

1 **SALES AND USE TAXATION OF SHORT-TERM LODGING**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses provisions related to the sales and use taxation of short-term
10 lodging.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ addresses the transactions related to short-term lodging that are subject to tax under
15 Title 59, Chapter 12, Sales and Use Tax Act;
- 16 ▶ addresses sales and use tax exemptions related to short-term lodging;
- 17 ▶ addresses the remittance of sales and use taxes related to short-term lodging; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill takes effect on July 1, 2012.

23 **Utah Code Sections Affected:**

24 **AMENDS:**

25 **59-12-102**, as last amended by Laws of Utah 2011, Chapters 14, 285, and 314

26 **59-12-103**, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441

27 **59-12-104**, as last amended by Laws of Utah 2011, Chapters 288, 314, 370, and 391



- 28 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
- 29 **59-12-104.6**, as enacted by Laws of Utah 2011, Chapter 288
- 30 **59-12-107**, as last amended by Laws of Utah 2009, Chapter 212
- 31 **59-12-107.1**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 32 **59-12-301**, as last amended by Laws of Utah 2008, Chapter 382
- 33 **59-12-352**, as last amended by Laws of Utah 2009, Chapter 92
- 34 **59-12-353**, as last amended by Laws of Utah 2004, Chapters 156 and 255
- 35 **59-12-603**, as last amended by Laws of Utah 2011, Chapter 309

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

38 Section 1. Section **59-12-102** is amended to read:

39 **59-12-102. Definitions.**

40 As used in this chapter:

41 (1) "800 service" means a telecommunications service that:

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

43 (b) is typically marketed:

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

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

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

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

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

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

50 Federal Communications Commission.

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

52 (i) a subscriber purchases;

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

55 (A) prerecorded announcement; or

56 (B) live service; and

57 (iii) is typically marketed:

58 (A) under the name 900 service; or

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

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

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

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

65 (A) a product; or

66 (B) a service.

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

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

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

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

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

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

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

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

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

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

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

81 (e) Section 59-12-204;

82 (f) Section 59-12-401;

83 (g) Section 59-12-402;

84 (h) Section 59-12-703;

85 (i) Section 59-12-802;

86 (j) Section 59-12-804;

87 (k) Section 59-12-1102;

88 (l) Section 59-12-1302;

89 (m) Section 59-12-1402;

90 (n) Section 59-12-1802;

91 (o) Section 59-12-2003;

92 (p) Section 59-12-2103;

93 (q) Section 59-12-2213;

94 (r) Section 59-12-2214;

95 (s) Section 59-12-2215;

96 (t) Section 59-12-2216;

97 (u) Section 59-12-2217; or

98 (v) Section 59-12-2218.

99 (7) "Aircraft" is as defined in Section 72-10-102.

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

101 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined
102 in Subsection 59-12-107(1)(f) of an airline; and

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

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

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

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

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

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

112 (A) an inspection;

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

114 (C) changing landing gear; and

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

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

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

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

122 (a) is suitable for human consumption; and

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

124 (10) (a) "Ancillary service" means a service associated with, or incidental to, the

125 provision of telecommunications service.

126 (b) "Ancillary service" includes:

127 (i) a conference bridging service;

128 (ii) a detailed communications billing service;

129 (iii) directory assistance;

130 (iv) a vertical service; or

131 (v) a voice mail service.

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

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

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

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

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

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

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

146 (14) "Authorized carrier" means:

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

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

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

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

- 156 (i) material from a plant or tree; or
- 157 (ii) other organic matter that is available on a renewable basis, including:
 - 158 (A) slash and brush from forests and woodlands;
 - 159 (B) animal waste;
 - 160 (C) methane produced:
 - 161 (I) at landfills; or
 - 162 (II) as a byproduct of the treatment of wastewater residuals;
 - 163 (D) aquatic plants; and
 - 164 (E) agricultural products.

- 165 (b) "Biomass energy" does not include:
 - 166 (i) black liquor;
 - 167 (ii) treated woods; or
 - 168 (iii) biomass from municipal solid waste other than methane produced:
 - 169 (A) at landfills; or
 - 170 (B) as a byproduct of the treatment of wastewater residuals.

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

- 173 (i) distinct and identifiable; and
- 174 (ii) sold for one nonitemized price.
- 175 (b) "Bundled transaction" does not include:
 - 176 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
177 the basis of the selection by the purchaser of the items of tangible personal property included in
178 the transaction;
 - 179 (ii) the sale of real property;
 - 180 (iii) the sale of services to real property;
 - 181 (iv) the retail sale of tangible personal property and a service if:
 - 182 (A) the tangible personal property:

- 183 (I) is essential to the use of the service; and
- 184 (II) is provided exclusively in connection with the service; and
- 185 (B) the service is the true object of the transaction;
- 186 (v) the retail sale of two services if:
 - 187 (A) one service is provided that is essential to the use or receipt of a second service;
 - 188 (B) the first service is provided exclusively in connection with the second service; and
 - 189 (C) the second service is the true object of the transaction;
- 190 (vi) a transaction that includes tangible personal property or a product subject to
- 191 taxation under this chapter and tangible personal property or a product that is not subject to
- 192 taxation under this chapter if the:
 - 193 (A) seller's purchase price of the tangible personal property or product subject to
 - 194 taxation under this chapter is de minimis; or
 - 195 (B) seller's sales price of the tangible personal property or product subject to taxation
 - 196 under this chapter is de minimis; and
 - 197 (vii) the retail sale of tangible personal property that is not subject to taxation under
 - 198 this chapter and tangible personal property that is subject to taxation under this chapter if:
 - 199 (A) that retail sale includes:
 - 200 (I) food and food ingredients;
 - 201 (II) a drug;
 - 202 (III) durable medical equipment;
 - 203 (IV) mobility enhancing equipment;
 - 204 (V) an over-the-counter drug;
 - 205 (VI) a prosthetic device; or
 - 206 (VII) a medical supply; and
 - 207 (B) subject to Subsection (16)(f):
 - 208 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 209 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 210 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 211 this chapter is 50% or less of the seller's total sales price of that retail sale.
 - 212 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a
 - 213 service that is distinct and identifiable does not include:

- 214 (A) packaging that:
- 215 (I) accompanies the sale of the tangible personal property, product, or service; and
- 216 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 217 service;
- 218 (B) tangible personal property, a product, or a service provided free of charge with the
- 219 purchase of another item of tangible personal property, a product, or a service; or
- 220 (C) an item of tangible personal property, a product, or a service included in the
- 221 definition of "purchase price."
- 222 (ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a
- 223 product, or a service is provided free of charge with the purchase of another item of tangible
- 224 personal property, a product, or a service if the sales price of the purchased item of tangible
- 225 personal property, product, or service does not vary depending on the inclusion of the tangible
- 226 personal property, product, or service provided free of charge.
- 227 (d) (i) For purposes of Subsection (16)(a)(ii), property sold for one nonitemized price
- 228 does not include a price that is separately identified by tangible personal property, product, or
- 229 service on the following, regardless of whether the following is in paper format or electronic
- 230 format:
- 231 (A) a binding sales document; or
- 232 (B) another supporting sales-related document that is available to a purchaser.
- 233 (ii) For purposes of Subsection (16)(d)(i), a binding sales document or another
- 234 supporting sales-related document that is available to a purchaser includes:
- 235 (A) a bill of sale;
- 236 (B) a contract;
- 237 (C) an invoice;
- 238 (D) a lease agreement;
- 239 (E) a periodic notice of rates and services;
- 240 (F) a price list;
- 241 (G) a rate card;
- 242 (H) a receipt; or
- 243 (I) a service agreement.
- 244 (e) (i) For purposes of Subsection (16)(b)(vi), the sales price of tangible personal

245 property or a product subject to taxation under this chapter is de minimis if:

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

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

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

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

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

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

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

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

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

267 (i) on a transaction; and

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

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

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

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

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

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

276 own purchases.

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

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

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

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

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

285 (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
286 fuels that does not constitute industrial use under Subsection (48) or residential use under
287 Subsection (96).

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

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

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

296 (23) "Component part" includes:

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

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

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

302 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

310 (26) (a) "Conference bridging service" means an ancillary service that links two or

311 more participants of an audio conference call or video conference call.

312 (b) "Conference bridging service" may include providing a telephone number as part of

313 the ancillary service described in Subsection (26)(a).

314 (c) "Conference bridging service" does not include a telecommunications service used

315 to reach the ancillary service described in Subsection (26)(a).

316 (27) "Construction materials" means any tangible personal property that will be

317 converted into real property.

318 (28) "Delivered electronically" means delivered to a purchaser by means other than

319 tangible storage media.

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

321 (i) by a seller of:

322 (A) tangible personal property;

323 (B) a product transferred electronically; or

324 (C) services; and

325 (ii) for preparation and delivery of the tangible personal property, product transferred

326 electronically, or services described in Subsection (29)(a)(i) to a location designated by the

327 purchaser.

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

329 (i) transportation;

330 (ii) shipping;

331 (iii) postage;

332 (iv) handling;

333 (v) crating; or

334 (vi) packing.

335 (30) "Detailed telecommunications billing service" means an ancillary service of

336 separately stating information pertaining to individual calls on a customer's billing statement.

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

- 338 (a) is intended to supplement the diet;
- 339 (b) contains one or more of the following dietary ingredients:
 - 340 (i) a vitamin;
 - 341 (ii) a mineral;
 - 342 (iii) an herb or other botanical;
 - 343 (iv) an amino acid;
 - 344 (v) a dietary substance for use by humans to supplement the diet by increasing the total
 - 345 dietary intake; or
 - 346 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
 - 347 described in Subsections (31)(b)(i) through (v);
- 348 (c) (i) except as provided in Subsection (31)(c)(ii), is intended for ingestion in:
 - 349 (A) tablet form;
 - 350 (B) capsule form;
 - 351 (C) powder form;
 - 352 (D) softgel form;
 - 353 (E) gelcap form; or
 - 354 (F) liquid form; or
- 355 (ii) notwithstanding Subsection (31)(c)(i), if the product is not intended for ingestion in
- 356 a form described in Subsections (31)(c)(i)(A) through (F), is not represented:
 - 357 (A) as conventional food; and
 - 358 (B) for use as a sole item of:
 - 359 (I) a meal; or
 - 360 (II) the diet; and
- 361 (d) is required to be labeled as a dietary supplement:
 - 362 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 363 (ii) as required by 21 C.F.R. Sec. 101.36.
- 364 (32) (a) "Direct mail" means printed material delivered or distributed by United States
- 365 mail or other delivery service:
 - 366 (i) to:
 - 367 (A) a mass audience; or
 - 368 (B) addressees on a mailing list provided;

- 369 (I) by a purchaser of the mailing list; or
- 370 (II) at the discretion of the purchaser of the mailing list; and
- 371 (ii) if the cost of the printed material is not billed directly to the recipients.
- 372 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 373 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 374 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 375 single address.
- 376 (33) "Directory assistance" means an ancillary service of providing:
- 377 (a) address information; or
- 378 (b) telephone number information.
- 379 (34) (a) "Disposable home medical equipment or supplies" means medical equipment
- 380 or supplies that:
- 381 (i) cannot withstand repeated use; and
- 382 (ii) are purchased by, for, or on behalf of a person other than:
- 383 (A) a health care facility as defined in Section 26-21-2;
- 384 (B) a health care provider as defined in Section 78B-3-403;
- 385 (C) an office of a health care provider described in Subsection (34)(a)(ii)(B); or
- 386 (D) a person similar to a person described in Subsections (34)(a)(ii)(A) through (C).
- 387 (b) "Disposable home medical equipment or supplies" does not include:
- 388 (i) a drug;
- 389 (ii) durable medical equipment;
- 390 (iii) a hearing aid;
- 391 (iv) a hearing aid accessory;
- 392 (v) mobility enhancing equipment; or
- 393 (vi) tangible personal property used to correct impaired vision, including:
- 394 (A) eyeglasses; or
- 395 (B) contact lenses.
- 396 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 397 commission may by rule define what constitutes medical equipment or supplies.
- 398 (35) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 399 compound, substance, or preparation that is:

- 400 (i) recognized in:
- 401 (A) the official United States Pharmacopoeia;
- 402 (B) the official Homeopathic Pharmacopoeia of the United States;
- 403 (C) the official National Formulary; or
- 404 (D) a supplement to a publication listed in Subsections (35)(a)(i)(A) through (C);
- 405 (ii) intended for use in the:
- 406 (A) diagnosis of disease;
- 407 (B) cure of disease;
- 408 (C) mitigation of disease;
- 409 (D) treatment of disease; or
- 410 (E) prevention of disease; or
- 411 (iii) intended to affect:
- 412 (A) the structure of the body; or
- 413 (B) any function of the body.
- 414 (b) "Drug" does not include:
- 415 (i) food and food ingredients;
- 416 (ii) a dietary supplement;
- 417 (iii) an alcoholic beverage; or
- 418 (iv) a prosthetic device.
- 419 (36) (a) Except as provided in Subsection (36)(c), "durable medical equipment" means
- 420 equipment that:
- 421 (i) can withstand repeated use;
- 422 (ii) is primarily and customarily used to serve a medical purpose;
- 423 (iii) generally is not useful to a person in the absence of illness or injury; and
- 424 (iv) is not worn in or on the body.
- 425 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 426 equipment described in Subsection (36)(a).
- 427 (c) Notwithstanding Subsection (36)(a), "durable medical equipment" does not include
- 428 mobility enhancing equipment.
- 429 (37) "Electronic" means:
- 430 (a) relating to technology; and

- 431 (b) having:
- 432 (i) electrical capabilities;
- 433 (ii) digital capabilities;
- 434 (iii) magnetic capabilities;
- 435 (iv) wireless capabilities;
- 436 (v) optical capabilities;
- 437 (vi) electromagnetic capabilities; or
- 438 (vii) capabilities similar to Subsections (37)(b)(i) through (vi).
- 439 (38) "Employee" is as defined in Section 59-10-401.
- 440 (39) "Fixed guideway" means a public transit facility that uses and occupies:
- 441 (a) rail for the use of public transit; or
- 442 (b) a separate right-of-way for the use of public transit.
- 443 (40) "Fixed wing turbine powered aircraft" means an aircraft that:
- 444 (a) is powered by turbine engines;
- 445 (b) operates on jet fuel; and
- 446 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 447 (41) "Fixed wireless service" means a telecommunications service that provides radio
- 448 communication between fixed points.
- 449 (42) (a) "Food and food ingredients" means substances:
- 450 (i) regardless of whether the substances are in:
- 451 (A) liquid form;
- 452 (B) concentrated form;
- 453 (C) solid form;
- 454 (D) frozen form;
- 455 (E) dried form; or
- 456 (F) dehydrated form; and
- 457 (ii) that are:
- 458 (A) sold for:
- 459 (I) ingestion by humans; or
- 460 (II) chewing by humans; and
- 461 (B) consumed for the substance's:

- 462 (I) taste; or
- 463 (II) nutritional value.
- 464 (b) "Food and food ingredients" includes an item described in Subsection (79)(b)(iii).
- 465 (c) "Food and food ingredients" does not include:
- 466 (i) an alcoholic beverage;
- 467 (ii) tobacco; or
- 468 (iii) prepared food.
- 469 (43) (a) "Fundraising sales" means sales:
- 470 (i) (A) made by a school; or
- 471 (B) made by a school student;
- 472 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 473 materials, or provide transportation; and
- 474 (iii) that are part of an officially sanctioned school activity.
- 475 (b) For purposes of Subsection (43)(a)(iii), "officially sanctioned school activity"
- 476 means a school activity:
- 477 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 478 district governing the authorization and supervision of fundraising activities;
- 479 (ii) that does not directly or indirectly compensate an individual teacher or other
- 480 educational personnel by direct payment, commissions, or payment in kind; and
- 481 (iii) the net or gross revenues from which are deposited in a dedicated account
- 482 controlled by the school or school district.
- 483 (44) "Geothermal energy" means energy contained in heat that continuously flows
- 484 outward from the earth that is used as the sole source of energy to produce electricity.
- 485 (45) "Governing board of the agreement" means the governing board of the agreement
- 486 that is:
- 487 (a) authorized to administer the agreement; and
- 488 (b) established in accordance with the agreement.
- 489 (46) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 490 (i) the executive branch of the state, including all departments, institutions, boards,
- 491 divisions, bureaus, offices, commissions, and committees;
- 492 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

493 Office of the Court Administrator, and similar administrative units in the judicial branch;
494 (iii) the legislative branch of the state, including the House of Representatives, the
495 Senate, the Legislative Printing Office, the Office of Legislative Research and General
496 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
497 Analyst;

498 (iv) the National Guard;

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

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

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

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

504 (ii) a school;

505 (iii) the State Board of Education;

506 (iv) the State Board of Regents; or

507 (v) an institution of higher education.

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

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

512 (a) in mining or extraction of minerals;

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

515 (i) commercial greenhouses;

516 (ii) irrigation pumps;

517 (iii) farm machinery;

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

520 (v) other farming activities;

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

524 (d) by a scrap recycler if:

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

- 528 (A) iron;
- 529 (B) steel;
- 530 (C) nonferrous metal;
- 531 (D) paper;
- 532 (E) glass;
- 533 (F) plastic;
- 534 (G) textile; or
- 535 (H) rubber; and

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

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

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

- 542 (i) tangible personal property; or
- 543 (ii) a product transferred electronically.
- 544 (b) "Installation charge" does not include a charge for:
 - 545 (i) repairs or renovations of:
 - 546 (A) tangible personal property; or
 - 547 (B) a product transferred electronically; or
 - 548 (ii) attaching tangible personal property or a product transferred electronically:
 - 549 (A) to other tangible personal property; and
 - 550 (B) as part of a manufacturing or fabrication process.

