

2759 (II) federally qualified health centers in that county;

2760 (III) freestanding urgent care centers in that county;

2761 (IV) rural county health care facilities in that county;

2762 (V) rural health clinics in that county; or

2763 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).

2764 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
2765 tax under this section on:

2766 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2767 are exempt from taxation under Section 59-12-104; or

2768 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in
2769 a city that imposes a tax under Section 59-12-804~~[-and].~~

2770 ~~[(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
2771 ~~food ingredients.]~~

2772 (c) For purposes of this Subsection (1), the location of a transaction shall be
2773 determined in accordance with Sections 59-12-211 through 59-12-215.

2774 ~~[(d) A county legislative body imposing a tax under this section shall impose the tax on~~
2775 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
2776 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
2777 ~~property other than food and food ingredients.]~~

2778 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
2779 obtain approval to impose the tax from a majority of the:

2780 (i) members of the county's legislative body; and

2781 (ii) county's registered voters voting on the imposition of the tax.

2782 (b) The county legislative body shall conduct the election according to the procedures
2783 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

2784 (3) (a) The money generated by a tax imposed under Subsection (1) by a county
2785 legislative body of a county of the third, fourth, or fifth class may only be used for the
2786 financing of:

2787 (i) ongoing operating expenses of a rural county health care facility within that county;
 2788 (ii) the acquisition of land for a rural county health care facility within that county; or
 2789 (iii) the design, construction, equipping, or furnishing of a rural county health care
 2790 facility within that county.

2791 (b) The money generated by a tax imposed under Subsection (1) by a county of the
 2792 sixth class may only be used for the financing of:

2793 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
 2794 (1)(a)(ii)(B) within that county;

2795 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
 2796 (1)(a)(ii)(B) within that county;

2797 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
 2798 described in Subsection (1)(a)(ii)(B) within that county; or

2799 (iv) the provision of rural emergency medical services within that county.

2800 (4) (a) A tax under this section shall be:

2801 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
 2802 accordance with:

2803 (A) the same procedures used to administer, collect, and enforce the tax under:

2804 (I) Part 1, Tax Collection; or

2805 (II) Part 2, Local Sales and Use Tax Act; and

2806 (B) Chapter 1, General Taxation Policies; and

2807 (ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten-year~~
 2808 10-year period by the county legislative body as provided in Subsection (1).

2809 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
 2810 Subsections 59-12-205(2) through (6).

2811 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
 2812 under this section for the cost of administering this tax.

2813 Section 14. Section **59-12-804** is amended to read:

2814 **59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration,**
 2815 **collection, and enforcement of tax.**

2816 (1) (a) A city legislative body may impose a sales and use tax of up to 1%:

2817 (i) on the transactions described in Subsection 59-12-103(1) located within the city;

2818 and

2819 (ii) to fund rural city hospitals in that city.

2820 (b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax
2821 under this section on~~[(i)]~~ the sales and uses described in Section 59-12-104 to the extent the
2822 sales and uses are exempt from taxation under Section 59-12-104~~[-and]~~.

2823 ~~[(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and~~
2824 ~~food ingredients.]~~

2825 (c) For purposes of this Subsection (1), the location of a transaction shall be
2826 determined in accordance with Sections 59-12-211 through 59-12-215.

2827 ~~[(d) A city legislative body imposing a tax under this section shall impose the tax on~~
2828 ~~amounts paid or charged for food and food ingredients if the food and food ingredients are sold~~
2829 ~~as part of a bundled transaction attributable to food and food ingredients and tangible personal~~
2830 ~~property other than food and food ingredients.]~~

2831 (2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall
2832 obtain approval to impose the tax from a majority of the:

2833 (i) members of the city legislative body; and

2834 (ii) city's registered voters voting on the imposition of the tax.

2835 (b) The city legislative body shall conduct the election according to the procedures and
2836 requirements of Title 11, Chapter 14, Local Government Bonding Act.

2837 (3) The money generated by a tax imposed under Subsection (1) may only be used for
2838 the financing of:

2839 (a) ongoing operating expenses of a rural city hospital;

2840 (b) the acquisition of land for a rural city hospital; or

2841 (c) the design, construction, equipping, or furnishing of a rural city hospital.

