

5:30 p.m. – Work Session

No motions or decisions will be considered during this session, which is open to the public.

6:00 p.m. – Council Meeting (*Council Chambers*)

A. Welcome & Roll Call

B. Pledge of Allegiance

C. Moment of Silence

D. Public Comment

(This is an opportunity to address the City Council regarding your concerns or ideas. No action will be taken during public comment. Please try to limit your comments to three minutes.)

E. Presentations and Reports

1. Mayor's Report
2. City Council Assignment Reports

F. Consent Items

1. Consideration to approve meeting minutes from:

November 3, 2021 Council Work Session
November 3, 2021 Council Meeting

2. Consideration to approve 2022 annual City Council calendar.

G. Action Items

1. Consideration to approve Ordinance #940 for clarification on Appeal Board process.

Presented by Stacey Comeau, Human Resources

2. Consideration to approve Resolution #2021-27 making amendments to Personnel Policies Handbook policy 7-2: Pre-Determination Hearing.

Presented by Stacey Comeau, Human Resources

3. Consideration to approve Resolution #2021-28 establishing a process for mid-term vacancy for Mayor or Council.

Presented by Steve Brooks, Acting City Administrator

4. Discussion of parks/facility rename and consideration to approve Resolution #2021-29 establishing a Memorial Project and Donation policy.

Presented by Steve Brooks, Acting City Administrator

5. Presentation and discussion regarding Municipal Energy Sales and Use Tax and Municipal Telecommunications License Tax.

Presented by Fred Philpot and Cody Cardon

6. Public Hearing:

- a. Municipal Energy Sales and Use Tax
- b. Municipal Telecommunications License Tax

7. Consideration of ordinances:

- a. Ordinance #941 Municipal Energy Sales and Use Tax
- b. Ordinance #942 Municipal Telecommunications License Tax

H. Comments

- 1. City Council
- 2. City Staff
- 3. Mayor

J. Adjournment

In compliance with the Americans with Disabilities Act, persons in need of special accommodation should contact the City Offices (801) 394-5541 at least 48 hours in advance of the meeting.

Certificate of Posting

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Riverdale City limits on this 3rd day of December 2021 at the following locations: 1) Riverdale City Hall Noticing Board 2) the City website at <http://www.riverdalecity.com/> 3) the Public Notice Website: <http://www.utah.gov/pmn/index.html> and 4) A copy was also provided to the Standard-Examiner.

Michelle Marigoni
Riverdale City Recorder

**The City Council meeting on December 7, 2021 is viewable electronically and may be accessed by clicking on the link below. The regular City Council Chambers will be available for in person participation with recommended social distancing followed. The Agenda for the meeting is also attached above. **

https://www.youtube.com/channel/UCegcYe-pIXSRZGd5llencvA/videos?view_as=subscriber



Minutes of the **Work Session** of the **Riverdale City Council** held Tuesday November 3, 2021, at 5:30 p.m., at the Civic Center in the Council Chambers, 4600 S Weber River Dr., Riverdale City, Weber County, Utah.

Present:	City Council:	Braden Mitchell, Councilmember/Mayor Pro tem Brent Ellis, Councilmember Alan Arnold, Councilmember Bart Stevens, Councilmember Steve Hilton, Councilmember
	City Employees:	Steve Brooks, City Attorney Mike Eggett, Community Development Michelle Marigoni, City Recorder Jared Sholly, Fire Chief (5:53 pm) Scott Brenkman, Police Chief (5:55 pm)
	Excused:	Norm Searle, Mayor

The City Council Work Session meeting began at 5:32 p.m. Mr. Mitchell welcomed all in attendance. It was noted for the record that all Councilmembers were present, as well as city staff, and that Mayor Searle was excused.

Public Comment:

Councilmember Mitchell asked anyone knew of any public comment. There was no public comment.

Presentations and Reports:

Mayor's Report

Mr. Mitchell congratulated Mr. Stevens and reported Anne Hansen will be replacing Mr. Ellis.

City Administration Report

Mr. Brooks stated he would talk about this report in the meeting, and that it was regarding something that happened when the previous administrator was leaving. He also suggested item 2b be tabled and items 1 and 2 should be switched to better accommodate people.

Consent Items:

Consideration of Meeting Minutes from October 19, 2021 Work Session and October 19, 2021 Council Meeting

Mr. Mitchell asked if there were any changes to the minutes from October 19. Mrs. Marigoni noted the date had been incorrect but that it was fixed after the packet was sent out. There were no other changes.

Action Items:

1. **Discussion and consideration of the disposition of property owned by Riverdale City and located on or about 1570 West Ritter drive (2 pieces, Old Howell property and Coleman sliver piece) including disposition options, appraisal, and rezone.**

Mr. Brooks explained the city had been approached by a new person regarding this property, and that Council's advice was needed. Development will not be able to happen unless this property is sold. He informed Council city staff was looking for direction and permission to move forward.