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

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

- 555 (i) (A) a fixed term; or
556 (B) an indeterminate term; and
557 (ii) consideration.
- 558 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
559 amount of consideration may be increased or decreased by reference to the amount realized
560 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
561 Code.
- 562 (c) "Lease" or "rental" does not include:
- 563 (i) a transfer of possession or control of property under a security agreement or
564 deferred payment plan that requires the transfer of title upon completion of the required
565 payments;
- 566 (ii) a transfer of possession or control of property under an agreement that requires the
567 transfer of title:
- 568 (A) upon completion of required payments; and
569 (B) if the payment of an option price does not exceed the greater of:
- 570 (I) \$100; or
571 (II) 1% of the total required payments; or
- 572 (iii) providing tangible personal property along with an operator for a fixed period of
573 time or an indeterminate period of time if the operator is necessary for equipment to perform as
574 designed.
- 575 (d) For purposes of Subsection (51)(c)(iii), an operator is necessary for equipment to
576 perform as designed if the operator's duties exceed the:
- 577 (i) set-up of tangible personal property;
578 (ii) maintenance of tangible personal property; or
579 (iii) inspection of tangible personal property.
- 580 (52) "Load and leave" means delivery to a purchaser by use of a tangible storage media
581 if the tangible storage media is not physically transferred to the purchaser.
- 582 (53) "Local taxing jurisdiction" means a:
- 583 (a) county that is authorized to impose an agreement sales and use tax;
584 (b) city that is authorized to impose an agreement sales and use tax; or
585 (c) town that is authorized to impose an agreement sales and use tax.

586 (54) "Manufactured home" is as defined in Section 15A-1-302.

587 (55) For purposes of Section 59-12-104, "manufacturing facility" means:

588 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

589 Industrial Classification Manual of the federal Executive Office of the President, Office of

590 Management and Budget;

591 (b) a scrap recycler if:

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

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

594 products:

595 (A) iron;

596 (B) steel;

597 (C) nonferrous metal;

598 (D) paper;

599 (E) glass;

600 (F) plastic;

601 (G) textile; or

602 (H) rubber; and

603 (ii) the new products under Subsection (55)(b)(i) would otherwise be made with

604 nonrecycled materials; or

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

606 (56) "Member of the immediate family of the producer" means a person who is related

607 to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

610 (ii) a foster child or foster stepchild;

611 (b) grandchild or stepgrandchild;

612 (c) grandparent or stepgrandparent;

613 (d) nephew or stepnephew;

614 (e) niece or stepniece;

615 (f) parent or stepparent;

616 (g) sibling or stepsibling;

617 (h) spouse;
618 (i) person who is the spouse of a person described in Subsections (56)(a) through (g);

619 or

620 (j) person similar to a person described in Subsections (56)(a) through (i) as
621 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
622 Administrative Rulemaking Act.

623 (57) "Mobile home" is as defined in Section 15A-1-302.

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

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

- 628 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 629 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 630 (iii) the origination point described in Subsection (59)(a)(i) and the termination point
631 described in Subsection (59)(a)(ii) are not fixed.

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

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

636 (60) (a) Except as provided in Subsection (60)(c), "mobility enhancing equipment"
637 means equipment that is:

- 638 (i) primarily and customarily used to provide or increase the ability to move from one
639 place to another;
- 640 (ii) appropriate for use in a:
 - 641 (A) home; or
 - 642 (B) motor vehicle; and
- 643 (iii) not generally used by persons with normal mobility.

644 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
645 the equipment described in Subsection (60)(a).

646 (c) Notwithstanding Subsection (60)(a), "mobility enhancing equipment" does not
647 include:

- 648 (i) a motor vehicle;
- 649 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
650 vehicle manufacturer;
- 651 (iii) durable medical equipment; or
- 652 (iv) a prosthetic device.
- 653 (61) "Model 1 seller" means a seller registered under the agreement that has selected a
654 certified service provider as the seller's agent to perform all of the seller's sales and use tax
655 functions for agreement sales and use taxes other than the seller's obligation under Section
656 59-12-124 to remit a tax on the seller's own purchases.
- 657 (62) "Model 2 seller" means a seller registered under the agreement that:
 - 658 (a) except as provided in Subsection (62)(b), has selected a certified automated system
659 to perform the seller's sales tax functions for agreement sales and use taxes; and
 - 660 (b) notwithstanding Subsection (62)(a), retains responsibility for remitting all of the
661 sales tax:
 - 662 (i) collected by the seller; and
 - 663 (ii) to the appropriate local taxing jurisdiction.
- 664 (63) (a) Subject to Subsection (63)(b), "model 3 seller" means a seller registered under
665 the agreement that has:
 - 666 (i) sales in at least five states that are members of the agreement;
 - 667 (ii) total annual sales revenues of at least \$500,000,000;
 - 668 (iii) a proprietary system that calculates the amount of tax:
 - 669 (A) for an agreement sales and use tax; and
 - 670 (B) due to each local taxing jurisdiction; and
 - 671 (iv) entered into a performance agreement with the governing board of the agreement.
- 672 (b) For purposes of Subsection (63)(a), "model 3 seller" includes an affiliated group of
673 sellers using the same proprietary system.
- 674 (64) "Model 4 seller" means a seller that is registered under the agreement and is not a
675 model 1 seller, model 2 seller, or model 3 seller.
- 676 (65) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 677 (66) "Motor vehicle" is as defined in Section 41-1a-102.
- 678 (67) "Oil shale" means a group of fine black to dark brown shales containing

679 bituminous material that yields petroleum upon distillation.

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

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

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

686 (b) For purposes of Subsection (69)(a), the transmission of a coded radio signal
687 includes a transmission by message or sound.

688 (70) "Pawnbroker" is as defined in Section 13-32a-102.

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

690 (72) (a) "Permanently attached to real property" means that for tangible personal
691 property attached to real property:

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

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

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

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

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

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

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

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

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

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

705 (ii) a temporary detachment of tangible personal property from real property for a
706 repair or renovation if the repair or renovation is performed where the tangible personal

707 property and real property are located; or

708 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
709 Subsection (72)(c)(iii) or (iv).

710 (c) "Permanently attached to real property" does not include:
711 (i) the attachment of portable or movable tangible personal property to real property if
712 that portable or movable tangible personal property is attached to real property only for:
713 (A) convenience;
714 (B) stability; or
715 (C) for an obvious temporary purpose;
716 (ii) the detachment of tangible personal property from real property except for the
717 detachment described in Subsection (72)(b)(ii);
718 (iii) an attachment of the following tangible personal property to real property if the
719 attachment to real property is only through a line that supplies water, electricity, gas,
720 telecommunications, cable, or supplies a similar item as determined by the commission by rule
721 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
722 (A) a computer;
723 (B) a telephone;
724 (C) a television; or
725 (D) tangible personal property similar to Subsections (72)(c)(iii)(A) through (C) as
726 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
727 Administrative Rulemaking Act; or
728 (iv) an item listed in Subsection [~~(113)~~] (116)(c).
729 (73) "Person" includes any individual, firm, partnership, joint venture, association,
730 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
731 municipality, district, or other local governmental entity of the state, or any group or
732 combination acting as a unit.
733 (74) "Place of primary use":
734 (a) for telecommunications service other than mobile telecommunications service,
735 means the street address representative of where the customer's use of the telecommunications
736 service primarily occurs, which shall be:
737 (i) the residential street address of the customer; or
738 (ii) the primary business street address of the customer; or
739 (b) for mobile telecommunications service, is as defined in the Mobile
740 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

743 (i) through the use of a:

744 (A) bank card;

745 (B) credit card;

746 (C) debit card; or

747 (D) travel card; or

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

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

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

755 (77) "Prepaid calling service" means a telecommunications service:

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

758 (b) that:

759 (i) is paid for in advance; and

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

761 (A) access number; or

762 (B) authorization code;

763 (c) that is dialed:

764 (i) manually; or

765 (ii) electronically; and

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

767 (i) by a known amount; and

768 (ii) with use.

769 (78) "Prepaid wireless calling service" means a telecommunications service:

770 (a) that provides the right to utilize:

771 (i) mobile wireless service; and

- 772 (ii) other service that is not a telecommunications service, including:
- 773 (A) the download of a product transferred electronically;
- 774 (B) a content service; or
- 775 (C) an ancillary service;
- 776 (b) that:
- 777 (i) is paid for in advance; and
- 778 (ii) enables the origination of a call using an:
- 779 (A) access number; or
- 780 (B) authorization code;
- 781 (c) that is dialed:
- 782 (i) manually; or
- 783 (ii) electronically; and
- 784 (d) sold in predetermined units or dollars that decline:
- 785 (i) by a known amount; and
- 786 (ii) with use.
- 787 (79) (a) "Prepared food" means:
- 788 (i) food:
- 789 (A) sold in a heated state; or
- 790 (B) heated by a seller;
- 791 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 792 item; or
- 793 (iii) except as provided in Subsection (79)(c), food sold with an eating utensil provided
- 794 by the seller, including a:
- 795 (A) plate;
- 796 (B) knife;
- 797 (C) fork;
- 798 (D) spoon;
- 799 (E) glass;
- 800 (F) cup;
- 801 (G) napkin; or
- 802 (H) straw.

- 803 (b) "Prepared food" does not include:
- 804 (i) food that a seller only:
- 805 (A) cuts;
- 806 (B) repackages; or
- 807 (C) pasteurizes; or
- 808 (ii) (A) the following:
- 809 (I) raw egg;
- 810 (II) raw fish;
- 811 (III) raw meat;
- 812 (IV) raw poultry; or
- 813 (V) a food containing an item described in Subsections (79)(b)(ii)(A)(I) through (IV);
- 814 and
- 815 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 816 Food and Drug Administration's Food Code that a consumer cook the items described in
- 817 Subsection (79)(b)(ii)(A) to prevent food borne illness; or
- 818 (iii) the following if sold without eating utensils provided by the seller:
- 819 (A) food and food ingredients sold by a seller if the seller's proper primary
- 820 classification under the 2002 North American Industry Classification System of the federal
- 821 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 822 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 823 Manufacturing;
- 824 (B) food and food ingredients sold in an unheated state:
- 825 (I) by weight or volume; and
- 826 (II) as a single item; or
- 827 (C) a bakery item, including:
- 828 (I) a bagel;
- 829 (II) a bar;
- 830 (III) a biscuit;
- 831 (IV) bread;
- 832 (V) a bun;
- 833 (VI) a cake;

- 834 (VII) a cookie;
- 835 (VIII) a croissant;
- 836 (IX) a danish;
- 837 (X) a donut;
- 838 (XI) a muffin;
- 839 (XII) a pastry;
- 840 (XIII) a pie;
- 841 (XIV) a roll;
- 842 (XV) a tart;
- 843 (XVI) a torte; or
- 844 (XVII) a tortilla.

845 (c) Notwithstanding Subsection (79)(a)(iii), an eating utensil provided by the seller
846 does not include the following used to transport the food:

- 847 (i) a container; or
- 848 (ii) packaging.

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

- 850 (a) (i) orally;
- 851 (ii) in writing;
- 852 (iii) electronically; or
- 853 (iv) by any other manner of transmission; and
- 854 (b) by a licensed practitioner authorized by the laws of a state.

855 (81) (a) Except as provided in Subsection (81)(b)(ii) or (iii), "prewritten computer
856 software" means computer software that is not designed and developed:

- 857 (i) by the author or other creator of the computer software; and
- 858 (ii) to the specifications of a specific purchaser.

859 (b) "Prewritten computer software" includes:

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

- 862 (A) by the author or other creator of the computer software; and
- 863 (B) to the specifications of a specific purchaser;

864 (ii) notwithstanding Subsection (81)(a), computer software designed and developed by

865 the author or other creator of the computer software to the specifications of a specific purchaser
866 if the computer software is sold to a person other than the purchaser; or

867 (iii) notwithstanding Subsection (81)(a) and except as provided in Subsection (81)(c),
868 prewritten computer software or a prewritten portion of prewritten computer software:

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

870 (B) if the modification or enhancement described in Subsection (81)(b)(iii)(A) is
871 designed and developed to the specifications of a specific purchaser.

872 (c) Notwithstanding Subsection (81)(b)(iii), "prewritten computer software" does not
873 include a modification or enhancement described in Subsection (81)(b)(iii) if the charges for
874 the modification or enhancement are:

875 (i) reasonable; and

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

878 (82) (a) "Private communication service" means a telecommunications service:

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

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

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

885 (i) an extension line;

886 (ii) a station;

887 (iii) switching capacity; or

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

890 (83) (a) Except as provided in Subsection (83)(b), "product transferred electronically"
891 means a product transferred electronically that would be subject to a tax under this chapter if
892 that product was transferred in a manner other than electronically.

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

894 (i) an ancillary service;

895 (ii) computer software; or

- 896 (iii) a telecommunications service.
- 897 (84) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 898 (i) artificially replace a missing portion of the body;
- 899 (ii) prevent or correct a physical deformity or physical malfunction; or
- 900 (iii) support a weak or deformed portion of the body.
- 901 (b) "Prosthetic device" includes:
- 902 (i) parts used in the repairs or renovation of a prosthetic device;
- 903 (ii) replacement parts for a prosthetic device;
- 904 (iii) a dental prosthesis; or
- 905 (iv) a hearing aid.
- 906 (c) "Prosthetic device" does not include:
- 907 (i) corrective eyeglasses; or
- 908 (ii) contact lenses.
- 909 (85) (a) "Protective equipment" means an item:
- 910 (i) for human wear; and
- 911 (ii) that is:
- 912 (A) designed as protection:
- 913 (I) to the wearer against injury or disease; or
- 914 (II) against damage or injury of other persons or property; and
- 915 (B) not suitable for general use.
- 916 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 917 commission shall make rules:
- 918 (i) listing the items that constitute "protective equipment"; and
- 919 (ii) that are consistent with the list of items that constitute "protective equipment"
- 920 under the agreement.
- 921 (86) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 922 printed matter, other than a photocopy:
- 923 (i) regardless of:
- 924 (A) characteristics;
- 925 (B) copyright;
- 926 (C) form;

- 927 (D) format;
- 928 (E) method of reproduction; or
- 929 (F) source; and
- 930 (ii) made available in printed or electronic format.
- 931 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 932 commission may by rule define the term "photocopy."
- 933 (87) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 934 (i) valued in money; and
- 935 (ii) for which tangible personal property, a product transferred electronically, or
- 936 services are:
 - 937 (A) sold;
 - 938 (B) leased; or
 - 939 (C) rented.
- 940 (b) "Purchase price" and "sales price" include:
- 941 (i) the seller's cost of the tangible personal property, a product transferred
- 942 electronically, or services sold;
- 943 (ii) expenses of the seller, including:
 - 944 (A) the cost of materials used;
 - 945 (B) a labor cost;
 - 946 (C) a service cost;
 - 947 (D) interest;
 - 948 (E) a loss;
 - 949 (F) the cost of transportation to the seller; or
 - 950 (G) a tax imposed on the seller;
- 951 (iii) a charge by the seller for any service necessary to complete the sale; or
- 952 (iv) consideration a seller receives from a person other than the purchaser if:
 - 953 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 954 and
 - 955 (II) the consideration described in Subsection (87)(b)(iv)(A)(I) is directly related to a
 - 956 price reduction or discount on the sale;
 - 957 (B) the seller has an obligation to pass the price reduction or discount through to the

958 purchaser;

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

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

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

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

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

972 (Aa) invoice the purchaser receives; or

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

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

975 (i) a discount:

976 (A) in a form including:

977 (I) cash;

978 (II) term; or

979 (III) coupon;

980 (B) that is allowed by a seller;

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

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

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

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

987 (I) a carrying charge;

988 (II) a financing charge; or

- 989 (III) an interest charge;
- 990 (B) a delivery charge;
- 991 (C) an installation charge;
- 992 (D) a manufacturer rebate on a motor vehicle; or
- 993 (E) a tax or fee legally imposed directly on the consumer.
- 994 (88) "Purchaser" means a person to whom:
 - 995 (a) a sale of tangible personal property is made;
 - 996 (b) a product is transferred electronically; or
 - 997 (c) a service is furnished.
- 998 (89) "Regularly rented" means:
 - 999 (a) rented to a guest for value three or more times during a calendar year; or
 - 1000 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 1001 value.
- 1002 (90) "Renewable energy" means:
 - 1003 (a) biomass energy;
 - 1004 (b) hydroelectric energy;
 - 1005 (c) geothermal energy;
 - 1006 (d) solar energy; or
 - 1007 (e) wind energy.
- 1008 (91) (a) "Renewable energy production facility" means a facility that:
 - 1009 (i) uses renewable energy to produce electricity; and
 - 1010 (ii) has a production capacity of 20 kilowatts or greater.
- 1011 (b) A facility is a renewable energy production facility regardless of whether the
- 1012 facility is:
 - 1013 (i) connected to an electric grid; or
 - 1014 (ii) located on the premises of an electricity consumer.
- 1015 (92) "Rental" is as defined in Subsection (51).
- 1016 (93) (a) Except as provided in Subsection (93)(b), "repairs or renovations of tangible
- 1017 personal property" means:
 - 1018 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 1019 to real property; or

1020 (ii) attaching tangible personal property or a product transferred electronically to other
1021 tangible personal property if:

1022 (A) the other tangible personal property to which the tangible personal property or
1023 product transferred electronically is attached is not permanently attached to real property; and

1024 (B) the attachment of tangible personal property or a product transferred electronically
1025 to other tangible personal property is made in conjunction with a repair or replacement of
1026 tangible personal property or a product transferred electronically.