2842 (4) (a) A tax under this section shall be:

2843 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
2844 accordance with:

2845 (A) the same procedures used to administer, collect, and enforce the tax under:

2846 (I) Part 1, Tax Collection; or

2847 (II) Part 2, Local Sales and Use Tax Act; and

2848 (B) Chapter 1, General Taxation Policies; and

2849 (ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten-year~~
2850 10-year period by the city legislative body as provided in Subsection (1).

2851 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
2852 Subsections 59-12-205(2) through (6).

2853 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
2854 under this section for the cost of administering the tax.

2855 Section 15. Section **59-12-1302** is amended to read:

2856 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
2857 **rate change -- Effective date -- Notice requirements.**

2858 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
2859 tax as provided in this part in an amount that does not exceed 1%.

2860 (2) A town may impose a tax as provided in this part if the town imposed a license fee
2861 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
2862 1996.

2863 (3) A town imposing a tax under this section shall:

2864 (a) except as provided in Subsection (4), impose the tax on the transactions described
2865 in Subsection 59-12-103(1) located within the town; and

2866 (b) provide an effective date for the tax as provided in Subsection (5).

2867 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
2868 section on[~~(i)~~] the sales and uses described in Section 59-12-104 to the extent the sales and
2869 uses are exempt from taxation under Section 59-12-104[~~;~~and].

2870 [~~(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and~~
2871 ~~food ingredients.]~~

2872 (b) For purposes of this Subsection (4), the location of a transaction shall be
2873 determined in accordance with Sections 59-12-211 through 59-12-215.

2874 [~~(c) A town imposing a tax under this section shall impose the tax on amounts paid or~~
2875 ~~charged for food and food ingredients if the food and food ingredients are sold as part of a~~
2876 ~~bundled transaction attributable to food and food ingredients and tangible personal property~~
2877 ~~other than food and food ingredients.]~~

2878 (5) (a) For purposes of this Subsection (5):

2879 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,

2880 Annexation.

2881 (ii) "Annexing area" means an area that is annexed into a town.

2882 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
2883 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
2884 or change shall take effect:

2885 (A) on the first day of a calendar quarter; and

2886 (B) after a 90-day period beginning on the date the commission receives notice meeting
2887 the requirements of Subsection (5)(b)(ii) from the town.

2888 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

2889 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

2890 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

2891 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

2892 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
2893 (5)(b)(ii)(A), the rate of the tax.

2894 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
2895 the first billing period:

2896 (A) that begins after the effective date of the enactment of the tax or the tax rate
2897 increase; and

2898 (B) if the billing period for the transaction begins before the effective date of the
2899 enactment of the tax or the tax rate increase imposed under Subsection (1).

2900 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2901 billing period:

2902 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2903 and

2904 (B) if the billing period for the transaction begins before the effective date of the repeal
2905 of the tax or the tax rate decrease imposed under Subsection (1).

2906 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2907 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
2908 a tax described in Subsection (5)(b)(i) takes effect:

2909 (A) on the first day of a calendar quarter; and

2910 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

2911 rate of the tax under Subsection (5)(b)(i).

2912 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2913 commission may by rule define the term "catalogue sale."

2914 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
2915 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
2916 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2917 effect:

2918 (A) on the first day of a calendar quarter; and

2919 (B) after a 90-day period beginning on the date the commission receives notice meeting
2920 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

2921 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

2922 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
2923 repeal, or change in the rate of a tax under this part for the annexing area;

2924 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

2925 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

2926 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
2927 (5)(e)(ii)(A), the rate of the tax.

2928 (f) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
2929 the first billing period:

2930 (A) that begins after the effective date of the enactment of the tax or the tax rate
2931 increase; and

2932 (B) if the billing period for the transaction begins before the effective date of the
2933 enactment of the tax or the tax rate increase imposed under Subsection (1).

2934 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2935 billing period:

2936 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2937 and

2938 (B) if the billing period for the transaction begins before the effective date of the repeal
2939 of the tax or the tax rate decrease imposed under Subsection (1).