2. a. **Consideration of Ordinance #938 for proposed Riverdale Center VI Subdivision Amendment, property located approximately 4171 South Riverdale Road, Riverdale Utah 84405, as requested by Riverdale Center North, LLC and AWA Engineering Group.**

Mr. Eggett went over the executive summary. Mr. Arnold questioned the status of the landscape ordinance. Mr. Eggett informed him the ordinance would be before the Planning Commission on November 9 and noted new businesses would need to start following the ordinance once it has been changed. There was general discussion regarding the road behind Mo Bettah's and the landscape ordinance.

2. b. **Consideration of resolution #2021-25 for Final Site Plan approval of proposed Cheddar's Scratch Kitchen, property located approximately 4171 South Riverdale Road, Riverdale, Utah 84405; as requested by Riverdale Center North, LLC/Cheddar's and AWA Engineering Group.**

Comments:

Mr. Arnold inquired as to what will happen with Mr. Mitchell's seat on Council when he becomes Mayor, and if it would be a Council appointment. Mr. Brooks confirmed and explained there will be an application process, interviews and votes. The application will be done before January and the opening will be announced in the newsletter. Interviews must be done in an open meeting, which could be done the second meeting in January. Mr. Hilton asked how long it would need to be open. Mr. Brooks said it would be open for two weeks and may need to be filled within 30 days of the vacancy opening.

Mr. Mitchell said he was contacted by Jay Hudson who had a large role in the Centennial Trail and was looking for information for a book. Mr. Brooks suggested he call Larry Hansen.

Mr. Stevens commented he had a pleasant interaction with Chief Sholly's crew at Maverik.

Adjournment:

Having no further business to discuss, the work meeting was adjourned at 5:58 pm.

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Minutes of the Regular Meeting of the Riverdale City Council held Tuesday, November 3, 2021, at 6:00 p.m., at the Civic Center, 4600 S Weber River Dr., Riverdale City, Weber County, Utah.

Present: City Council: Braden Mitchell, Councilmember/Mayor Pro-Temp
Brent Ellis, Councilmember
Alan Arnold, Councilmember
Bart Stevens, Councilmember
Steve Hilton, Councilmember

City Employees: Steve Brooks, City Attorney
Mike Eggett, Community Development
Jared Sholly, Fire Chief
Michelle Marigoni, City Recorder

Excused: Norm Searle, Mayor

Visitors: Jake Tate Josh Yeates

Welcome & Roll Call

The City Council meeting began at 6:00 p.m. Councilmember Mitchell called the meeting to order and welcomed all in attendance, including all Council Members, City Staff, and all members of the public.

Pledge of Allegiance

Councilmember Mitchell asked Michelle Marigoni to lead the Pledge of Allegiance.

Moment of Silence

Mr. Mitchell called for a moment of silence in and asked those in attendance to continue to keep Mayor Searle in their thoughts, as well as police officers, fire fighters and council.

Presentations and Reports

1. Mayor's Report

There was no mayor's report.

2. Council Assignment Reports

Councilmembers had no reports from their various assignments.

3. City Administrator Report

Steve Brooks spoke about the difficulties with hiring and retaining employees, as well as wages and competition from other cities. He informed Council of a step increase, used as a stopgap, which was implemented while the former city administrator was in position; Mr. Cobabe and Mayor Searle had met with department heads to come up with this solution. Mr. Brooks explained this was implemented without Council being notified due to the chaos surrounding the previous administrator's exit.

Mr. Brooks went on to explain there was no amendment necessary, as the budget allowed for it, and that it helped retain officers, public works employees, and the building inspector. He noted he was bringing this up now to make sure Council was aware of the change, and emphasized it is merely a "band-aid" as other cities are currently giving large wage increases.

Mr. Stevens inquired if the police department is currently fully staffed and asked if it would be possible to fill vacancies with part time officers.

Chief Brenkman explained part time officer positions do not work well, as there are very few officers who are willing to work part time and that reserves are not even used any longer. He commented many officers could easily leave for a six to eight dollar per hour increase, and that it may already be difficult to make budget for this year.

Council Regular Meeting, November 3, 2021

Mr. Stevens asked what the police department is having to go without. Chief Brenkman explained they are mainly trying to avoid making any purchases, running short, and not using overtime hours. He expressed concern that one big case would use the entire overtime budget, and that the fuel budget is also tight due to rising fuel prices. He stated morale begins to go down when people are overworked, short staffed, and being denied vacation time, and noted the current scale is out of date and that it needs to be looked at.

Mr. Arnold inquired if there was an annual fire report this year. Chief Sholly explained it should have been released by the former city administrator, prompting Mr. Arnold to show concern that there may be other things that were not completed.

Chief Sholly and Mr. Brooks reiterated that using part time employees for public safety is a nightmare. Mr. Arnold asked if it would be worth looking at academy applicants. Chief Brenkman answered, stating most cadets already have a job when they start the academy, as many agencies put them through. Chief Sholly mentioned he runs a fire academy, and that of 17 students 12 already had jobs. He informed Council the fire department is over 30% short on part time employees, but that he realizes the police department needs people more, and that fire is transitioning away from part time firefighters as well.