1027 (b) "Repairs or renovations of tangible personal property" does not include attaching
1028 prewritten computer software to other tangible personal property if the other tangible personal
1029 property to which the prewritten computer software is attached is not permanently attached to
1030 real property.

1031 (94) "Research and development" means the process of inquiry or experimentation
1032 aimed at the discovery of facts, devices, technologies, or applications and the process of
1033 preparing those devices, technologies, or applications for marketing.

1034 (95) (a) "Residential telecommunications services" means a telecommunications
1035 service or an ancillary service that is provided to an individual for personal use:

1036 (i) at a residential address; or

1037 (ii) at an institution, including a nursing home or a school, if the telecommunications
1038 service or ancillary service is provided to and paid for by the individual residing at the
1039 institution rather than the institution.

1040 (b) For purposes of Subsection (95)(a)(i), a residential address includes an:

1041 (i) apartment; or

1042 (ii) other individual dwelling unit.

1043 (96) "Residential use" means the use in or around a home, apartment building, sleeping
1044 quarters, and similar facilities or accommodations.

1045 (97) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1046 than:

1047 (a) resale;

1048 (b) sublease; or

1049 (c) subrent.

1050 (98) (a) "Retailer" means any person engaged in a regularly organized business in

1051 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1052 who is selling to the user or consumer and not for resale.

1053 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1054 engaged in the business of selling to users or consumers within the state.

1055 (99) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1056 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1057 Subsection 59-12-103(1), for consideration.

1058 (b) "Sale" includes:

1059 (i) installment and credit sales;

1060 (ii) any closed transaction constituting a sale;

1061 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1062 chapter;

1063 (iv) any transaction if the possession of property is transferred but the seller retains the
1064 title as security for the payment of the price; and

1065 (v) any transaction under which right to possession, operation, or use of any article of
1066 tangible personal property is granted under a lease or contract and the transfer of possession
1067 would be taxable if an outright sale were made.

1068 (100) "Sale at retail" is as defined in Subsection (97).

1069 (101) "Sale-leaseback transaction" means a transaction by which title to tangible
1070 personal property or a product transferred electronically that is subject to a tax under this
1071 chapter is transferred:

1072 (a) by a purchaser-lessee;

1073 (b) to a lessor;

1074 (c) for consideration; and

1075 (d) if:

1076 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1077 of the tangible personal property or product transferred electronically;

1078 (ii) the sale of the tangible personal property or product transferred electronically to the
1079 lessor is intended as a form of financing:

1080 (A) for the tangible personal property or product transferred electronically; and

1081 (B) to the purchaser-lessee; and

1082 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1083 is required to:

1084 (A) capitalize the tangible personal property or product transferred electronically for
1085 financial reporting purposes; and

1086 (B) account for the lease payments as payments made under a financing arrangement.

1087 (102) "Sales price" is as defined in Subsection (87).

1088 (103) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1089 amounts charged by a school:

1090 (i) sales that are directly related to the school's educational functions or activities
1091 including:

1092 (A) the sale of:

1093 (I) textbooks;

1094 (II) textbook fees;

1095 (III) laboratory fees;

1096 (IV) laboratory supplies; or

1097 (V) safety equipment;

1098 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1099 that:

1100 (I) a student is specifically required to wear as a condition of participation in a
1101 school-related event or school-related activity; and

1102 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1103 place of ordinary clothing;

1104 (C) sales of the following if the net or gross revenues generated by the sales are
1105 deposited into a school district fund or school fund dedicated to school meals:

1106 (I) food and food ingredients; or

1107 (II) prepared food; or

1108 (D) transportation charges for official school activities; or

1109 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1110 event or school-related activity.

1111 (b) "Sales relating to schools" does not include:

1112 (i) bookstore sales of items that are not educational materials or supplies;

- 1113 (ii) except as provided in Subsection (103)(a)(i)(B):
- 1114 (A) clothing;
- 1115 (B) clothing accessories or equipment;
- 1116 (C) protective equipment; or
- 1117 (D) sports or recreational equipment; or
- 1118 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1119 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1120 (A) other than a:
- 1121 (I) school;
- 1122 (II) nonprofit organization authorized by a school board or a governing body of a
- 1123 private school to organize and direct a competitive secondary school activity; or
- 1124 (III) nonprofit association authorized by a school board or a governing body of a
- 1125 private school to organize and direct a competitive secondary school activity; and
- 1126 (B) that is required to collect sales and use taxes under this chapter.
- 1127 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1128 commission may make rules defining the term "passed through."
- 1129 (104) For purposes of this section and Section 59-12-104, "school":
- 1130 (a) means:
- 1131 (i) an elementary school or a secondary school that:
- 1132 (A) is a:
- 1133 (I) public school; or
- 1134 (II) private school; and
- 1135 (B) provides instruction for one or more grades kindergarten through 12; or
- 1136 (ii) a public school district; and
- 1137 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1138 (105) "Seller" means a person that makes a sale, lease, or rental of:
- 1139 (a) tangible personal property;
- 1140 (b) a product transferred electronically; or
- 1141 (c) a service.
- 1142 (106) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1143 means tangible personal property or a product transferred electronically if the tangible personal

1144 property or product transferred electronically is:

1145 (i) used primarily in the process of:

1146 (A) (I) manufacturing a semiconductor;

1147 (II) fabricating a semiconductor; or

1148 (III) research or development of a:

1149 (Aa) semiconductor; or

1150 (Bb) semiconductor manufacturing process; or

1151 (B) maintaining an environment suitable for a semiconductor; or

1152 (ii) consumed primarily in the process of:

1153 (A) (I) manufacturing a semiconductor;

1154 (II) fabricating a semiconductor; or

1155 (III) research or development of a:

1156 (Aa) semiconductor; or

1157 (Bb) semiconductor manufacturing process; or

1158 (B) maintaining an environment suitable for a semiconductor.

1159 (b) "Semiconductor fabricating, processing, research, or development materials"

1160 includes:

1161 (i) parts used in the repairs or renovations of tangible personal property or a product

1162 transferred electronically described in Subsection (106)(a); or

1163 (ii) a chemical, catalyst, or other material used to:

1164 (A) produce or induce in a semiconductor a:

1165 (I) chemical change; or

1166 (II) physical change;

1167 (B) remove impurities from a semiconductor; or

1168 (C) improve the marketable condition of a semiconductor.

1169 (107) "Senior citizen center" means a facility having the primary purpose of providing

1170 services to the aged as defined in Section 62A-3-101.

1171 (108) "Short-term lodging" means tourist home, hotel, motel, or trailer court

1172 accommodations and services that are regularly rented for less than 30 consecutive days.

1173 (109) (a) Except as provided in Subsection (109)(b), "short-term lodging operator"

1174 means a person that owns, operates, or manages short-term lodging.

- 1175 (b) "Short-term lodging operator" does not include a:
- 1176 (i) travel agent who does not own, operate, or manage short-term lodging; or
- 1177 (ii) person who:
- 1178 (A) does not own, operate, or manage short-term lodging; and
- 1179 (B) arranges, books, brokers, coordinates, or facilitates a transaction involving
- 1180 short-term lodging between a purchaser and a person who owns, operates, or manages
- 1181 short-term lodging.
- 1182 (110) "Short-term lodging transaction component" means each of the following
- 1183 amounts paid or charged for short-term lodging:
- 1184 (a) amounts paid or charged by a short-term lodging operator as a room cost for
- 1185 short-term lodging;
- 1186 (b) a tax under this chapter on an amount described in Subsection (110)(a); or
- 1187 (c) any additional amount, except for an amount described in Subsection (110)(a) or
- 1188 (b), paid or charged for service as part of the transaction for the purchase of short-term lodging,
- 1189 regardless of how the additional amount is characterized.
- 1190 ~~[(108)]~~ (111) "Simplified electronic return" means the electronic return:
- 1191 (a) described in Section 318(C) of the agreement; and
- 1192 (b) approved by the governing board of the agreement.
- 1193 ~~[(109)]~~ (112) "Solar energy" means the sun used as the sole source of energy for
- 1194 producing electricity.
- 1195 ~~[(110)]~~ (113) (a) "Sports or recreational equipment" means an item:
- 1196 (i) designed for human use; and
- 1197 (ii) that is:
- 1198 (A) worn in conjunction with:
- 1199 (I) an athletic activity; or
- 1200 (II) a recreational activity; and
- 1201 (B) not suitable for general use.
- 1202 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1203 commission shall make rules:
- 1204 (i) listing the items that constitute "sports or recreational equipment"; and
- 1205 (ii) that are consistent with the list of items that constitute "sports or recreational

1206 equipment" under the agreement.

1207 [~~(H1)~~] (114) "State" means the state of Utah, its departments, and agencies.

1208 [~~(H2)~~] (115) "Storage" means any keeping or retention of tangible personal property or
1209 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1210 except sale in the regular course of business.

1211 [~~(H3)~~] (116) (a) Except as provided in Subsection [~~(H3)~~] (116)(d) or (e), "tangible
1212 personal property" means personal property that:

1213 (i) may be:

1214 (A) seen;

1215 (B) weighed;

1216 (C) measured;

1217 (D) felt; or

1218 (E) touched; or

1219 (ii) is in any manner perceptible to the senses.

1220 (b) "Tangible personal property" includes:

1221 (i) electricity;

1222 (ii) water;

1223 (iii) gas;

1224 (iv) steam; or

1225 (v) prewritten computer software, regardless of the manner in which the prewritten
1226 computer software is transferred.

1227 (c) "Tangible personal property" includes the following regardless of whether the item
1228 is attached to real property:

1229 (i) a dishwasher;

1230 (ii) a dryer;

1231 (iii) a freezer;

1232 (iv) a microwave;

1233 (v) a refrigerator;

1234 (vi) a stove;

1235 (vii) a washer; or

1236 (viii) an item similar to Subsections [~~(H3)~~] (116)(c)(i) through (vii) as determined by

1237 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1238 Rulemaking Act.

1239 (d) "Tangible personal property" does not include a product that is transferred
1240 electronically.

1241 (e) "Tangible personal property" does not include the following if attached to real
1242 property, regardless of whether the attachment to real property is only through a line that
1243 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1244 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1245 Rulemaking Act:

1246 (i) a hot water heater;

1247 (ii) a water filtration system; or

1248 (iii) a water softener system.

1249 [~~(114)~~] (117) "Tar sands" means impregnated sands that yield mixtures of liquid
1250 hydrocarbon and require further processing other than mechanical blending before becoming
1251 finished petroleum products.

1252 [~~(115)~~] (118) (a) "Telecommunications enabling or facilitating equipment, machinery,
1253 or software" means an item listed in Subsection [~~(115)~~] (118)(b) if that item is purchased or
1254 leased primarily to enable or facilitate one or more of the following to function:

1255 (i) telecommunications switching or routing equipment, machinery, or software; or

1256 (ii) telecommunications transmission equipment, machinery, or software.

1257 (b) The following apply to Subsection [~~(115)~~] (118)(a):

1258 (i) a pole;

1259 (ii) software;

1260 (iii) a supplementary power supply;

1261 (iv) temperature or environmental equipment or machinery;

1262 (v) test equipment;

1263 (vi) a tower; or

1264 (vii) equipment, machinery, or software that functions similarly to an item listed in
1265 Subsections [~~(115)~~] (118)(b)(i) through (vi) as determined by the commission by rule made in
1266 accordance with Subsection [~~(115)~~] (118)(c).

1267 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1268 commission may by rule define what constitutes equipment, machinery, or software that
1269 functions similarly to an item listed in Subsections [~~(115)~~] (118)(b)(i) through (vi).

1270 [~~(116)~~] (119) "Telecommunications equipment, machinery, or software required for
1271 911 service" means equipment, machinery, or software that is required to comply with 47
1272 C.F.R. Sec. 20.18.

1273 [~~(117)~~] (120) "Telecommunications maintenance or repair equipment, machinery, or
1274 software" means equipment, machinery, or software purchased or leased primarily to maintain
1275 or repair one or more of the following, regardless of whether the equipment, machinery, or
1276 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1277 of the following:

- 1278 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1279 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1280 (c) telecommunications transmission equipment, machinery, or software.

1281 [~~(118)~~] (121) (a) "Telecommunications service" means the electronic conveyance,
1282 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1283 point, or among or between points.

1284 (b) "Telecommunications service" includes:

1285 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1286 processing application is used to act:

- 1287 (A) on the code, form, or protocol of the content;
- 1288 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1289 (C) regardless of whether the service:

1290 (I) is referred to as voice over Internet protocol service; or

1291 (II) is classified by the Federal Communications Commission as enhanced or value
1292 added;

1293 (ii) an 800 service;

1294 (iii) a 900 service;

1295 (iv) a fixed wireless service;

1296 (v) a mobile wireless service;

1297 (vi) a postpaid calling service;

1298 (vii) a prepaid calling service;

- 1299 (viii) a prepaid wireless calling service; or
- 1300 (ix) a private communications service.
- 1301 (c) "Telecommunications service" does not include:
- 1302 (i) advertising, including directory advertising;
- 1303 (ii) an ancillary service;
- 1304 (iii) a billing and collection service provided to a third party;
- 1305 (iv) a data processing and information service if:
- 1306 (A) the data processing and information service allows data to be:
- 1307 (I) (Aa) acquired;
- 1308 (Bb) generated;
- 1309 (Cc) processed;
- 1310 (Dd) retrieved; or
- 1311 (Ee) stored; and
- 1312 (II) delivered by an electronic transmission to a purchaser; and
- 1313 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1314 or information;
- 1315 (v) installation or maintenance of the following on a customer's premises:
- 1316 (A) equipment; or
- 1317 (B) wiring;
- 1318 (vi) Internet access service;
- 1319 (vii) a paging service;
- 1320 (viii) a product transferred electronically, including:
- 1321 (A) music;
- 1322 (B) reading material;
- 1323 (C) a ring tone;
- 1324 (D) software; or
- 1325 (E) video;
- 1326 (ix) a radio and television audio and video programming service:
- 1327 (A) regardless of the medium; and
- 1328 (B) including:
- 1329 (I) furnishing conveyance, routing, or transmission of a television audio and video

- 1330 programming service by a programming service provider;
- 1331 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1332 (III) audio and video programming services delivered by a commercial mobile radio
- 1333 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1334 (x) a value-added nonvoice data service; or
- 1335 (xi) tangible personal property.
- 1336 [~~(119)~~] (122) (a) "Telecommunications service provider" means a person that:
- 1337 (i) owns, controls, operates, or manages a telecommunications service; and
- 1338 (ii) engages in an activity described in Subsection [~~(119)~~] (122)(a)(i) for the shared use
- 1339 with or resale to any person of the telecommunications service.
- 1340 (b) A person described in Subsection [~~(119)~~] (122)(a) is a telecommunications service
- 1341 provider whether or not the Public Service Commission of Utah regulates:
- 1342 (i) that person; or
- 1343 (ii) the telecommunications service that the person owns, controls, operates, or
- 1344 manages.
- 1345 [~~(120)~~] (123) (a) "Telecommunications switching or routing equipment, machinery, or
- 1346 software" means an item listed in Subsection [~~(120)~~] (123)(b) if that item is purchased or
- 1347 leased primarily for switching or routing:
- 1348 (i) an ancillary service;
- 1349 (ii) data communications;
- 1350 (iii) voice communications; or
- 1351 (iv) telecommunications service.
- 1352 (b) The following apply to Subsection [~~(120)~~] (123)(a):
- 1353 (i) a bridge;
- 1354 (ii) a computer;
- 1355 (iii) a cross connect;
- 1356 (iv) a modem;
- 1357 (v) a multiplexer;
- 1358 (vi) plug in circuitry;
- 1359 (vii) a router;
- 1360 (viii) software;

- 1361 (ix) a switch; or
- 1362 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1363 Subsections [~~(120)~~] (123)(b)(i) through (ix) as determined by the commission by rule made in
- 1364 accordance with Subsection [~~(120)~~] (123)(c).
- 1365 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1366 commission may by rule define what constitutes equipment, machinery, or software that
- 1367 functions similarly to an item listed in Subsections [~~(120)~~] (123)(b)(i) through (ix).
- 1368 [~~(121)~~] (124) (a) "Telecommunications transmission equipment, machinery, or
- 1369 software" means an item listed in Subsection [~~(121)~~] (124)(b) if that item is purchased or
- 1370 leased primarily for sending, receiving, or transporting:
- 1371 (i) an ancillary service;
- 1372 (ii) data communications;
- 1373 (iii) voice communications; or
- 1374 (iv) telecommunications service.
- 1375 (b) The following apply to Subsection [~~(121)~~] (124)(a):
- 1376 (i) an amplifier;
- 1377 (ii) a cable;
- 1378 (iii) a closure;
- 1379 (iv) a conduit;
- 1380 (v) a controller;
- 1381 (vi) a duplexer;
- 1382 (vii) a filter;
- 1383 (viii) an input device;
- 1384 (ix) an input/output device;
- 1385 (x) an insulator;
- 1386 (xi) microwave machinery or equipment;
- 1387 (xii) an oscillator;
- 1388 (xiii) an output device;
- 1389 (xiv) a pedestal;
- 1390 (xv) a power converter;
- 1391 (xvi) a power supply;

1392 (xvii) a radio channel;
1393 (xviii) a radio receiver;
1394 (xix) a radio transmitter;
1395 (xx) a repeater;
1396 (xxi) software;
1397 (xxii) a terminal;
1398 (xxiii) a timing unit;
1399 (xxiv) a transformer;
1400 (xxv) a wire; or
1401 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1402 Subsections [~~(121)~~] (124)(b)(i) through (xxv) as determined by the commission by rule made in
1403 accordance with Subsection [~~(121)~~] (124)(c).