2940 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
2941 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of

2942 a tax described in Subsection (5)(e)(i) takes effect:

2943 (A) on the first day of a calendar quarter; and

2944 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

2945 rate of the tax under Subsection (5)(e)(i).

2946 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2947 commission may by rule define the term "catalogue sale."

2948 (6) The commission shall:

2949 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax

2950 under this section to the town imposing the tax;

2951 (b) except as provided in Subsection (7), administer, collect, and enforce the tax

2952 authorized under this section in accordance with:

2953 (i) the same procedures used to administer, collect, and enforce the tax under:

2954 (A) Part 1, Tax Collection; or

2955 (B) Part 2, Local Sales and Use Tax Act; and

2956 (ii) Chapter 1, General Taxation Policies; and

2957 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for

2958 collecting the tax as provided in Section 59-12-206.

2959 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to

2960 Subsections 59-12-205(2) through (6).

2961 Section 16. Section **59-12-1402** is amended to read:

2962 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**

2963 **of tax money -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2964 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town

2965 legislative body subject to this part may submit an opinion question to the residents of that city

2966 or town, by majority vote of all members of the legislative body, so that each resident of the

2967 city or town has an opportunity to express the resident's opinion on the imposition of a local

2968 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located

2969 within the city or town, to fund recreational and zoological facilities and botanical, cultural,

2970 and zoological organizations in that city or town.

2971 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not

2972 impose a tax under this section:

2973 (A) if the county in which the city or town is located imposes a tax under Part 7,
2974 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
2975 Facilities; or

2976 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
2977 uses are exempt from taxation under Section 59-12-104[~~;~~and].

2978 [~~(C) except as provided in Subsection (1)(c), on amounts paid or charged for food and~~
2979 ~~food ingredients.]~~

2980 (b) For purposes of this Subsection (1), the location of a transaction shall be
2981 determined in accordance with Sections 59-12-211 through 59-12-215.

2982 [~~(c) A city or town legislative body imposing a tax under this section shall impose the~~
2983 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
2984 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
2985 ~~personal property other than food and food ingredients.]~~

2986 [~~(d)~~ (c) The election shall be held at a regular general election or a municipal general
2987 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
2988 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
2989 Subsection (6).

2990 (2) If the city or town legislative body determines that a majority of the city's or town's
2991 registered voters voting on the imposition of the tax have voted in favor of the imposition of
2992 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
2993 by a majority vote of all members of the legislative body.

2994 (3) The money generated from any tax imposed under Subsection (2) shall be used for
2995 financing:

2996 (a) recreational and zoological facilities within the city or town or within the
2997 geographic area of entities that are parties to an interlocal agreement, to which the city or town
2998 is a party, providing for recreational or zoological facilities; and

2999 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
3000 within the city or town or within the geographic area of entities that are parties to an interlocal
3001 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
3002 or zoological organizations.

3003 (4) (a) A tax authorized under this part shall be:

3004 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3005 accordance with:

3006 (A) the same procedures used to administer, collect, and enforce the tax under:

3007 (I) Part 1, Tax Collection; or

3008 (II) Part 2, Local Sales and Use Tax Act; and

3009 (B) Chapter 1, General Taxation Policies; and

3010 (ii) (A) levied for a period of eight years; and

3011 (B) may be reauthorized at the end of the eight-year period in accordance with this
3012 section.

3013 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3014 Subsections 59-12-205(2) through (6).

3015 (5) (a) For purposes of this Subsection (5):

3016 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3017 4, Annexation.

3018 (ii) "Annexing area" means an area that is annexed into a city or town.

3019 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
3020 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3021 (A) on the first day of a calendar quarter; and

3022 (B) after a 90-day period beginning on the date the commission receives notice meeting
3023 the requirements of Subsection (5)(b)(ii) from the city or town.

3024 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3025 (A) that the city or town will enact or repeal a tax under this part;

3026 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3027 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3028 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
3029 the tax.