1404 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1405 commission may by rule define what constitutes equipment, machinery, or software that
1406 functions similarly to an item listed in Subsections [~~(121)~~] (124)(b)(i) through (xxv).

1407 [~~(122)~~] (125) (a) "Textbook for a higher education course" means a textbook or other
1408 printed material that is required for a course:

- 1409 (i) offered by an institution of higher education; and
- 1410 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1411 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1412 [~~(123)~~] (126) "Tobacco" means:

- 1413 (a) a cigarette;
- 1414 (b) a cigar;
- 1415 (c) chewing tobacco;
- 1416 (d) pipe tobacco; or
- 1417 (e) any other item that contains tobacco.

1418 [~~(124)~~] (127) "Unassisted amusement device" means an amusement device, skill
1419 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1420 operate the amusement device, skill device, or ride device.

1421 [~~(125)~~] (128) (a) "Use" means the exercise of any right or power over tangible personal
1422 property, a product transferred electronically, or a service under Subsection 59-12-103(1),

1423 incident to the ownership or the leasing of that tangible personal property, product transferred
1424 electronically, or service.

1425 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1426 property, a product transferred electronically, or a service in the regular course of business and
1427 held for resale.

1428 [~~(126)~~] (129) "Value-added nonvoice data service" means a service:

1429 (a) that otherwise meets the definition of a telecommunications service except that a
1430 computer processing application is used to act primarily for a purpose other than conveyance,
1431 routing, or transmission; and

1432 (b) with respect to which a computer processing application is used to act on data or
1433 information:

- 1434 (i) code;
- 1435 (ii) content;
- 1436 (iii) form; or
- 1437 (iv) protocol.

1438 [~~(127)~~] (130) (a) Subject to Subsection [~~(127)~~] (130)(b), "vehicle" means the following
1439 that are required to be titled, registered, or titled and registered:

- 1440 (i) an aircraft as defined in Section 72-10-102;
- 1441 (ii) a vehicle as defined in Section 41-1a-102;
- 1442 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1443 (iv) a vessel as defined in Section 41-1a-102.

1444 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1445 (i) a vehicle described in Subsection [~~(127)~~] (130)(a); or
- 1446 (ii) (A) a locomotive;
- 1447 (B) a freight car;
- 1448 (C) railroad work equipment; or
- 1449 (D) other railroad rolling stock.

1450 [~~(128)~~] (131) "Vehicle dealer" means a person engaged in the business of buying,
1451 selling, or exchanging a vehicle as defined in Subsection [~~(127)~~] (130).

1452 [~~(129)~~] (132) (a) "Vertical service" means an ancillary service that:

- 1453 (i) is offered in connection with one or more telecommunications services; and

1454 (ii) offers an advanced calling feature that allows a customer to:

1455 (A) identify a caller; and

1456 (B) manage multiple calls and call connections.

1457 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

1458 conference bridging service.

1459 ~~[(130)]~~ (133) (a) "Voice mail service" means an ancillary service that enables a

1460 customer to receive, send, or store a recorded message.

1461 (b) "Voice mail service" does not include a vertical service that a customer is required

1462 to have in order to utilize a voice mail service.

1463 ~~[(131)]~~ (134) (a) Except as provided in Subsection ~~[(131)]~~ (134)(b), "waste energy

1464 facility" means a facility that generates electricity:

1465 (i) using as the primary source of energy waste materials that would be placed in a

1466 landfill or refuse pit if it were not used to generate electricity, including:

1467 (A) tires;

1468 (B) waste coal; or

1469 (C) oil shale; and

1470 (ii) in amounts greater than actually required for the operation of the facility.

1471 (b) "Waste energy facility" does not include a facility that incinerates:

1472 (i) municipal solid waste;

1473 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1474 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1475 ~~[(132)]~~ (135) "Watercraft" means a vessel as defined in Section 73-18-2.

1476 ~~[(133)]~~ (136) "Wind energy" means wind used as the sole source of energy to produce

1477 electricity.

1478 ~~[(134)]~~ (137) "ZIP Code" means a Zoning Improvement Plan Code assigned to a

1479 geographic location by the United States Postal Service.

1480 Section 2. Section **59-12-103** is amended to read:

1481 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1482 **tax revenues.**

1483 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

1484 charged for the following transactions:

- 1485 (a) retail sales of tangible personal property made within the state;
- 1486 (b) amounts paid for:
- 1487 (i) telecommunications service, other than mobile telecommunications service, that
- 1488 originates and terminates within the boundaries of this state;
- 1489 (ii) mobile telecommunications service that originates and terminates within the
- 1490 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1491 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1492 (iii) an ancillary service associated with a:
- 1493 (A) telecommunications service described in Subsection (1)(b)(i); or
- 1494 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 1495 (c) sales of the following for commercial use:
- 1496 (i) gas;
- 1497 (ii) electricity;
- 1498 (iii) heat;
- 1499 (iv) coal;
- 1500 (v) fuel oil; or
- 1501 (vi) other fuels;
- 1502 (d) sales of the following for residential use:
- 1503 (i) gas;
- 1504 (ii) electricity;
- 1505 (iii) heat;
- 1506 (iv) coal;
- 1507 (v) fuel oil; or
- 1508 (vi) other fuels;
- 1509 (e) sales of prepared food;
- 1510 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1511 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1512 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1513 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1514 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1515 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

1516 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
1517 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1518 exhibition, cultural, or athletic activity;

1519 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1520 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1521 (i) the tangible personal property; and

1522 (ii) parts used in the repairs or renovations of the tangible personal property described
1523 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1524 of that tangible personal property;

1525 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1526 assisted cleaning or washing of tangible personal property;

1527 (i) subject to Subsection 59-12-107(2)(h), amounts paid or charged for [tourist home,
1528 hotel, motel, or trailer court accommodations and services that are regularly rented for less than
1529 30 consecutive days;] short-term lodging as follows:

1530 (i) if, at the time a reservation for the purchase of short-term lodging is made, the seller
1531 separately states each short-term lodging transaction component on an invoice, bill of sale, or
1532 similar document provided to the purchaser, the tax is imposed only on amounts paid or
1533 charged as a room cost for the short-term lodging; or

1534 (ii) if, at the time a reservation for the purchase of short-term lodging is made, the
1535 seller does not separately state each short-term lodging transaction component on an invoice,
1536 bill of sale, or similar document provided to the purchaser, the tax is imposed on the sum of:

1537 (A) amounts paid or charged as a room cost for short-term lodging; and

1538 (B) any additional amount, except for an amount described in Subsection (1)(i)(ii)(A)
1539 or a tax under this chapter on an amount described in Subsection (1)(i)(ii)(A), paid or charged
1540 for service as part of the transaction for the purchase of short-term lodging, regardless of how
1541 the additional amount is characterized;

1542 (j) amounts paid or charged for laundry or dry cleaning services;

1543 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1544 this state the tangible personal property is:

1545 (i) stored;

1546 (ii) used; or

- 1547 (iii) otherwise consumed;
- 1548 (l) amounts paid or charged for tangible personal property if within this state the
- 1549 tangible personal property is:
 - 1550 (i) stored;
 - 1551 (ii) used; or
 - 1552 (iii) consumed; and
 - 1553 (m) amounts paid or charged for a sale:
 - 1554 (i) (A) of a product transferred electronically; or
 - 1555 (B) of a repair or renovation of a product transferred electronically; and
 - 1556 (ii) regardless of whether the sale provides:
 - 1557 (A) a right of permanent use of the product; or
 - 1558 (B) a right to use the product that is less than a permanent use, including a right:
 - 1559 (I) for a definite or specified length of time; and
 - 1560 (II) that terminates upon the occurrence of a condition.
 - 1561 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
 - 1562 is imposed on a transaction described in Subsection (1) equal to the sum of:
 - 1563 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - 1564 (A) 4.70%; and
 - 1565 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
 - 1566 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 - 1567 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
 - 1568 State Sales and Use Tax Act; and
 - 1569 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
 - 1570 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
 - 1571 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
 - 1572 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
 - 1573 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 - 1574 transaction under this chapter other than this part.
 - 1575 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
 - 1576 on a transaction described in Subsection (1)(d) equal to the sum of:
 - 1577 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1578 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1579 transaction under this chapter other than this part.

1580 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1581 on amounts paid or charged for food and food ingredients equal to the sum of:

1582 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1583 a tax rate of 1.75%; and

1584 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1585 amounts paid or charged for food and food ingredients under this chapter other than this part.

1586 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1587 tangible personal property other than food and food ingredients, a state tax and a local tax is
1588 imposed on the entire bundled transaction equal to the sum of:

1589 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1590 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1591 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1592 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1593 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1594 Additional State Sales and Use Tax Act; and

1595 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1596 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1597 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1598 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1599 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1600 described in Subsection (2)(a)(ii).

1601 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled
1602 transaction described in Subsection (2)(d)(i):

1603 (A) if the sales price of the bundled transaction is attributable to tangible personal
1604 property, a product, or a service that is subject to taxation under this chapter and tangible
1605 personal property, a product, or service that is not subject to taxation under this chapter, the
1606 entire bundled transaction is subject to taxation under this chapter unless:

1607 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1608 personal property, product, or service that is not subject to taxation under this chapter from the

- 1609 books and records the seller keeps in the seller's regular course of business; or
- 1610 (II) state or federal law provides otherwise; or
- 1611 (B) if the sales price of a bundled transaction is attributable to two or more items of
- 1612 tangible personal property, products, or services that are subject to taxation under this chapter
- 1613 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
- 1614 higher tax rate unless:
- 1615 (I) the seller is able to identify by reasonable and verifiable standards the tangible
- 1616 personal property, product, or service that is subject to taxation under this chapter at the lower
- 1617 tax rate from the books and records the seller keeps in the seller's regular course of business; or
- 1618 (II) state or federal law provides otherwise.
- 1619 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the
- 1620 seller's regular course of business includes books and records the seller keeps in the regular
- 1621 course of business for nontax purposes.
- 1622 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
- 1623 rate imposed under the following shall take effect on the first day of a calendar quarter:
- 1624 (i) Subsection (2)(a)(i)(A);
- 1625 (ii) Subsection (2)(b)(i);
- 1626 (iii) Subsection (2)(c)(i); or
- 1627 (iv) Subsection (2)(d)(i)(A)(I).
- 1628 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that
- 1629 begins after the effective date of the tax rate increase if the billing period for the transaction
- 1630 begins before the effective date of a tax rate increase imposed under:
- 1631 (A) Subsection (2)(a)(i)(A);
- 1632 (B) Subsection (2)(b)(i);
- 1633 (C) Subsection (2)(c)(i); or
- 1634 (D) Subsection (2)(d)(i)(A)(I).
- 1635 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 1636 billing period that began before the effective date of the repeal of the tax or the tax rate
- 1637 decrease if the billing period for the transaction begins before the effective date of the repeal of
- 1638 the tax or the tax rate decrease imposed under:
- 1639 (A) Subsection (2)(a)(i)(A);

- 1640 (B) Subsection (2)(b)(i);
- 1641 (C) Subsection (2)(c)(i); or
- 1642 (D) Subsection (2)(d)(i)(A)(I).
- 1643 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
- 1644 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
- 1645 or change in a tax rate takes effect:
 - 1646 (A) on the first day of a calendar quarter; and
 - 1647 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1648 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
 - 1649 (A) Subsection (2)(a)(i)(A);
 - 1650 (B) Subsection (2)(b)(i);
 - 1651 (C) Subsection (2)(c)(i); or
 - 1652 (D) Subsection (2)(d)(i)(A)(I).
- 1653 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 1654 the commission may by rule define the term "catalogue sale."
- 1655 (3) (a) The following state taxes shall be deposited into the General Fund:
 - 1656 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 1657 (ii) the tax imposed by Subsection (2)(b)(i);
 - 1658 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 1659 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 1660 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 1661 in this chapter:
 - 1662 (i) the tax imposed by Subsection (2)(a)(ii);
 - 1663 (ii) the tax imposed by Subsection (2)(b)(ii);
 - 1664 (iii) the tax imposed by Subsection (2)(c)(ii); and
 - 1665 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 1666 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 1667 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 1668 through (g):
 - 1669 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
 - 1670 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1671 (B) for the fiscal year; or
1672 (ii) \$17,500,000.
1673 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1674 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1675 Department of Natural Resources to:
1676 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1677 protect sensitive plant and animal species; or
1678 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1679 act, to political subdivisions of the state to implement the measures described in Subsections
1680 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
1681 (ii) Money transferred to the Department of Natural Resources under Subsection
1682 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1683 person to list or attempt to have listed a species as threatened or endangered under the
1684 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
1685 (iii) At the end of each fiscal year:
1686 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1687 Conservation and Development Fund created in Section 73-10-24;
1688 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1689 Program Subaccount created in Section 73-10c-5; and
1690 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1691 Program Subaccount created in Section 73-10c-5.
1692 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1693 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1694 created in Section 4-18-6.
1695 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1696 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1697 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1698 water rights.
1699 (ii) At the end of each fiscal year:
1700 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1701 Conservation and Development Fund created in Section 73-10-24;

1702 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1703 Program Subaccount created in Section 73-10c-5; and

1704 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1705 Program Subaccount created in Section 73-10c-5.

1706 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1707 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1708 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1709 (ii) In addition to the uses allowed of the Water Resources Conservation and
1710 Development Fund under Section 73-10-24, the Water Resources Conservation and
1711 Development Fund may also be used to:

1712 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1713 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1714 quantifying surface and ground water resources and describing the hydrologic systems of an
1715 area in sufficient detail so as to enable local and state resource managers to plan for and
1716 accommodate growth in water use without jeopardizing the resource;

1717 (B) fund state required dam safety improvements; and

1718 (C) protect the state's interest in interstate water compact allocations, including the
1719 hiring of technical and legal staff.

1720 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1721 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1722 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1723 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1724 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1725 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1726 (i) provide for the installation and repair of collection, treatment, storage, and
1727 distribution facilities for any public water system, as defined in Section 19-4-102;

1728 (ii) develop underground sources of water, including springs and wells; and

1729 (iii) develop surface water sources.

1730 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1731 2006, the difference between the following amounts shall be expended as provided in this
1732 Subsection (5), if that difference is greater than \$1:

1733 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1734 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1735 (ii) \$17,500,000.

1736 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1737 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1738 credits; and

1739 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1740 restoration.

1741 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1742 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1743 created in Section 73-10-24.

1744 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1745 remaining difference described in Subsection (5)(a) shall be:

1746 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1747 credits; and

1748 (B) expended by the Division of Water Resources for cloud-seeding projects
1749 authorized by Title 73, Chapter 15, Modification of Weather.

1750 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1751 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1752 created in Section 73-10-24.

1753 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1754 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1755 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1756 Division of Water Resources for:

1757 (i) preconstruction costs:

1758 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1759 26, Bear River Development Act; and

1760 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1761 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1762 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1763 Chapter 26, Bear River Development Act;

1764 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1765 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1766 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1767 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1768 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1769 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
1770 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1771 incurred for employing additional technical staff for the administration of water rights.

1772 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1773 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1774 Fund created in Section 73-10-24.

1775 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1776 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
1777 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
1778 the Transportation Fund created by Section 72-2-102.

1779 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
1780 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1781 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1782 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1783 transactions under Subsection (1).

1784 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1785 have been paid off and the highway projects completed that are intended to be paid from
1786 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1787 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1788 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1789 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1790 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1791 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in
1792 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into
1793 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the
1794 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the

1795 following taxes, which represents a portion of the approximately 17% of sales and use tax
1796 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 1797 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1798 (ii) the tax imposed by Subsection (2)(b)(i);
- 1799 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1800 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1801 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
1802 Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the
1803 Division of Finance shall deposit into the Centennial Highway Fund Restricted Account
1804 created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3%
1805 of the revenues collected from the following taxes, which represents a portion of the
1806 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1807 on vehicles and vehicle-related products:

- 1808 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1809 (ii) the tax imposed by Subsection (2)(b)(i);
- 1810 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1811 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1812 (c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
1813 Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general
1814 obligation bonds have been paid off and the highway projects completed that are intended to be
1815 paid from revenues deposited in the Centennial Highway Fund Restricted Account as
1816 determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the
1817 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
1818 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the
1819 revenues collected from the following taxes, which represents a portion of the approximately
1820 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and
1821 vehicle-related products:

- 1822 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1823 (ii) the tax imposed by Subsection (2)(b)(i);
- 1824 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1825 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1826 (d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
1827 Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal
1828 year beginning on or after July 1, 2012, the Division of Finance shall deposit into the
1829 Centennial Highway Fund Restricted Account created by Section 72-2-118:

1830 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1831 the revenues collected from the following taxes, which represents a portion of the
1832 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1833 on vehicles and vehicle-related products:

- 1834 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 1835 (B) the tax imposed by Subsection (2)(b)(i);
- 1836 (C) the tax imposed by Subsection (2)(c)(i); and
- 1837 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1838 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1839 current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through
1840 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1841 (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

1842 (e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
1843 Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds
1844 have been paid off and the highway projects completed that are intended to be paid from
1845 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1846 Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year
1847 beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation
1848 Investment Fund of 2005 created by Section 72-2-124:

1849 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1850 the revenues collected from the following taxes, which represents a portion of the
1851 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1852 on vehicles and vehicle-related products:

- 1853 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 1854 (B) the tax imposed by Subsection (2)(b)(i);
- 1855 (C) the tax imposed by Subsection (2)(c)(i); and
- 1856 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1857 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1858 current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through
1859 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1860 (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

1861 (f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the
1862 sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total
1863 lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D)
1864 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
1865 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
1866 (8)(d) or (e) equal to the product of:

1867 (A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e)
1868 in the previous fiscal year; and

1869 (B) the total sales and use tax revenue generated by the taxes described in Subsections
1870 (8)(e)(i)(A) through (D) in the current fiscal year.

1871 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
1872 Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use
1873 taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division
1874 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described
1875 in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or
1876 (e).

1877 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
1878 from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited
1879 under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the
1880 revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through
1881 (D) in the current fiscal year under Subsection (8)(d) or (e).

1882 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
1883 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
1884 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

1885 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
1886 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit
1887 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

1888 Critical Highway Needs Fund created by Section 72-2-125.

1889 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
1890 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
1891 have been paid off and the highway projects completed that are included in the prioritized
1892 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
1893 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
1894 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
1895 of 2005 created by Section 72-2-124.

1896 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
1897 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
1898 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

1899 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection
1900 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
1901 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
1902 amount of tax revenue generated by a .025% tax rate on the transactions described in
1903 Subsection (1).

1904 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into
1905 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for
1906 food and food ingredients, except for tax revenue generated by a bundled transaction
1907 attributable to food and food ingredients and tangible personal property other than food and
1908 food ingredients described in Subsection (2)~~(e)~~(d).

1909 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),
1910 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general
1911 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway
1912 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)
1913 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall
1914 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
1915 amount of tax revenue generated by a .025% tax rate on the transactions described in
1916 Subsection (1).

1917 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into
1918 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or

1919 charged for food and food ingredients, except for tax revenue generated by a bundled
1920 transaction attributable to food and food ingredients and tangible personal property other than
1921 food and food ingredients described in Subsection (2)~~(c)~~(d).

1922 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
1923 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
1924 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
1925 .025% tax rate on the transactions described in Subsection (1) to be expended to address
1926 chokepoints in construction management.

1927 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
1928 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
1929 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
1930 and food ingredients and tangible personal property other than food and food ingredients
1931 described in Subsection (2)~~(c)~~(d).

1932 Section 3. Section **59-12-104** is amended to read:

1933 **59-12-104. Exemptions.**

1934 The following sales and uses are exempt from the taxes imposed by this chapter:

1935 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1936 under Chapter 13, Motor and Special Fuel Tax Act;

1937 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1938 subdivisions; however, this exemption does not apply to sales of:

1939 (a) construction materials except:

1940 (i) construction materials purchased by or on behalf of institutions of the public
1941 education system as defined in Utah Constitution Article X, Section 2, provided the
1942 construction materials are clearly identified and segregated and installed or converted to real
1943 property which is owned by institutions of the public education system; and

1944 (ii) construction materials purchased by the state, its institutions, or its political
1945 subdivisions which are installed or converted to real property by employees of the state, its
1946 institutions, or its political subdivisions; or

1947 (b) tangible personal property in connection with the construction, operation,
1948 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1949 providing additional project capacity, as defined in Section 11-13-103;

- 1950 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1951 (i) the proceeds of each sale do not exceed \$1; and
- 1952 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 1953 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1954 (b) Subsection (3)(a) applies to:
- 1955 (i) food and food ingredients; or
- 1956 (ii) prepared food;
- 1957 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1958 (i) alcoholic beverages;
- 1959 (ii) food and food ingredients; or
- 1960 (iii) prepared food;
- 1961 (b) sales of tangible personal property or a product transferred electronically:
- 1962 (i) to a passenger;
- 1963 (ii) by a commercial airline carrier; and
- 1964 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1965 (c) services related to Subsection (4)(a) or (b);
- 1966 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 1967 and equipment:
- 1968 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 1969 North American Industry Classification System of the federal Executive Office of the
- 1970 President, Office of Management and Budget; and
- 1971 (II) for:
- 1972 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 1973 equipment in the aircraft;
- 1974 (Bb) renovation of an aircraft; or
- 1975 (Cc) repair of an aircraft; or
- 1976 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 1977 commerce; or
- 1978 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 1979 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1980 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

1981 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
1982 refund:

1983 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1984 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1985 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
1986 the sale prior to filing for the refund;

1987 (iv) for sales and use taxes paid under this chapter on the sale;

1988 (v) in accordance with Section 59-1-1410; and

1989 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1990 the person files for the refund on or before September 30, 2011;

1991 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1992 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1993 exhibitor, distributor, or commercial television or radio broadcaster;

1994 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1995 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1996 washing of tangible personal property;

1997 (b) if a seller that sells at the same business location assisted cleaning or washing of
1998 tangible personal property and cleaning or washing of tangible personal property that is not
1999 assisted cleaning or washing of tangible personal property, the exemption described in
2000 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2001 or washing of the tangible personal property; and

2002 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2003 Utah Administrative Rulemaking Act, the commission may make rules:

2004 (i) governing the circumstances under which sales are at the same business location;
2005 and

2006 (ii) establishing the procedures and requirements for a seller to separately account for
2007 sales of assisted cleaning or washing of tangible personal property;

2008 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2009 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2010 fulfilled;

2011 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

2012 this state if the vehicle is:

2013 (a) not registered in this state; and

2014 (b) (i) not used in this state; or

2015 (ii) used in this state:

2016 (A) if the vehicle is not used to conduct business, for a time period that does not

2017 exceed the longer of:

2018 (I) 30 days in any calendar year; or

2019 (II) the time period necessary to transport the vehicle to the borders of this state; or

2020 (B) if the vehicle is used to conduct business, for the time period necessary to transport

2021 the vehicle to the borders of this state;

2022 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2023 (i) the item is intended for human use; and

2024 (ii) (A) a prescription was issued for the item; or

2025 (B) the item was purchased by a hospital or other medical facility; and

2026 (b) (i) Subsection (10)(a) applies to:

2027 (A) a drug;

2028 (B) a syringe; or

2029 (C) a stoma supply; and

2030 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2031 commission may by rule define the terms:

2032 (A) "syringe"; or

2033 (B) "stoma supply";

2034 (11) sales or use of property, materials, or services used in the construction of or

2035 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

2036 (12) (a) sales of an item described in Subsection (12)(c) served by:

2037 (i) the following if the item described in Subsection (12)(c) is not available to the

2038 general public:

2039 (A) a church; or

2040 (B) a charitable institution;

2041 (ii) an institution of higher education if:

2042 (A) the item described in Subsection (12)(c) is not available to the general public; or

2043 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2044 offered by the institution of higher education; or
2045 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2046 (i) a medical facility; or
2047 (ii) a nursing facility; and
2048 (c) Subsections (12)(a) and (b) apply to:
2049 (i) food and food ingredients;
2050 (ii) prepared food; or
2051 (iii) alcoholic beverages;
2052 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2053 or a product transferred electronically by a person:
2054 (i) regardless of the number of transactions involving the sale of that tangible personal
2055 property or product transferred electronically by that person; and
2056 (ii) not regularly engaged in the business of selling that type of tangible personal
2057 property or product transferred electronically;
2058 (b) this Subsection (13) does not apply if:
2059 (i) the sale is one of a series of sales of a character to indicate that the person is
2060 regularly engaged in the business of selling that type of tangible personal property or product
2061 transferred electronically;
2062 (ii) the person holds that person out as regularly engaged in the business of selling that
2063 type of tangible personal property or product transferred electronically;
2064 (iii) the person sells an item of tangible personal property or product transferred
2065 electronically that the person purchased as a sale that is exempt under Subsection (25); or
2066 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2067 this state in which case the tax is based upon:
2068 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2069 sold; or
2070 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2071 value of the vehicle or vessel being sold at the time of the sale as determined by the
2072 commission; and
2073 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2074 commission shall make rules establishing the circumstances under which:

2075 (i) a person is regularly engaged in the business of selling a type of tangible personal
2076 property or product transferred electronically;

2077 (ii) a sale of tangible personal property or a product transferred electronically is one of
2078 a series of sales of a character to indicate that a person is regularly engaged in the business of
2079 selling that type of tangible personal property or product transferred electronically; or

2080 (iii) a person holds that person out as regularly engaged in the business of selling a type
2081 of tangible personal property or product transferred electronically;

2082 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2083 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
2084 facility, of the following:

2085 (i) machinery and equipment that:

2086 (A) are used:

2087 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
2088 recycler described in Subsection 59-12-102(55)(b):

2089 (Aa) in the manufacturing process;

2090 (Bb) to manufacture an item sold as tangible personal property; and

2091 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
2092 (14)(a)(i)(A)(I) in the state; or

2093 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2094 59-12-102(55)(b):

2095 (Aa) to process an item sold as tangible personal property; and

2096 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
2097 (14)(a)(i)(A)(II) in the state; and

2098 (B) have an economic life of three or more years; and

2099 (ii) normal operating repair or replacement parts that:

2100 (A) have an economic life of three or more years; and

2101 (B) are used:

2102 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
2103 recycler described in Subsection 59-12-102(55)(b):

2104 (Aa) in the manufacturing process; and

2105 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
2106 state; or

2107 (II) for a manufacturing facility that is a scrap recycler described in Subsection
2108 59-12-102(55)(b):

2109 (Aa) to process an item sold as tangible personal property; and

2110 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
2111 state;

2112 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
2113 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
2114 of the following:

2115 (i) machinery and equipment that:

2116 (A) are used:

2117 (I) in the manufacturing process;

2118 (II) to manufacture an item sold as tangible personal property; and

2119 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
2120 (14)(b) in the state; and

2121 (B) have an economic life of three or more years; and

2122 (ii) normal operating repair or replacement parts that:

2123 (A) are used:

2124 (I) in the manufacturing process; and

2125 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

2126 (B) have an economic life of three or more years;

2127 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
2128 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
2129 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
2130 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
2131 of the 2002 North American Industry Classification System of the federal Executive Office of
2132 the President, Office of Management and Budget, of the following:

2133 (i) machinery and equipment that:

2134 (A) are used:

2135 (I) (Aa) in the production process, other than the production of real property; or

2136 (Bb) in research and development; and
2137 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
2138 in the state; and
2139 (B) have an economic life of three or more years; and
2140 (ii) normal operating repair or replacement parts that:
2141 (A) have an economic life of three or more years; and
2142 (B) are used in:
2143 (I) (Aa) the production process, except for the production of real property; and
2144 (Bb) an establishment described in this Subsection (14)(c) in the state; or
2145 (II) (Aa) research and development; and
2146 (Bb) in an establishment described in this Subsection (14)(c) in the state;
2147 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
2148 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
2149 Search Portals, of the 2002 North American Industry Classification System of the federal
2150 Executive Office of the President, Office of Management and Budget, of the following:
2151 (A) machinery and equipment that:
2152 (I) are used in the operation of the web search portal;
2153 (II) have an economic life of three or more years; and
2154 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
2155 in the state; and
2156 (B) normal operating repair or replacement parts that:
2157 (I) are used in the operation of the web search portal;
2158 (II) have an economic life of three or more years; and
2159 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
2160 in the state; or
2161 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
2162 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
2163 American Industry Classification System of the federal Executive Office of the President,
2164 Office of Management and Budget, of the following:
2165 (A) machinery and equipment that:
2166 (I) are used in the operation of the web search portal; and

2167 (II) have an economic life of three or more years; and
2168 (B) normal operating repair or replacement parts that:
2169 (I) are used in the operation of the web search portal; and
2170 (II) have an economic life of three or more years;
2171 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
2172 Utah Administrative Rulemaking Act, the commission:
2173 (i) shall by rule define the term "establishment"; and
2174 (ii) may by rule define what constitutes:
2175 (A) processing an item sold as tangible personal property;
2176 (B) the production process, except for the production of real property;
2177 (C) research and development; or
2178 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
2179 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
2180 commission shall:
2181 (i) review the exemptions described in this Subsection (14) and make
2182 recommendations to the Revenue and Taxation Interim Committee concerning whether the
2183 exemptions should be continued, modified, or repealed; and
2184 (ii) include in its report:
2185 (A) an estimate of the cost of the exemptions;
2186 (B) the purpose and effectiveness of the exemptions; and
2187 (C) the benefits of the exemptions to the state;
2188 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2189 (i) tooling;
2190 (ii) special tooling;
2191 (iii) support equipment;
2192 (iv) special test equipment; or
2193 (v) parts used in the repairs or renovations of tooling or equipment described in
2194 Subsections (15)(a)(i) through (iv); and
2195 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2196 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2197 performance of any aerospace or electronics industry contract with the United States

2198 government or any subcontract under that contract; and
2199 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2200 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2201 by:
2202 (A) a government identification tag placed on the tooling, equipment, or parts; or
2203 (B) listing on a government-approved property record if placing a government
2204 identification tag on the tooling, equipment, or parts is impractical;
2205 (16) sales of newspapers or newspaper subscriptions;
2206 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2207 product transferred electronically traded in as full or part payment of the purchase price, except
2208 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2209 trade-ins are limited to other vehicles only, and the tax is based upon:
2210 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2211 vehicle being traded in; or
2212 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2213 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2214 commission; and
2215 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
2216 following items of tangible personal property or products transferred electronically traded in as
2217 full or part payment of the purchase price:
2218 (i) money;
2219 (ii) electricity;
2220 (iii) water;
2221 (iv) gas; or
2222 (v) steam;
2223 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2224 or a product transferred electronically used or consumed primarily and directly in farming
2225 operations, regardless of whether the tangible personal property or product transferred
2226 electronically:
2227 (A) becomes part of real estate; or
2228 (B) is installed by a:

- 2229 (I) farmer;
- 2230 (II) contractor; or
- 2231 (III) subcontractor; or
- 2232 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
- 2233 product transferred electronically if the tangible personal property or product transferred
- 2234 electronically is exempt under Subsection (18)(a)(i); and
- 2235 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
- 2236 subject to the taxes imposed by this chapter:
- 2237 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
- 2238 incidental to farming:
- 2239 (I) machinery;
- 2240 (II) equipment;
- 2241 (III) materials; or
- 2242 (IV) supplies; and
- 2243 (B) tangible personal property that is considered to be used in a manner that is
- 2244 incidental to farming includes:
- 2245 (I) hand tools; or
- 2246 (II) maintenance and janitorial equipment and supplies;
- 2247 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 2248 transferred electronically if the tangible personal property or product transferred electronically
- 2249 is used in an activity other than farming; and
- 2250 (B) tangible personal property or a product transferred electronically that is considered
- 2251 to be used in an activity other than farming includes:
- 2252 (I) office equipment and supplies; or
- 2253 (II) equipment and supplies used in:
- 2254 (Aa) the sale or distribution of farm products;
- 2255 (Bb) research; or
- 2256 (Cc) transportation; or
- 2257 (iii) a vehicle required to be registered by the laws of this state during the period
- 2258 ending two years after the date of the vehicle's purchase;
- 2259 (19) sales of hay;

2260 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2261 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2262 garden, farm, or other agricultural produce is sold by:

2263 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2264 agricultural produce;

2265 (b) an employee of the producer described in Subsection (20)(a); or
2266 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2267 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2268 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2269 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2270 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2271 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2272 manufacturer, processor, wholesaler, or retailer;

2273 (23) a product stored in the state for resale;

2274 (24) (a) purchases of a product if:

2275 (i) the product is:

2276 (A) purchased outside of this state;
2277 (B) brought into this state:

2278 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2279 (II) by a nonresident person who is not living or working in this state at the time of the
2280 purchase;

2281 (C) used for the personal use or enjoyment of the nonresident person described in
2282 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2283 (D) not used in conducting business in this state; and

2284 (ii) for:

2285 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2286 the product for a purpose for which the product is designed occurs outside of this state;

2287 (B) a boat, the boat is registered outside of this state; or
2288 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2289 outside of this state;

2290 (b) the exemption provided for in Subsection (24)(a) does not apply to:

- 2291 (i) a lease or rental of a product; or
2292 (ii) a sale of a vehicle exempt under Subsection (33); and
2293 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2294 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2295 following:
- 2296 (i) conducting business in this state if that phrase has the same meaning in this
2297 Subsection (24) as in Subsection (63);
2298 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
2299 as in Subsection (63); or
2300 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2301 this Subsection (24) as in Subsection (63);
2302 (25) a product purchased for resale in this state, in the regular course of business, either
2303 in its original form or as an ingredient or component part of a manufactured or compounded
2304 product;
2305 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2306 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2307 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2308 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2309 Act;
2310 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2311 person for use in compounding a service taxable under the subsections;
2312 (28) purchases made in accordance with the special supplemental nutrition program for
2313 women, infants, and children established in 42 U.S.C. Sec. 1786;
2314 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
2315 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
2316 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
2317 Manual of the federal Executive Office of the President, Office of Management and Budget;
2318 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2319 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
2320 (a) not registered in this state; and
2321 (b) (i) not used in this state; or

- 2322 (ii) used in this state:
- 2323 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 2324 time period that does not exceed the longer of:
- 2325 (I) 30 days in any calendar year; or
- 2326 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2327 the borders of this state; or
- 2328 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 2329 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 2330 state;
- 2331 (31) sales of aircraft manufactured in Utah;
- 2332 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2333 providing telecommunications service;
- 2334 (33) sales, leases, or uses of the following:
- 2335 (a) a vehicle by an authorized carrier; or
- 2336 (b) tangible personal property that is installed on a vehicle:
- 2337 (i) sold or leased to or used by an authorized carrier; and
- 2338 (ii) before the vehicle is placed in service for the first time;
- 2339 (34) (a) 45% of the sales price of any new manufactured home; and
- 2340 (b) 100% of the sales price of any used manufactured home;
- 2341 (35) sales relating to schools and fundraising sales;
- 2342 (36) sales or rentals of durable medical equipment if:
- 2343 (a) a person presents a prescription for the durable medical equipment; and
- 2344 (b) the durable medical equipment is used for home use only;
- 2345 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2346 Section 72-11-102; and
- 2347 (b) the commission shall by rule determine the method for calculating sales exempt
- 2348 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2349 (38) sales to a ski resort of:
- 2350 (a) snowmaking equipment;
- 2351 (b) ski slope grooming equipment;
- 2352 (c) passenger ropeways as defined in Section 72-11-102; or

2353 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2354 described in Subsections (38)(a) through (c);

2355 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

2356 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2357 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2358 59-12-102;

2359 (b) if a seller that sells or rents at the same business location the right to use or operate
2360 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2361 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2362 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2363 amusement, entertainment, or recreation for the assisted amusement devices; and

2364 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2365 Utah Administrative Rulemaking Act, the commission may make rules:

2366 (i) governing the circumstances under which sales are at the same business location;
2367 and

2368 (ii) establishing the procedures and requirements for a seller to separately account for
2369 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2370 assisted amusement devices;

2371 (41) (a) sales of photocopies by:

2372 (i) a governmental entity; or

2373 (ii) an entity within the state system of public education, including:

2374 (A) a school; or

2375 (B) the State Board of Education; or

2376 (b) sales of publications by a governmental entity;

2377 (42) amounts paid for admission to an athletic event at an institution of higher
2378 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2379 20 U.S.C. Sec. 1681 et seq.;

2380 (43) (a) sales made to or by:

2381 (i) an area agency on aging; or

2382 (ii) a senior citizen center owned by a county, city, or town; or

2383 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2384 (44) sales or leases of semiconductor fabricating, processing, research, or development
2385 materials regardless of whether the semiconductor fabricating, processing, research, or
2386 development materials:

2387 (a) actually come into contact with a semiconductor; or

2388 (b) ultimately become incorporated into real property;

2389 (45) ~~[an amount paid by or charged to a purchaser for accommodations and services~~
2390 ~~described in Subsection 59-12-103(1)(i) to the extent the amount is]~~ short-term lodging exempt
2391 under Section 59-12-104.2;

2392 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
2393 sports event registration certificate in accordance with Section 41-3-306 for the event period
2394 specified on the temporary sports event registration certificate;

2395 (47) sales or uses of electricity, if the sales or uses are:

2396 (a) made under a tariff adopted by the Public Service Commission of Utah only for
2397 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
2398 source, as designated in the tariff by the Public Service Commission of Utah; and

2399 (b) for an amount of electricity that is:

2400 (i) unrelated to the amount of electricity used by the person purchasing the electricity
2401 under the tariff described in Subsection (47)(a); and

2402 (ii) equivalent to the number of kilowatthours specified in the tariff described in
2403 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

2404 (48) sales or rentals of mobility enhancing equipment if a person presents a
2405 prescription for the mobility enhancing equipment;

2406 (49) sales of water in a:

2407 (a) pipe;

2408 (b) conduit;

2409 (c) ditch; or

2410 (d) reservoir;

2411 (50) sales of currency or coinage that constitute legal tender of the United States or of a
2412 foreign nation;

2413 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2414 (i) does not constitute legal tender of any nation; and

2415 (ii) has a gold, silver, or platinum content of 80% or more; and
2416 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
2417 (i) ingot;
2418 (ii) bar;
2419 (iii) medallion; or
2420 (iv) decorative coin;
2421 (52) amounts paid on a sale-leaseback transaction;
2422 (53) sales of a prosthetic device:
2423 (a) for use on or in a human; and
2424 (b) (i) for which a prescription is required; or
2425 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2426 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2427 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2428 or equipment is primarily used in the production or postproduction of the following media for
2429 commercial distribution:
2430 (i) a motion picture;
2431 (ii) a television program;
2432 (iii) a movie made for television;
2433 (iv) a music video;
2434 (v) a commercial;
2435 (vi) a documentary; or
2436 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2437 commission by administrative rule made in accordance with Subsection (54)(d); or
2438 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
2439 equipment by an establishment described in Subsection (54)(c) that is used for the production
2440 or postproduction of the following are subject to the taxes imposed by this chapter:
2441 (i) a live musical performance;
2442 (ii) a live news program; or
2443 (iii) a live sporting event;
2444 (c) the following establishments listed in the 1997 North American Industry
2445 Classification System of the federal Executive Office of the President, Office of Management

2446 and Budget, apply to Subsections (54)(a) and (b):
2447 (i) NAICS Code 512110; or
2448 (ii) NAICS Code 51219; and
2449 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2450 commission may by rule:
2451 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2452 or
2453 (ii) define:
2454 (A) "commercial distribution";
2455 (B) "live musical performance";
2456 (C) "live news program"; or
2457 (D) "live sporting event";
2458 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2459 on or before June 30, 2019, of machinery or equipment that:
2460 (i) is leased or purchased for or by a facility that:
2461 (A) is a renewable energy production facility;
2462 (B) is located in the state; and
2463 (C) (I) becomes operational on or after July 1, 2004; or
2464 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2465 2004, as a result of the use of the machinery or equipment;
2466 (ii) has an economic life of five or more years; and
2467 (iii) is used to make the facility or the increase in capacity of the facility described in
2468 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2469 transmission grid including:
2470 (A) a wind turbine;
2471 (B) generating equipment;
2472 (C) a control and monitoring system;
2473 (D) a power line;
2474 (E) substation equipment;
2475 (F) lighting;
2476 (G) fencing;

- 2477 (H) pipes; or
- 2478 (I) other equipment used for locating a power line or pole; and
- 2479 (b) this Subsection (55) does not apply to:
 - 2480 (i) machinery or equipment used in construction of:
 - 2481 (A) a new renewable energy production facility; or
 - 2482 (B) the increase in the capacity of a renewable energy production facility;
 - 2483 (ii) contracted services required for construction and routine maintenance activities;
- 2484 and
 - 2485 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 2486 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
 - 2487 acquired after:
 - 2488 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
 - 2489 operational as described in Subsection (55)(a)(iii); or
 - 2490 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 2491 in Subsection (55)(a)(iii);
 - 2492 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 - 2493 on or before June 30, 2019, of machinery or equipment that:
 - 2494 (i) is leased or purchased for or by a facility that:
 - 2495 (A) is a waste energy production facility;
 - 2496 (B) is located in the state; and
 - 2497 (C) (I) becomes operational on or after July 1, 2004; or
 - 2498 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 2499 2004, as a result of the use of the machinery or equipment;
 - 2500 (ii) has an economic life of five or more years; and
 - 2501 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 2502 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
 - 2503 transmission grid including:
 - 2504 (A) generating equipment;
 - 2505 (B) a control and monitoring system;
 - 2506 (C) a power line;
 - 2507 (D) substation equipment;

- 2508 (E) lighting;
- 2509 (F) fencing;
- 2510 (G) pipes; or
- 2511 (H) other equipment used for locating a power line or pole; and
- 2512 (b) this Subsection (56) does not apply to:
 - 2513 (i) machinery or equipment used in construction of:
 - 2514 (A) a new waste energy facility; or
 - 2515 (B) the increase in the capacity of a waste energy facility;
 - 2516 (ii) contracted services required for construction and routine maintenance activities;
 - 2517 and
 - 2518 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 2519 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
 - 2520 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 2521 described in Subsection (56)(a)(iii); or
 - 2522 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 2523 in Subsection (56)(a)(iii);
 - 2524 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
 - 2525 or before June 30, 2019, of machinery or equipment that:
 - 2526 (i) is leased or purchased for or by a facility that:
 - 2527 (A) is located in the state;
 - 2528 (B) produces fuel from biomass energy including:
 - 2529 (I) methanol; or
 - 2530 (II) ethanol; and
 - 2531 (C) (I) becomes operational on or after July 1, 2004; or
 - 2532 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 2533 a result of the installation of the machinery or equipment;
 - 2534 (ii) has an economic life of five or more years; and
 - 2535 (iii) is installed on the facility described in Subsection (57)(a)(i);
 - 2536 (b) this Subsection (57) does not apply to:
 - 2537 (i) machinery or equipment used in construction of:
 - 2538 (A) a new facility described in Subsection (57)(a)(i); or

- 2539 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2540 (ii) contracted services required for construction and routine maintenance activities;
2541 and
2542 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
2543 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
2544 (A) the facility described in Subsection (57)(a)(i) is operational; or
2545 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2546 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2547 product transferred electronically to a person within this state if that tangible personal property
2548 or product transferred electronically is subsequently shipped outside the state and incorporated
2549 pursuant to contract into and becomes a part of real property located outside of this state;
2550 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2551 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2552 gross receipts, or other similar transaction excise tax on the transaction against which the other
2553 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
2554 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2555 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2556 refund:
2557 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
2558 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2559 which the sale is made;
2560 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2561 sale prior to filing for the refund;
2562 (iv) for sales and use taxes paid under this chapter on the sale;
2563 (v) in accordance with Section 59-1-1410; and
2564 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2565 the person files for the refund on or before June 30, 2011;
2566 (59) purchases:
2567 (a) of one or more of the following items in printed or electronic format:
2568 (i) a list containing information that includes one or more:
2569 (A) names; or

2570 (B) addresses; or
2571 (ii) a database containing information that includes one or more:
2572 (A) names; or
2573 (B) addresses; and
2574 (b) used to send direct mail;
2575 (60) redemptions or repurchases of a product by a person if that product was:
2576 (a) delivered to a pawnbroker as part of a pawn transaction; and
2577 (b) redeemed or repurchased within the time period established in a written agreement
2578 between the person and the pawnbroker for redeeming or repurchasing the product;
2579 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
2580 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2581 and
2582 (ii) has a useful economic life of one or more years; and
2583 (b) the following apply to Subsection (61)(a):
2584 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2585 (ii) telecommunications equipment, machinery, or software required for 911 service;
2586 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2587 (iv) telecommunications switching or routing equipment, machinery, or software; or
2588 (v) telecommunications transmission equipment, machinery, or software;
2589 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
2590 personal property or a product transferred electronically that are used in the research and
2591 development of coal-to-liquids, oil shale, or tar sands technology; and
2592 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2593 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2594 purchases of tangible personal property or a product transferred electronically that are used in
2595 the research and development of coal-to-liquids, oil shale, and tar sands technology;
2596 (63) (a) purchases of tangible personal property or a product transferred electronically
2597 if:
2598 (i) the tangible personal property or product transferred electronically is:
2599 (A) purchased outside of this state;
2600 (B) brought into this state at any time after the purchase described in Subsection

2601 (63)(a)(i)(A); and
2602 (C) used in conducting business in this state; and
2603 (ii) for:
2604 (A) tangible personal property or a product transferred electronically other than the
2605 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2606 for a purpose for which the property is designed occurs outside of this state; or
2607 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2608 outside of this state;
2609 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2610 (i) a lease or rental of tangible personal property or a product transferred electronically;
2611 or
2612 (ii) a sale of a vehicle exempt under Subsection (33); and
2613 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2614 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2615 following:
2616 (i) conducting business in this state if that phrase has the same meaning in this
2617 Subsection (63) as in Subsection (24);
2618 (ii) the first use of tangible personal property or a product transferred electronically if
2619 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
2620 (iii) a purpose for which tangible personal property or a product transferred
2621 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2622 Subsection (24);
2623 (64) sales of disposable home medical equipment or supplies if:
2624 (a) a person presents a prescription for the disposable home medical equipment or
2625 supplies;
2626 (b) the disposable home medical equipment or supplies are used exclusively by the
2627 person to whom the prescription described in Subsection (64)(a) is issued; and
2628 (c) the disposable home medical equipment and supplies are listed as eligible for
2629 payment under:
2630 (i) Title XVIII, federal Social Security Act; or
2631 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

- 2632 (65) sales:
- 2633 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2634 District Act; or
- 2635 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2636 tangible personal property is:
 - 2637 (i) clearly identified; and
 - 2638 (ii) installed or converted to real property owned by the public transit district;
- 2639 (66) sales of construction materials:
 - 2640 (a) purchased on or after July 1, 2010;
 - 2641 (b) purchased by, on behalf of, or for the benefit of an international airport:
 - 2642 (i) located within a county of the first class; and
 - 2643 (ii) that has a United States customs office on its premises; and
 - 2644 (c) if the construction materials are:
 - 2645 (i) clearly identified;
 - 2646 (ii) segregated; and
 - 2647 (iii) installed or converted to real property:
 - 2648 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 2649 (B) located at the international airport described in Subsection (66)(b);
- 2650 (67) sales of construction materials:
 - 2651 (a) purchased on or after July 1, 2008;
 - 2652 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 2653 (i) located within a county of the second class; and
 - 2654 (ii) that is owned or operated by a city in which an airline as defined in Section
 - 2655 59-2-102 is headquartered; and
 - 2656 (c) if the construction materials are:
 - 2657 (i) clearly identified;
 - 2658 (ii) segregated; and
 - 2659 (iii) installed or converted to real property:
 - 2660 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 2661 (B) located at the new airport described in Subsection (67)(b); and
 - 2662 (C) as part of the construction of the new airport described in Subsection (67)(b);

2663 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

2664 (69) purchases and sales described in Section 63H-4-111;

2665 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2666 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2667 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2668 lists a state or country other than this state as the location of registry of the fixed wing turbine
2669 powered aircraft; or

2670 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2671 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2672 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2673 lists a state or country other than this state as the location of registry of the fixed wing turbine
2674 powered aircraft;

2675 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2676 (a) to a person admitted to an institution of higher education; and

2677 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2678 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2679 textbook for a higher education course; and

2680 (72) a license fee or tax a municipality imposes in accordance with Subsection
2681 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2682 level of municipal services.

2683 Section 4. Section **59-12-104.2** is amended to read:

2684 **59-12-104.2. Exemption for short-term lodging taxed by the Navajo Nation.**

2685 (1) As used in this section "tribal taxing area" means the geographical area that:

2686 (a) is subject to the taxing authority of the Navajo Nation; and

2687 (b) consists of:

2688 (i) notwithstanding the issuance of a patent, all land:

2689 (A) within the limits of an Indian reservation under the jurisdiction of the federal
2690 government; and

2691 (B) including any rights-of-way running through the reservation; and

2692 (ii) all Indian allotments the Indian titles to which have not been extinguished,

2693 including any rights-of-way running through an Indian allotment.

2694 (2) (a) Beginning July 1, 2001, amounts [~~paid by or charged to a purchaser for~~
2695 ~~accommodations and services described in~~] subject to taxation as short-term lodging under
2696 Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection
2697 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:

2698 (i) the [~~accommodations and services described in Subsection 59-12-103(1)(i) are~~]
2699 short-term lodging is provided within:

2700 (A) the state; and

2701 (B) a tribal taxing area;

2702 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
2703 the purchaser for the [~~accommodations and services described in Subsection 59-12-103(1)(i)]
2704 short-term lodging;~~

2705 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
2706 regard to whether or not the purchaser that pays or is charged for the [~~accommodations and~~
2707 ~~services~~] short-term lodging is an enrolled member of the Navajo Nation; and

2708 (iv) the requirements of Subsection (4) are met.

2709 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
2710 [~~accommodations and services~~] short-term lodging described in Subsection (2)(a) are subject to
2711 a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

2712 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
2713 if that difference is greater than \$0; and

2714 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
2715 if the difference described in Subsection (3) is equal to or less than \$0.