3030 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3031 (A) that begins after the effective date of the enactment of the tax; and

3032 (B) if the billing period for the transaction begins before the effective date of the
3033 enactment of the tax under this section.

3034 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3035 (A) that began before the effective date of the repeal of the tax; and
3036 (B) if the billing period for the transaction begins before the effective date of the repeal
3037 of the tax imposed under this section.

3038 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3039 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3040 Subsection (5)(b)(i) takes effect:

3041 (A) on the first day of a calendar quarter; and
3042 (B) beginning 60 days after the effective date of the enactment or repeal under
3043 Subsection (5)(b)(i).

3044 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3045 commission may by rule define the term "catalogue sale."

3046 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3047 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3048 part for an annexing area, the enactment or repeal shall take effect:

3049 (A) on the first day of a calendar quarter; and
3050 (B) after a 90-day period beginning on the date the commission receives notice meeting
3051 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

3052 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3053 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3054 repeal a tax under this part for the annexing area;

3055 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
3056 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
3057 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3058 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

3059 (A) that begins after the effective date of the enactment of the tax; and
3060 (B) if the billing period for the transaction begins before the effective date of the
3061 enactment of the tax under this section.

3062 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

3063 (A) that began before the effective date of the repeal of the tax; and
3064 (B) if the billing period for the transaction begins before the effective date of the repeal
3065 of the tax imposed under this section.

3066 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3067 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3068 Subsection (5)(e)(i) takes effect:

3069 (A) on the first day of a calendar quarter; and

3070 (B) beginning 60 days after the effective date of the enactment or repeal under
3071 Subsection (5)(e)(i).

3072 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3073 commission may by rule define the term "catalogue sale."

3074 (6) (a) Before a city or town legislative body submits an opinion question to the
3075 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

3076 (i) submit to the county legislative body in which the city or town is located a written
3077 notice of the intent to submit the opinion question to the residents of the city or town; and

3078 (ii) receive from the county legislative body:

3079 (A) a written resolution passed by the county legislative body stating that the county
3080 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
3081 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

3082 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
3083 opinion question submitted to the residents of the county under Part 7, County Option Funding
3084 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
3085 or town legislative body to submit the opinion question to the residents of the city or town in
3086 accordance with this part.

3087 (b) (i) Within 60 days after the day the county legislative body receives from a city or
3088 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
3089 opinion question to the residents of the city or town, the county legislative body shall provide
3090 the city or town legislative body:

3091 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

3092 (B) written notice that the county legislative body will submit an opinion question to
3093 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
3094 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
3095 that part.

3096 (ii) If the county legislative body provides the city or town legislative body the written

3097 notice that the county legislative body will submit an opinion question as provided in
3098 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
3099 later than, from the date the county legislative body sends the written notice, the later of:

3100 (A) a 12-month period;

3101 (B) the next regular primary election; or

3102 (C) the next regular general election.

3103 (iii) Within 30 days of the date of the canvass of the election at which the opinion
3104 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
3105 city or town legislative body described in Subsection (6)(a) written results of the opinion
3106 question submitted by the county legislative body under Part 7, County Option Funding for
3107 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

3108 (A) (I) the city or town legislative body may not impose a tax under this part because a
3109 majority of the county's registered voters voted in favor of the county imposing the tax and the
3110 county legislative body by a majority vote approved the imposition of the tax; or

3111 (II) for at least 12 months from the date the written results are submitted to the city or
3112 town legislative body, the city or town legislative body may not submit to the county legislative
3113 body a written notice of the intent to submit an opinion question under this part because a
3114 majority of the county's registered voters voted against the county imposing the tax and the
3115 majority of the registered voters who are residents of the city or town described in Subsection
3116 (6)(a) voted against the imposition of the county tax; or

3117 (B) the city or town legislative body may submit the opinion question to the residents
3118 of the city or town in accordance with this part because although a majority of the county's
3119 registered voters voted against the county imposing the tax, the majority of the registered voters
3120 who are residents of the city or town voted for the imposition of the county tax.