2716 (3) The difference described in Subsection (2)(b) is equal to the difference between:

2717 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I)
2718 on the amounts [~~paid by or charged to a purchaser for accommodations and services described~~
2719 ~~in Subsection 59-12-103(1)(i)] subject to taxation as short-term lodging under Subsection
2720 59-12-103(1)(i); [less] and~~

2721 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
2722 charged to a purchaser for the [~~accommodations and services described in Subsection~~
2723 ~~59-12-103(1)(i)] short-term lodging.~~

2724 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax

2725 imposed on amounts paid by or charged to a purchaser for [~~accommodations and services~~
2726 ~~described in Subsection 59-12-103(1)(i)~~] short-term lodging, any change in the amount of the
2727 exemption under Subsection (2) as a result of the change in the tax rate is not effective until the
2728 first day of the calendar quarter after a 90-day period beginning on the date the commission
2729 receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2730 (b) The notice described in Subsection (4)(a) shall state:

2731 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
2732 amounts paid by or charged to a purchaser for [~~accommodations and services described in~~
2733 ~~Subsection 59-12-103(1)(i)~~] short-term lodging;

2734 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);

2735 and

2736 (iii) the new rate of the tax described in Subsection (4)(b)(i).

2737 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

2738 (a) shall review the exemption provided for in this section one or more times every five
2739 years;

2740 (b) shall determine on or before the November interim meeting of the year in which the
2741 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
2742 whether the exemption should be:

2743 (i) continued;

2744 (ii) modified; or

2745 (iii) repealed; and

2746 (c) may review any other issue related to the exemption provided for in this section as
2747 determined by the Revenue and Taxation Interim Committee.

2748 Section 5. Section **59-12-104.6** is amended to read:

2749 **59-12-104.6. Procedure for claiming a sales and use tax exemption for certain**
2750 **lodging related purchases -- Rulemaking authority -- Applicability of section.**

2751 (1) As used in this section:

2752 (a) "Designated establishment within the lodging industry" means an establishment
2753 described in NAICS Code 721110 or 721191 of the 2007 North American Industry
2754 Classification System of the federal Executive Office of the President, Office of Management
2755 and Budget.

- 2756 (b) "Exempt purchaser" means a person that:
- 2757 (i) makes a lodging related purchase; and
- 2758 (ii) may claim an exemption from a tax under this chapter for the purchase.
- 2759 (c) "Lodging related purchase" means the purchase of the following from a seller that is
- 2760 a designated establishment within the lodging industry:
- 2761 (i) [~~accommodations and services described in Subsection 59-12-103(1)(i)~~] short-term
- 2762 lodging; or
- 2763 (ii) any other tangible personal property, product, or service that is:
- 2764 (A) purchased as part of a transaction that includes the purchase of [~~accommodations~~
- 2765 ~~and services described in Subsection (1)(c)(i)~~] short-term lodging; and
- 2766 (B) included on the invoice, bill of sale, or similar document provided to the purchaser
- 2767 of the [~~accommodations and services described in Subsection (1)(c)(i)~~] short-term lodging.
- 2768 (2) Except as provided in Subsection (3), an exempt purchaser that makes a lodging
- 2769 related purchase:
- 2770 (a) shall pay a tax that would otherwise be imposed under this chapter on the lodging
- 2771 related purchase but for the purchaser being allowed to claim an exemption from a tax under
- 2772 this chapter for the purchase; and
- 2773 (b) may apply to the commission for a refund of the tax described in Subsection (2)(a)
- 2774 that the purchaser pays.
- 2775 (3) An exempt purchaser that makes a lodging related purchase may claim an
- 2776 exemption from a tax under this chapter at the point of sale if the exempt purchaser:
- 2777 (a) is an agency or instrumentality of the United States;
- 2778 (b) is exempt from a tax under this chapter on a lodging related purchase as authorized
- 2779 by a diplomatic tax exemption card issued by the United States; or
- 2780 (c) may claim the exemption at the point of sale in accordance with Section
- 2781 59-12-104.1.
- 2782 (4) An exempt purchaser that applies to the commission for a refund may not make an
- 2783 application to the commission for a refund more frequently than monthly.
- 2784 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2785 commission may make rules providing:
- 2786 (a) procedures for applying for a refund under this section;

2787 (b) standards for determining and verifying the amount of a lodging related purchase by
2788 an exempt purchaser; and

2789 (c) procedures for claiming a refund on a monthly basis.

2790 (6) This section does not apply to amounts taxed by the Navajo Nation that are exempt
2791 from sales and use taxes in accordance with Section 59-12-104.2.

2792 Section 6. Section **59-12-107** is amended to read:

2793 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**

2794 **-- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for**

2795 **collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**

2796 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
2797 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
2798 taxes imposed by this chapter if within this state the seller:

2799 (i) has or utilizes:

2800 (A) an office;

2801 (B) a distribution house;

2802 (C) a sales house;

2803 (D) a warehouse;

2804 (E) a service enterprise; or

2805 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

2806 (ii) maintains a stock of goods;

2807 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
2808 state, unless the seller's only activity in the state is:

2809 (A) advertising; or

2810 (B) solicitation by:

2811 (I) direct mail;

2812 (II) electronic mail;

2813 (III) the Internet;

2814 (IV) telecommunications service; or

2815 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);

2816 (iv) regularly engages in the delivery of property in the state other than by:

2817 (A) common carrier; or

- 2818 (B) United States mail; or
- 2819 (v) regularly engages in an activity directly related to the leasing or servicing of
- 2820 property located within the state.
- 2821 (b) A seller that does not meet one or more of the criteria provided for in Subsection
- 2822 (1)(a):
- 2823 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 2824 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
- 2825 (B) remit the tax to the commission as provided in this part; or
- 2826 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
- 2827 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 2828 (c) The collection and remittance of a tax under this chapter by a seller that is
- 2829 registered under the agreement may not be used as a factor in determining whether that seller is
- 2830 required by Subsection (1)(a) to:
- 2831 (i) pay a tax, fee, or charge under:
- 2832 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2833 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 2834 (C) Section 19-6-714;
- 2835 (D) Section 19-6-805;
- 2836 (E) Section 69-2-5;
- 2837 (F) Section 69-2-5.5;
- 2838 (G) Section 69-2-5.6; or
- 2839 (H) this title; or
- 2840 (ii) collect and remit a tax, fee, or charge under:
- 2841 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 2842 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 2843 (C) Section 19-6-714;
- 2844 (D) Section 19-6-805;
- 2845 (E) Section 69-2-5;
- 2846 (F) Section 69-2-5.5;
- 2847 (G) Section 69-2-5.6; or
- 2848 (H) this title.

2849 (d) A person shall pay a use tax imposed by this chapter on a transaction described in
2850 Subsection 59-12-103(1) if:

2851 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

2852 (ii) the person:

2853 (A) stores the tangible personal property or product transferred electronically in the
2854 state;

2855 (B) uses the tangible personal property or product transferred electronically in the state;

2856 or

2857 (C) consumes the tangible personal property or product transferred electronically in the
2858 state.

2859 (e) The ownership of property that is located at the premises of a printer's facility with
2860 which the retailer has contracted for printing and that consists of the final printed product,
2861 property that becomes a part of the final printed product, or copy from which the printed
2862 product is produced, shall not result in the retailer being considered to have or maintain an
2863 office, distribution house, sales house, warehouse, service enterprise, or other place of
2864 business, or to maintain a stock of goods, within this state.

2865 (f) (i) As used in this Subsection (1)(f):

2866 (A) "Affiliated group" is as defined in Section 59-7-101, except that "affiliated group"
2867 includes a corporation that is qualified to do business but is not otherwise doing business in
2868 this state.

2869 (B) "Common ownership" is as defined in Section 59-7-101.

2870 (C) "Related seller" means a seller that:

2871 (I) is not required to pay or collect and remit sales and use taxes under Subsection
2872 (1)(a) or Section 59-12-103.1;

2873 (II) is:

2874 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
2875 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

2876 (Bb) a limited liability company owned by the parent corporation of an affiliated group
2877 if that parent corporation of the affiliated group is required to pay or collect and remit sales and
2878 use taxes under Subsection (1)(a); and

2879 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).

2880 (ii) A seller is not required to pay or collect and remit sales and use taxes under
2881 Subsection (1)(a):
2882 (A) if the seller is a related seller;
2883 (B) if the seller to which the related seller is related does not engage in any of the
2884 following activities on behalf of the related seller:
2885 (I) advertising;
2886 (II) marketing;
2887 (III) sales; or
2888 (IV) other services; and
2889 (C) if the seller to which the related seller is related accepts the return of an item sold
2890 by the related seller, the seller to which the related seller is related accepts the return of that
2891 item:
2892 (I) sold by a seller that is not a related seller; and
2893 (II) on the same terms as the return of an item sold by that seller to which the related
2894 seller is related.
2895 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
2896 collected from a purchaser.
2897 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
2898 cent, in excess of the tax computed at the rates prescribed by this chapter.
2899 (c) (i) Each seller shall:
2900 (A) give the purchaser a receipt for the tax collected; or
2901 (B) bill the tax as a separate item and declare the name of this state and the seller's
2902 sales and use tax license number on the invoice for the sale.
2903 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
2904 and relieves the purchaser of the liability for reporting the tax to the commission as a
2905 consumer.
2906 (d) A seller is not required to maintain a separate account for the tax collected, but is
2907 considered to be a person charged with receipt, safekeeping, and transfer of public money.
2908 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
2909 benefit of the state and for payment to the commission in the manner and at the time provided
2910 for in this chapter.

2911 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
2912 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
2913 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
2914 excess.

2915 (g) If the accounting methods regularly employed by the seller in the transaction of the
2916 seller's business are such that reports of sales made during a calendar month or quarterly period
2917 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
2918 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
2919 jeopardize collection of the tax.

2920 (h) For purposes of a transaction described in Subsection 59-12-103(1)(i):

2921 (i) if an additional amount described in Subsection 59-12-102(110)(c) is not charged as
2922 part of a purchase of short-term lodging, the short-term lodging operator shall remit the tax on
2923 amounts paid or charged as a room cost for the short-term lodging;

2924 (ii) if an additional amount described in Subsection 59-12-102(110)(c) is charged as
2925 part of a purchase of short-term lodging and, at the time a reservation for the purchase of the
2926 short-term lodging is made, the seller separately states each short-term lodging transaction
2927 component on an invoice, bill of sale, or similar document provided to the purchaser, the
2928 short-term lodging operator shall remit the tax on amounts paid or charged as a room cost for
2929 the short-term lodging; or

2930 (iii) if an additional amount described in Subsection 59-12-102(110)(c) is charged as
2931 part of a purchase of short-term lodging and, at the time a reservation for the purchase of the
2932 short-term lodging is made, the seller does not separately state each short-term lodging
2933 transaction component on an invoice, bill of sale, or similar document provided to the
2934 purchaser;

2935 (A) the short-term lodging operator shall remit the tax on amounts paid or charged as a
2936 room cost for the short-term lodging; and

2937 (B) the seller who charges the additional amount described in Subsection
2938 59-12-102(110)(c) shall remit the tax on that additional amount.

2939 (3) (a) Except as provided in Subsections (4) through (6) and Section 59-12-108, the
2940 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
2941 before the last day of the month next succeeding each calendar quarterly period.

2942 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
2943 calendar quarterly period, file with the commission a return for the preceding quarterly period.

2944 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
2945 tax required under this chapter to be collected or paid for the period covered by the return.

2946 (c) Except as provided in Subsection (4)(c), a return shall contain information and be in
2947 a form the commission prescribes by rule.

2948 (d) The sales tax as computed in the return shall be based upon the total nonexempt
2949 sales made during the period, including both cash and charge sales.

2950 (e) The use tax as computed in the return shall be based upon the total amount of
2951 purchases for storage, use, or other consumption in this state made during the period, including
2952 both by cash and by charge.

2953 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63G, Chapter 3,
2954 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
2955 returns and paying the taxes.

2956 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

2957 (g) The commission may require returns and payment of the tax to be made for other
2958 than quarterly periods if the commission considers it necessary in order to ensure the payment
2959 of the tax imposed by this chapter.

2960 (h) (i) The commission may require a seller that files a simplified electronic return with
2961 the commission to file an additional electronic report with the commission.

2962 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2963 commission may make rules providing:

2964 (A) the information required to be included in the additional electronic report described
2965 in Subsection (3)(h)(i); and

2966 (B) one or more due dates for filing the additional electronic report described in
2967 Subsection (3)(h)(i).

2968 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a
2969 seller that is:

2970 (i) registered under the agreement;

2971 (ii) described in Subsection (1)(b); and

2972 (iii) not a:

- 2973 (A) model 1 seller;
- 2974 (B) model 2 seller; or
- 2975 (C) model 3 seller.
- 2976 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in
- 2977 accordance with Subsection (1)(b) is due and payable:
 - 2978 (A) to the commission;
 - 2979 (B) annually; and
 - 2980 (C) on or before the last day of the month immediately following the last day of each
 - 2981 calendar year.
- 2982 (ii) The commission may require that a tax a remote seller collects in accordance with
- 2983 Subsection (1)(b) be due and payable:
 - 2984 (A) to the commission; and
 - 2985 (B) on the last day of the month immediately following any month in which the seller
 - 2986 accumulates a total of at least \$1,000 in agreement sales and use tax.
- 2987 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
- 2988 (4)(b), the remote seller shall file a return:
 - 2989 (A) with the commission;
 - 2990 (B) with respect to the tax;
 - 2991 (C) containing information prescribed by the commission; and
 - 2992 (D) on a form prescribed by the commission.
- 2993 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2994 commission shall make rules prescribing:
 - 2995 (A) the information required to be contained in a return described in Subsection
 - 2996 (4)(a)(i); and
 - 2997 (B) the form described in Subsection (4)(c)(i)(D).
- 2998 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be
- 2999 calculated on the basis of the total amount of taxable transactions under Subsection
- 3000 59-12-103(1) the remote seller completes, including:
 - 3001 (i) a cash transaction; and
 - 3002 (ii) a charge transaction.
- 3003 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified

3004 electronic return collects in accordance with this chapter is due and payable:

3005 (i) monthly on or before the last day of the month immediately following the month for
3006 which the seller collects a tax under this chapter; and

3007 (ii) for the month for which the seller collects a tax under this chapter.

3008 (b) A tax a remote seller that files a simplified electronic return collects in accordance
3009 with this chapter is due and payable as provided in Subsection (4).

3010 (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
3011 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
3012 titling or registration under the laws of this state.

3013 (b) The commission shall collect the tax described in Subsection (6)(a) when the
3014 vehicle is titled or registered.

3015 (7) If any sale of tangible personal property or any other taxable transaction under
3016 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
3017 responsible for the collection or payment of the tax imposed on the sale and the retailer is
3018 responsible for the collection or payment of the tax imposed on the sale if:

3019 (a) the retailer represents that the personal property is purchased by the retailer for
3020 resale; and

3021 (b) the personal property is not subsequently resold.

3022 (8) If any sale of property or service subject to the tax is made to a person prepaying
3023 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
3024 contractor or subcontractor of that person, the person to whom such payment or consideration
3025 is payable is not responsible for the collection or payment of the sales or use tax and the person
3026 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
3027 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
3028 tax has not been fully credited against sales or use tax due and payable under the rules
3029 promulgated by the commission.

3030 (9) (a) For purposes of this Subsection (9):

3031 (i) Except as provided in Subsection (9)(a)(ii), "bad debt" is as defined in Section 166,
3032 Internal Revenue Code.

3033 (ii) Notwithstanding Subsection (9)(a)(i), "bad debt" does not include:

3034 (A) an amount included in the purchase price of tangible personal property, a product

- 3035 transferred electronically, or a service that is:
- 3036 (I) not a transaction described in Subsection 59-12-103(1); or
 - 3037 (II) exempt under Section 59-12-104;
- 3038 (B) a financing charge;
- 3039 (C) interest;
- 3040 (D) a tax imposed under this chapter on the purchase price of tangible personal
- 3041 property, a product transferred electronically, or a service;
- 3042 (E) an uncollectible amount on tangible personal property or a product transferred
- 3043 electronically that:
- 3044 (I) is subject to a tax under this chapter; and
 - 3045 (II) remains in the possession of a seller until the full purchase price is paid;
- 3046 (F) an expense incurred in attempting to collect any debt; or
- 3047 (G) an amount that a seller does not collect on repossessed property.
- 3048 (b) A seller may deduct bad debt from the total amount from which a tax under this
- 3049 chapter is calculated on a return.
- 3050 (c) A seller may file a refund claim with the commission if:
- 3051 (i) the amount of bad debt for the time period described in Subsection (9)(e) exceeds
 - 3052 the amount of the seller's sales that are subject to a tax under this chapter for that same time
 - 3053 period; and
 - 3054 (ii) as provided in Section 59-1-1410.
- 3055 (d) A bad debt deduction under this section may not include interest.
- 3056 (e) A bad debt may be deducted under this Subsection (9) on a return for the time
- 3057 period during which the bad debt:
- 3058 (i) is written off as uncollectible in the seller's books and records; and
 - 3059 (ii) would be eligible for a bad debt deduction:
- 3060 (A) for federal income tax purposes; and
 - 3061 (B) if the seller were required to file a federal income tax return.
- 3062 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
- 3063 claims a refund under this Subsection (9), the seller shall report and remit a tax under this
- 3064 chapter:
- 3065 (i) on the portion of the bad debt the seller recovers; and

3066 (ii) on a return filed for the time period for which the portion of the bad debt is
3067 recovered.

3068 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
3069 (9)(f), a seller shall apply amounts received on the bad debt in the following order:

3070 (i) in a proportional amount:

3071 (A) to the purchase price of the tangible personal property, product transferred
3072 electronically, or service; and

3073 (B) to the tax due under this chapter on the tangible personal property, product
3074 transferred electronically, or service; and

3075 (ii) to:

3076 (A) interest charges;

3077 (B) service charges; and

3078 (C) other charges.