3121 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
3122 provide a city or town legislative body described in Subsection (6)(a) a written resolution
3123 passed by the county legislative body stating that the county legislative body is not seeking to
3124 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
3125 Zoological Organizations or Facilities, which permits the city or town legislative body to
3126 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

3127 Section 17. Section **59-12-2003** is amended to read:

3128 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**
3129 **transit districts.**

3130 (1) Subject to the other provisions of this section and except as provided in Subsection
3131 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the
3132 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated
3133 area of a county of the first or second class if, on January 1, 2008, there is a public transit
3134 district within any portion of that county of the first or second class.

3135 (2) The state may not impose a tax under this part within a county of the first or second
3136 class if within all of the cities, towns, and the unincorporated area of the county of the first or
3137 second class there is imposed on and after July 1, 2011, a sales and use tax of:

3138 (a) [~~.30%~~] .27% under Section 59-12-2213;

3139 (b) [~~.30%~~] .27% under Section 59-12-2215; or

3140 (c) [~~.30%~~] .27% under Section 59-12-2216.

3141 (3) (a) Subject to Subsection (3)(b), beginning on July 1, 2011, if the state imposes a
3142 tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a
3143 county of the first or second class is a percentage equal to the difference between:

3144 (i) [~~.30%;~~] .27% and

3145 (ii) (A) for a city within the county of the first or second class, the highest tax rate
3146 imposed within that city under:

3147 (I) Section 59-12-2213;

3148 (II) Section 59-12-2215; or

3149 (III) Section 59-12-2216;

3150 (B) for a town within the county of the first or second class, the highest tax rate
3151 imposed within that town under:

3152 (I) Section 59-12-2213;

3153 (II) Section 59-12-2215; or

3154 (III) Section 59-12-2216; or

3155 (C) for the unincorporated area of the county of the first or second class, the highest tax
3156 rate imposed within that unincorporated area under:

3157 (I) Section 59-12-2213;

3158 (II) Section 59-12-2215; or

3159 (III) Section 59-12-2216.

3160 (b) For purposes of Subsection (3)(a), if, on and after July 1, 2011, for a city, town, or
 3161 the unincorporated area of a county of the first or second class, the highest tax rate imposed
 3162 under Section 59-12-2213, 59-12-2215, or 59-12-2216 within that city, town, or
 3163 unincorporated area of the county of the first or second class is [~~.30%~~] .27%, the state may not
 3164 impose a tax under this part within that city, town, or unincorporated area.

3165 (4) [~~(a)~~] The state may not impose a tax under this part on[~~(i)~~] the sales and uses
 3166 described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under
 3167 Section 59-12-104[~~; or~~].

3168 [~~(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and~~
 3169 ~~food ingredients.~~]

3170 [~~(b) The state shall impose a tax under this part on amounts paid or charged for food~~
 3171 ~~and food ingredients if the food and food ingredients are sold as part of a bundled transaction~~
 3172 ~~attributable to food and ingredients and tangible personal property other than food and food~~
 3173 ~~ingredients.~~]

3174 (5) For purposes of Subsection (1), the location of a transaction shall be determined in
 3175 accordance with Sections 59-12-211 through 59-12-215.

3176 (6) The commission shall distribute the revenues the state collects from the sales and
 3177 use tax under this part, after subtracting amounts a seller retains in accordance with Section
 3178 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

3179 (a) within which the state imposes a tax under this part; and

3180 (b) in proportion to the revenues collected from the sales and use tax under this part
 3181 within each city, town, and unincorporated area within which the state imposes a tax under this
 3182 part.

3183 Section 18. Section **59-12-2103** is amended to read:

3184 **59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
 3185 **from the tax -- Administration, collection, and enforcement of tax by commission --**
 3186 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

3187 (1) (a) Subject to the other provisions of this section and except as provided in
 3188 Subsection (2), beginning on January 1, 2009, and ending on June 30, 2016, if a city or town
 3189 receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or

3190 town would have received a tax revenue distribution of less than .75% of the taxable sales
3191 within the boundaries of the city or town but for Subsection 59-12-205(3)(a), the city or town
3192 legislative body may impose a sales and use tax of up to .20% on the transactions:

3193 (i) described in Subsection 59-12-103(1); and

3194 (ii) within the city or town.

3195 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
3196 expend the revenues collected from the tax for the same purposes for which the city or town
3197 may expend the city's or town's general fund revenues.

3198 (c) For purposes of this Subsection (1), the location of a transaction shall be
3199 determined in accordance with Sections 59-12-211 through 59-12-215.

3200 (2) ~~(a)~~ A city or town legislative body may not impose a tax under this section on[
3201 (†)] the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3202 exempt from taxation under Section 59-12-104[~~;~~and].

3203 ~~[(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~
3204 ~~food ingredients.]~~

3205 ~~[(b) A city or town legislative body imposing a tax under this section shall impose the~~
3206 ~~tax on amounts paid or charged for food and food ingredients if the food and food ingredients~~
3207 ~~are sold as part of a bundled transaction attributable to food and food ingredients and tangible~~
3208 ~~personal property other than food and food ingredients.]~~

3209 (3) To impose a tax under this part, a city or town legislative body shall obtain
3210 approval from a majority of the members of the city or town legislative body.

3211 (4) The commission shall transmit revenues collected within a city or town from a tax
3212 under this part:

3213 (a) to the city or town legislative body;

3214 (b) monthly; and

3215 (c) by electronic funds transfer.

3216 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
3217 collect, and enforce a tax under this part in accordance with:

3218 (i) the same procedures used to administer, collect, and enforce the tax under:

3219 (A) Part 1, Tax Collection; or

3220 (B) Part 2, Local Sales and Use Tax Act; and

- 3221 (ii) Chapter 1, General Taxation Policies.
- 3222 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
- 3223 (6) (a) The commission may retain an amount of tax collected under this part of not to
- 3224 exceed the lesser of:
- 3225 (i) 1.5%; or
- 3226 (ii) an amount equal to the cost to the commission of administering this part.
- 3227 (b) Any amount the commission retains under Subsection (6)(a) shall be:
- 3228 (i) deposited into the Sales and Use Tax Administrative Fees Account; and
- 3229 (ii) used as provided in Subsection 59-12-206(2).
- 3230 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
- 3231 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
- 3232 repeal, or change shall take effect:
- 3233 (A) on the first day of a calendar quarter; and
- 3234 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 3235 the requirements of Subsection (7)(a)(~~†~~)(ii) from the city or town.
- 3236 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
- 3237 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
- 3238 this part;
- 3239 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
- 3240 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
- 3241 (D) if the city or town enacts the tax or changes the rate of the tax described in
- 3242 Subsection (7)(a)(ii)(A), the rate of the tax.
- 3243 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
- 3244 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
- 3245 take effect on the first day of the first billing period that begins after the effective date of the
- 3246 enactment of the tax or the tax rate increase.
- 3247 (ii) If the billing period for a transaction begins before the effective date of the repeal
- 3248 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
- 3249 decrease shall take effect on the first day of the last billing period that began before the
- 3250 effective date of the repeal of the tax or the tax rate decrease.
- 3251 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales

3252 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
3253 described in Subsection (7)(a)(i) takes effect:

3254 (A) on the first day of a calendar quarter; and

3255 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3256 rate of the tax under Subsection (7)(a)(i).

3257 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3258 commission may by rule define the term "catalogue sale."

3259 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
3260 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
3261 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
3262 effect:

3263 (A) on the first day of a calendar quarter; and

3264 (B) after a 90-day period beginning on the date the commission receives notice meeting
3265 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

3266 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

3267 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
3268 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

3269 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

3270 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

3271 (D) if the city or town enacts the tax or changes the rate of the tax described in
3272 Subsection (7)(d)(ii)(A), the rate of the tax.

3273 (e) (i) If the billing period for a transaction begins before the effective date of the
3274 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
3275 rate increase shall take effect on the first day of the first billing period that begins after the
3276 effective date of the enactment of the tax or the tax rate increase.

3277 (ii) If the billing period for a transaction begins before the effective date of the repeal
3278 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
3279 decrease shall take effect on the first day of the last billing period that began before the
3280 effective date of the repeal of the tax or the tax rate decrease.