3079 (h) A seller's certified service provider may make a deduction or claim a refund for bad
3080 debt on behalf of the seller:

3081 (i) in accordance with this Subsection (9); and

3082 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
3083 deduction or refund to the seller.

3084 (i) A seller may allocate bad debt among the states that are members of the agreement
3085 if the seller's books and records support that allocation.

3086 (10) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
3087 amount of tax required by this chapter.

3088 (b) A violation of this section is punishable as provided in Section 59-1-401.

3089 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
3090 paid to the state, except amounts determined to be due by the commission under Chapter 1,
3091 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
3092 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in
3093 addition to the tax, penalties and interest as provided in Section 59-1-401.

3094 (d) For purposes of prosecution under this section, each quarterly tax period in which a
3095 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
3096 tax required to be remitted, constitutes a separate offense.

3097 Section 7. Section **59-12-107.1** is amended to read:

3098 **59-12-107.1. Direct payment permit.**

3099 (1) The commission may issue a direct payment permit to a seller that:

3100 (a) obtains a license under Section 59-12-106;

3101 (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to
3102 the year in which the commission issues the direct payment permit to the seller;

3103 (c) has a record of timely payment of taxes under this chapter as determined by the
3104 commission; and

3105 (d) demonstrates to the commission that the seller has the ability to determine the
3106 appropriate location of a transaction:

3107 (i) under:

3108 (A) Section 59-12-211;

3109 (B) Section 59-12-212; or

3110 (C) Section 59-12-213; and

3111 (ii) for each transaction for which the seller makes a purchase using the direct payment
3112 permit.

3113 (2) The commission shall within 120 days after the date a seller applies for a direct
3114 payment permit notify the seller of the commission's decision to issue or deny the issuance of
3115 the direct payment permit.

3116 (3) A direct payment permit may not be used in connection with the following
3117 transactions:

3118 (a) a purchase of the following purchased in the same transaction:

3119 (i) prepared food; and

3120 (ii) food and food ingredients;

3121 (b) amounts paid or charged for [~~accommodations and services described in Subsection~~
3122 ~~59-12-103(1)(i)~~] short-term lodging;

3123 (c) amounts paid or charged for admission or user fees under Subsection
3124 59-12-103(1)(f);

3125 (d) a purchase of:

3126 (i) a motor vehicle;

3127 (ii) an aircraft;

- 3128 (iii) a watercraft;
- 3129 (iv) a modular home;
- 3130 (v) a manufactured home; or
- 3131 (vi) a mobile home;
- 3132 (e) amounts paid under Subsection 59-12-103(1)(b); or
- 3133 (f) sales under Subsection 59-12-103(1)(c).
- 3134 (4) The holder of a direct payment permit shall:
- 3135 (a) present evidence of the direct payment permit to a seller at the time the holder of
- 3136 the direct payment permit makes a purchase using the direct payment permit;
- 3137 (b) determine the appropriate location of a transaction under:
- 3138 (i) (A) Section 59-12-211;
- 3139 (B) Section 59-12-212; or
- 3140 (C) Section 59-12-213; and
- 3141 (ii) for each transaction for which the holder of the direct payment permit makes a
- 3142 purchase using the direct payment permit;
- 3143 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
- 3144 due on each transaction for which the holder of the direct payment permit uses the direct
- 3145 payment permit;
- 3146 (d) report and remit to the commission the sales and use tax described in Subsection
- 3147 (4)(c) at the same time and in the same manner as the holder of the direct payment permit
- 3148 reports and remits a tax under this chapter; and
- 3149 (e) maintain records:
- 3150 (i) that indicate the appropriate location of a transaction under:
- 3151 (A) (I) Section 59-12-211;
- 3152 (II) Section 59-12-212; or
- 3153 (III) Section 59-12-213; and
- 3154 (B) for each transaction for which a purchase is made using the direct payment permit;
- 3155 and
- 3156 (ii) necessary to determine the amount described in Subsection (4)(c) for each
- 3157 transaction for which the holder of the direct payment permit uses the direct payment permit.
- 3158 (5) A seller that is presented evidence of a direct payment permit at the time of a

3159 transaction:

3160 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
3161 transaction;

3162 (b) shall, for a period of three years from the date the seller files a return with the
3163 commission reporting the transaction, retain records to verify that the transaction was made
3164 using a direct payment permit; and

3165 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
3166 transaction.

3167 (6) The holder of a direct payment permit may calculate the amount the holder of the
3168 direct payment permit may retain under Section 59-12-108 on the amount described in
3169 Subsection (4)(c):

3170 (a) for each transaction for which the holder of the direct payment permit uses the
3171 direct payment permit; and

3172 (b) that the holder of the direct payment permit remits to the commission under this
3173 section.

3174 (7) The commission may revoke a direct payment permit issued under this section at
3175 any time if the holder of the direct payment permit fails to comply with any provision of this
3176 chapter.

3177 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3178 commission may make rules to administer this section.

3179 Section 8. Section **59-12-301** is amended to read:

3180 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
3181 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

3182 (1) (a) A county legislative body may impose a tax on [~~charges for the~~
3183 ~~accommodations and services described in]~~ amounts subject to taxation as short-term lodging
3184 under Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after
3185 October 1, 2006.

3186 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
3187 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

3188 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
3189 under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

3190 (2) If a county legislative body of a county of the first class imposes a tax under this
3191 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
3192 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

3193 (a) deposited into the Transient Room Tax Fund created by Section 63M-1-2203; and

3194 (b) expended as provided in Section 63M-1-2203.

3195 (3) Subject to Subsection (4), a county legislative body:

3196 (a) may increase or decrease the tax authorized under this part; and

3197 (b) shall regulate the tax authorized under this part by ordinance.

3198 (4) (a) For purposes of this Subsection (4):

3199 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,

3200 Annexation to County.

3201 (ii) "Annexing area" means an area that is annexed into a county.

3202 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
3203 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
3204 change shall take effect:

3205 (A) on the first day of a calendar quarter; and

3206 (B) after a 90-day period beginning on the date the commission receives notice meeting
3207 the requirements of Subsection (4)(b)(ii) from the county.

3208 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:

3209 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

3210 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

3211 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

3212 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3213 (4)(b)(ii)(A), the rate of the tax.

3214 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
3215 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3216 first billing period:

3217 (A) that begins after the effective date of the enactment of the tax or the tax rate
3218 increase; and

3219 (B) if the billing period for the transaction begins before the effective date of the
3220 enactment of the tax or the tax rate increase imposed under this section.

3221 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
3222 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3223 billing period:

3224 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3225 and

3226 (B) if the billing period for the transaction begins before the effective date of the repeal
3227 of the tax or the tax rate decrease imposed under this section.

3228 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
3229 Subsection 59-12-103(1)(i).

3230 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
3231 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
3232 a tax under this part for an annexing area, the enactment, 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 (4)(d)(ii) from the county that annexes the annexing area.

3236 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:

3237 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
3238 repeal, or change in the rate of a tax under this part for the annexing area;

3239 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

3240 (C) the effective date of the tax described in Subsection(4)(d)(ii)(A); and

3241 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3242 (4)(d)(ii)(A), the rate of the tax.

3243 (e) (i) Notwithstanding Subsection(4)(d)(i), for a transaction described in Subsection
3244 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3245 first billing period:

3246 (A) that begins after the effective date of the enactment of the tax or the tax rate
3247 increase; and

3248 (B) if the billing period for the transaction begins before the effective date of the
3249 enactment of the tax or the tax rate increase imposed under this section.

3250 (ii) Notwithstanding Subsection(4)(d)(i), for a transaction described in Subsection
3251 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3252 billing period:

3253 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3254 and

3255 (B) if the billing period for the transaction begins before the effective date of the repeal

3256 of the tax or the tax rate decrease imposed under this section.

3257 (iii) Subsections(4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection

3258 59-12-103(1)(i).

3259 Section 9. Section **59-12-352** is amended to read:

3260 **59-12-352. Transient room tax authority for municipalities and military**

3261 **installation development authority -- Purposes for which revenues may be used.**

3262 (1) (a) Except as provided in Subsection (5), the governing body of a municipality may

3263 impose a tax of not to exceed 1% on [~~charges for the accommodations and services described~~

3264 ~~in~~] amounts subject to taxation as short-term lodging under Subsection 59-12-103(1)(i).

3265 (b) Subject to Section 63H-1-203, the military installation development authority

3266 created in Section 63H-1-201 may impose a tax under this section [~~for accommodations and~~

3267 ~~services described in~~] on amounts subject to taxation as short-term lodging under Subsection

3268 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority

3269 under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the

3270 authority were a municipality.

3271 (2) Subject to the limitations of Subsection (1), a governing body of a municipality

3272 may, by ordinance, increase or decrease the tax under this part.

3273 (3) A governing body of a municipality shall regulate the tax under this part by

3274 ordinance.

3275 (4) A municipality may use revenues generated by the tax under this part for general

3276 fund purposes.

3277 (5) (a) A municipality may not impose a tax under this section for [~~accommodations~~

3278 ~~and services described in Subsection 59-12-103(1)(i)] short-term lodging within a project area~~

3279 described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military

3280 Installation Development Authority Act.

3281 (b) Subsection (5)(a) does not apply to the military installation development authority's

3282 imposition of a tax under this section.

3283 Section 10. Section **59-12-353** is amended to read:

3284 **59-12-353. Additional municipal transient room tax to repay bonded or other**
3285 **indebtedness.**

3286 (1) Subject to the limitations of Subsection (2), the governing body of a municipality
3287 may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed
3288 .5% on [~~charges for the accommodations and services described in~~] amounts subject to taxation
3289 as short-term lodging under Subsection 59-12-103(1)(i) if the governing body of the
3290 municipality:

3291 (a) before January 1, 1996, levied and collected a license fee or tax under Section
3292 10-1-203; and

3293 (b) before January 1, 1997, took official action to obligate the municipality in reliance
3294 on the license fees or taxes under Subsection (1)(a)[(†)] to the payment of debt service on bonds
3295 or other indebtedness, including lease payments under a lease purchase agreement.

3296 (2) The governing body of a municipality may impose the tax under this section until
3297 the sooner of:

3298 (a) the day on which the following have been paid in full:

3299 (i) the debt service on bonds or other indebtedness, including lease payments under a
3300 lease purchase agreement described in Subsection (1)(b); and

3301 (ii) refunding obligations that the municipality incurred as a result of the debt service
3302 on bonds or other indebtedness, including lease payments under a lease purchase agreement
3303 described in Subsection (1)(b); or

3304 (b) 25 years from the day on which the municipality levied the tax under this section.

3305 Section 11. Section **59-12-603** is amended to read:

3306 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
3307 **ordinance required -- Advisory board -- Administration -- Collection -- Administrative**
3308 **charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date --**
3309 **Notice requirements.**

3310 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
3311 part, impose a tax as follows:

3312 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
3313 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases

3314 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
3315 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

3316 (B) beginning on or after January 1, 1999, a county legislative body of any county
3317 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
3318 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
3319 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
3320 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
3321 to a repair or an insurance agreement;

3322 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
3323 sales of the following that are sold by a restaurant:

3324 (A) alcoholic beverages;

3325 (B) food and food ingredients; or

3326 (C) prepared food; and

3327 (iii) a county legislative body of a county of the first class may impose a tax of not to
3328 exceed .5% on [~~charges for the accommodations and services described in~~] amounts subject to
3329 taxation as short-term lodging under Subsection 59-12-103(1)(i).

3330 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
3331 17-31-5.5.

3332 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
3333 for in Subsections (1)(a)(i) through (iii) may be used for:

3334 (i) financing tourism promotion; and

3335 (ii) the development, operation, and maintenance of:

3336 (A) an airport facility;

3337 (B) a convention facility;

3338 (C) a cultural facility;

3339 (D) a recreation facility; or

3340 (E) a tourist facility.

3341 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
3342 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
3343 marketing and ticketing system designed to:

3344 (i) promote tourism in ski areas within the county by persons that do not reside within

3345 the state; and

3346 (ii) combine the sale of:

3347 (A) ski lift tickets; and

3348 (B) [~~accommodations and services described in Subsection 59-12-103(1)(i)~~] short-term

3349 lodging.

3350 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other

3351 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local

3352 Government Bonding Act, or a community development and renewal agency under Title 17C,

3353 Chapter 1, Part 5, Agency Bonds, to finance:

3354 (a) an airport facility;

3355 (b) a convention facility;

3356 (c) a cultural facility;

3357 (d) a recreation facility; or

3358 (e) a tourist facility.

3359 (4) (a) In order to impose the tax under Subsection (1), each county legislative body

3360 shall adopt an ordinance imposing the tax.

3361 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the

3362 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on

3363 those items and sales described in Subsection (1).

3364 (c) The name of the county as the taxing agency shall be substituted for that of the state

3365 where necessary, and an additional license is not required if one has been or is issued under

3366 Section 59-12-106.

3367 (5) In order to maintain in effect its tax ordinance adopted under this part, each county

3368 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,

3369 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable

3370 amendments to Part 1, Tax Collection.

3371 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory

3372 board in accordance with Section 17-31-8, the county legislative body of the county of the first

3373 class shall create a tax advisory board in accordance with this Subsection (6).

3374 (b) The tax advisory board shall be composed of nine members appointed as follows:

3375 (i) four members shall be appointed by the county legislative body of the county of the

3376 first class as follows:

3377 (A) one member shall be a resident of the unincorporated area of the county;

3378 (B) two members shall be residents of the incorporated area of the county; and

3379 (C) one member shall be a resident of the unincorporated or incorporated area of the

3380 county; and

3381 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or

3382 towns within the county of the first class appointed by an organization representing all mayors

3383 of cities and towns within the county of the first class.

3384 (c) Five members of the tax advisory board constitute a quorum.

3385 (d) The county legislative body of the county of the first class shall determine:

3386 (i) terms of the members of the tax advisory board;

3387 (ii) procedures and requirements for removing a member of the tax advisory board;

3388 (iii) voting requirements, except that action of the tax advisory board shall be by at

3389 least a majority vote of a quorum of the tax advisory board;

3390 (iv) chairs or other officers of the tax advisory board;

3391 (v) how meetings are to be called and the frequency of meetings; and

3392 (vi) the compensation, if any, of members of the tax advisory board.

3393 (e) The tax advisory board under this Subsection (6) shall advise the county legislative

3394 body of the county of the first class on the expenditure of revenues collected within the county

3395 of the first class from the taxes described in Subsection (1)(a).

3396 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
3397 shall be administered, collected, and enforced in accordance with:

3398 (A) the same procedures used to administer, collect, and enforce the tax under:

3399 (I) Part 1, Tax Collection; or

3400 (II) Part 2, Local Sales and Use Tax Act; and

3401 (B) Chapter 1, General Taxation Policies.

3402 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
3403 Subsections 59-12-205(2) through (6).

3404 (b) Except as provided in Subsection (7)(c):

3405 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

3406 commission shall distribute the revenues to the county imposing the tax; and

3407 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
3408 according to the distribution formula provided in Subsection (8).

3409 (c) The commission shall retain and deposit an administrative charge in accordance
3410 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

3411 (8) The commission shall distribute the revenues generated by the tax under Subsection
3412 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
3413 following formula:

3414 (a) the commission shall distribute 70% of the revenues based on the percentages
3415 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
3416 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

3417 (b) the commission shall distribute 30% of the revenues based on the percentages
3418 generated by dividing the population of each county collecting a tax under Subsection
3419 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

3420 (9) (a) For purposes of this Subsection (9):

3421 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
3422 County Annexation.

3423 (ii) "Annexing area" means an area that is annexed into a county.

3424 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
3425 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
3426 change shall take effect:

3427 (A) on the first day of a calendar quarter; and

3428 (B) after a 90-day period beginning on the date the commission receives notice meeting
3429 the requirements of Subsection (9)(b)(ii) from the county.

3430 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

3431 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

3432 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

3433 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

3434 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3435 (9)(b)(ii)(A), the rate of the tax.

3436 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
3437 the first billing period:

3438 (A) that begins after the effective date of the enactment of the tax or the tax rate
3439 increase; and

3440 (B) if the billing period for the transaction begins before the effective date of the
3441 enactment of the tax or the tax rate increase imposed under Subsection (1).

3442 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3443 billing period:

3444 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3445 and

3446 (B) if the billing period for the transaction begins before the effective date of the repeal
3447 of the tax or the tax rate decrease imposed under Subsection (1).

3448 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
3449 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
3450 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

3451 (A) on the first day of a calendar quarter; and

3452 (B) after a 90-day period beginning on the date the commission receives notice meeting
3453 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

3454 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

3455 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
3456 repeal, or change in the rate of a tax under this part for the annexing area;

3457 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

3458 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

3459 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
3460 (9)(d)(ii)(A), the rate of the tax.

3461 (e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
3462 the first billing period:

3463 (A) that begins after the effective date of the enactment of the tax or the tax rate
3464 increase; and

3465 (B) if the billing period for the transaction begins before the effective date of the
3466 enactment of the tax or the tax rate increase imposed under Subsection (1).

3467 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3468 billing period:

3469 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3470 and

3471 (B) if the billing period for the transaction begins before the effective date of the repeal
3472 of the tax or the tax rate decrease imposed under Subsection (1).

3473 Section 12. **Effective date.**

3474 This bill takes effect on July 1, 2012.

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