3281 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
3282 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax

3283 described in Subsection (7)(d)(i) takes effect:

3284 (A) on the first day of a calendar quarter; and

3285 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
3286 Subsection (7)(d)(i).

3287 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3288 commission may by rule define the term "catalogue sale".

3289 Section 19. Section **59-12-2204** is amended to read:

3290 **59-12-2204. Transactions that may not be subject to taxation under this part.**

3291 ~~[(1)]~~ A county, city, or town may not impose a sales and use tax under this part on:
3292 ~~(a)]~~ the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3293 exempt from taxation under Section 59-12-104~~[-and]~~.

3294 ~~[(b) except as provided in Subsection (2), amounts paid or charged for food and food
3295 ingredients.]~~

3296 ~~[(2) A county, city, or town imposing a sales and use tax under this part shall impose
3297 the sales and use tax on amounts paid or charged for food and food ingredients if the food and
3298 food ingredients are sold as part of a bundled transaction attributable to food and food
3299 ingredients and tangible personal property other than food and food ingredients.]~~

3300 Section 20. Section **59-12-2213** is amended to read:

3301 **59-12-2213. County, city, or town option sales and use tax to fund a system for
3302 public transit -- Base -- Rate.**

3303 (1) Subject to the other provisions of this part, a county, city, or town may impose a
3304 sales and use tax under this section of up to:

3305 ~~[(1)]~~ (a) for a county, city, or town other than a county, city, or town described in
3306 Subsection ~~[(2)]~~ (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located
3307 within the county, city, or town to fund a system for public transit; or

3308 ~~[(2)]~~ (b) ~~except as provided in Subsection (2),~~ for a county, city, or town within which
3309 a tax is not imposed under Section 59-12-2216, .30% on the transactions described in
3310 Subsection 59-12-103(1) located within the county, city, or town, to fund a system for public
3311 transit.

3312 (2) (a) Beginning on July 1, 2011, the tax rate percentage described in Subsection
3313 (1)(b) is a tax rate of up to .27%.

3314 (b) Notwithstanding the notice requirements of Section 59-12-2209, a county, city, or
3315 town is not required to provide notice to the commission of a tax rate decrease made in
3316 accordance with Subsection (2)(a).

3317 Section 21. Section **59-12-2215** is amended to read:

3318 **59-12-2215. City or town option sales and use tax for highways or to fund a**
3319 **system for public transit -- Base -- Rate.**

3320 (1) [~~Subject~~] (a) Except as provided in Subsection (1)(b) and subject to the other
3321 provisions of this part, a city or town may impose a sales and use tax of up to .30% on the
3322 transactions described in Subsection 59-12-103(1) located within the city or town.

3323 (b) (i) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(a)
3324 is a tax rate of up to .27%.

3325 (ii) Notwithstanding the notice requirements of Section 59-12-2209, a city or town is
3326 not required to provide notice to the commission of a tax rate decrease made in accordance
3327 with Subsection (1)(b)(i).

3328 (2) A city or town imposing a sales and use tax under this section shall expend the
3329 revenues collected from the sales and use tax:

3330 (a) for the construction and maintenance of highways under the jurisdiction of the city
3331 or town imposing the tax;

3332 (b) to fund a system for public transit; or

3333 (c) for a combination of Subsections (2)(a) and (b).

3334 Section 22. Section **59-12-2216** is amended to read:

3335 **59-12-2216. County option sales and use tax for a fixed guideway, to fund a**
3336 **system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of**
3337 **revenues.**

3338 (1) [~~Subject~~] (a) Except as provided in Subsection (1)(b), and subject to the other
3339 provisions of this part, a county legislative body may impose a sales and use tax of up to .30%
3340 on the transactions described in Subsection 59-12-103(1) within the county, including the cities
3341 and towns within the county.

3342 (b) (i) Beginning on July 1, 2011, the tax rate percentage described in Subsection (1)(a)
3343 is a tax rate of up to .27%.

3344 (ii) Notwithstanding the notice requirements of Section 59-12-2209, a county is not

3345 required to provide notice to the commission of a tax rate decrease made in accordance with
3346 Subsection (1)(b).

3347 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
3348 Section 59-12-2208, a county legislative body shall adopt a resolution specifying the
3349 percentage of revenues the county will receive from the sales and use tax under this section that
3350 will be allocated to fund one or more of the following:

3351 (a) a project or service relating to a fixed guideway for the portion of the project or
3352 service that is performed within the county;

3353 (b) a project or service relating to a system for public transit, except for a fixed
3354 guideway, for the portion of the project or service that is performed within the county;

3355 (c) the following relating to a state highway within the county:

3356 (i) a project within the county if the project:

3357 (A) begins on or after the day on which a county legislative body imposes a tax under
3358 this section; and

3359 (B) involves an environmental study, an improvement, new construction, or a
3360 renovation;

3361 (ii) debt service on a project described in Subsection (2)(c)(i); or

3362 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

3363 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
3364 to a highway that is:

3365 (i) a principal arterial highway or minor arterial highway;

3366 (ii) included in a metropolitan planning organization's regional transportation plan; and

3367 (iii) not a state highway.

3368 (3) A county legislative body shall in the resolution described in Subsection (2)
3369 allocate 100% of the revenues the county will receive from the sales and use tax under this
3370 section for one or more of the purposes described in Subsection (2).

3371 (4) Notwithstanding Section 59-12-2208, the opinion question required by Section
3372 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
3373 section.

3374 (5) The revenues collected from a sales and use tax under this section shall be:

3375 (a) allocated in accordance with the allocations specified in the resolution under

3376 Subsection (2); and

3377 (b) expended as provided in this section.

3378 (6) If a county legislative body allocates revenues collected from a sales and use tax

3379 under this section for a state highway project described in Subsection (2)(c)(i), before

3380 beginning the state highway project within the county, the county legislative body shall:

3381 (a) obtain approval from the Transportation Commission to complete the project; and

3382 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter

3383 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

3384 (7) If after a county legislative body imposes a sales and use tax under this section the

3385 county legislative body seeks to change an allocation specified in the resolution under

3386 Subsection (2), the county legislative body may change the allocation by:

3387 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage

3388 of revenues the county will receive from the sales and use tax under this section that will be

3389 allocated to fund one or more of the items described in Subsection (2);

3390 (b) obtaining approval to change the allocation of the sales and use tax by a majority of

3391 all of the members of the county legislative body; and

3392 (c) subject to Subsection (8):

3393 (i) in accordance with Section 59-12-2208, submitting an opinion question to the

3394 county's registered voters voting on changing the allocation so that each registered voter has the

3395 opportunity to express the registered voter's opinion on whether the allocation should be

3396 changed; and

3397 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation

3398 from a majority of the county's registered voters voting on changing the allocation.

3399 (8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection

3400 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with

3401 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection

3402 (7)(b).

3403 (9) Revenues collected from a sales and use tax under this section that a county

3404 allocates for a purpose described in Subsection (2)(c) shall be:

3405 (a) deposited into the Highway Projects Within Counties Fund created by Section

3406 72-2-121.1; and

3407 (b) expended as provided in Section 72-2-121.1.

3408 (10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b),

3409 revenues collected from a sales and use tax under this section that a county allocates for a

3410 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation

3411 if the transfer of the revenues is required under an interlocal agreement:

3412 (i) entered into on or before January 1, 2010; and

3413 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

3414 (b) The Department of Transportation shall expend the revenues described in

3415 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

3416 Section 23. **Repealer.**

3417 This bill repeals:

3418 Section **26-9-4, Rural Health Care Facilities Account -- Source of revenues --**

3419 **Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues**

3420 **lapse into the General Fund.**

3421 Section 24. **Effective date.**

3422 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

3423 (2) The amendments to the following sections take effect for a taxable year beginning

3424 on or after January 1, 2012:

3425 (a) Section 59-10-1102.1; and

3426 (b) Section 59-10-1109.

Legislative Review Note
as of 2-11-11 3:59 PM

Office of Legislative Research and General Counsel