Public Comment

There was no public comment.

Consent Items

1. Consideration of Meeting Minutes from October 19, 2021 Work Session and October 19, 2021 Council Meeting.

Mr. Mitchell asked if there were any changes to the minutes from October 19. There were no changes. Councilmember Ellis motioned to approve the minute. Councilmember Arnold seconded the motion. All Councilmembers were in favor and the minutes were approved.

Action Items

Consideration of Ordinance #938 for proposed Riverdale Center VI Subdivision Amendment, property located at approximately 4171 South Riverdale Road, Riverdale Utah 84405, as requested by Riverdale Center North, LLC and AWA Engineering Group.

Mr. Eggett went over the executive summary and explained there was a favorable recommendation from staff and Planning Commission to approve.

MOTION: Councilmember Arnold moved to approve the resolution and Site Plan Amendment.

SECOND: Councilmember Hilton seconded the motion.

ROLL CALL VOTE: All Councilmembers voted in favor.

Consideration of Resolution #2021-25 for Final Site Plan approval of proposed Cheddar's Scratch Kitchen, property located approximately 4171 South Riverdale Road, Riverdale Utah, 84405, as requested by Riverdale Center North, LLC/Cheddar's and AWA Engineering Group.

A motion to table was made by Mr. Arnold and seconded by Mr. Hilton. This item was tabled and will be addressed at an indefinite future meeting.

Discussion and consideration of the disposition of property owned by Riverdale City and located on or about 1570 West Ritter Drive (2 pieces, old Howell property and Coleman sliver piece) including disposition options, appraisal, and rezone.

Mr. Brooks explained the property was purchased for widening Ritter Drive, and that city staff need direction and authorization to start looking at options for this property, which would need to be rezoned from AG to R-1-6. He proposed Council to allow staff to move forward.

Mr. Stevens asked if the rezone would change the value of the land. Mr. Arnold replied that was irrelevant, asked if there should be a development agreement to prevent "projects" and keep lots the same, and noted the buyer should protect the integrity of the property.

Council Regular Meeting, November 3, 2021

Mr. Eggett added city staff is also looking for direction regarding rezoning. Mr. Stevens commented he felt a development agreement seemed heavy-handed and overbearing, and that there is no reason not to rezone the property to match the surrounding area.

Mr. Arnold inquired as to the lot size and whether a house could be built there. Mr. Eggett and Mr. Brooks explained the zone would allow for a house and that the lot size is .23 acres.

Mr. Mitchell said he was on board to give the go ahead for this item, as all parties want it to be sold. All were in favor of moving forward.

Comments

1. City Council: None
2. City Staff:
Mr. Brooks gave an update on Mayor Searle and said the Veteran's Day program video would be finished soon.
3. Mayor: None

Adjournment.

Having no further business to discuss, Councilmember Arnold made a motion to adjourn. The motion was seconded by Councilmember Ellis. All voted in favor. The meeting was adjourned at 6:40 p.m.

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CITY COUNCIL MEETINGS *2022 ANNUAL SCHEDULE*

Regular meetings of the Riverdale City Council will be held the first and third Tuesdays of the month at 6:00 p.m. at the Riverdale Civic Center, 4600 South Weber River Drive. Additional meetings may be scheduled as necessary and pending proper legal notification.

January 4	July 5
January 18	July 19
February 1	August 2
February 15	August 16
March 1	September 6
March 15	September 20
April 5	October 4
April 19	October 18
May 3	November 1
May 17	November 15
June 7	December 6
June 21	December 20

*Strategic Planning Meetings: are held on Tuesdays following City Council meetings at the Riverdale Civic Center. There will be 2 Strategic Planning Meetings during the 2021 year, likely to occur during the months of February and May.

**Joint Strategic Planning Meeting: with City Council and Planning Commission held at 4360 Parker Drive, Riverdale, UT 84405 This meeting has historically taken place in the fall. Date to be determined.

Riverdale City is in compliance with the Americans with Disabilities Act, and provides special accommodations for all citizens in need of assistance.

Persons requesting accommodations should contact the City Offices (801) 394-5541 at least 48 hours in advance of the meeting.

**RIVERDALE CITY
CITY COUNCIL AGENDA
December 7, 2021**

AGENDA ITEM: G1

SUBJECT: Consideration to approve Ordinance #940 for clarification on Appeal Board process.

PRESENTER: Stacey Comeau, Human Resources

INFORMATION:

- a. Executive Summary
- b. Ordinance 940

[**BACK TO AGENDA**](#)



City Council Executive Summary

For the Council meeting on:
December 7, 2021

Petitioner:
Stacey Comeau

Summary of Proposed Action

Motion to approve resolution 2021-27 amending Personnel Policies Handbook policy 7-2 Pre Determination Hearing.

Motion to approve ordinance 940 for clarification on Appeal Board process.

Summary of Supporting Facts & Options

- Amending policy 7-2 to make clear contracted employees are not subject to the appeals process.
- Amending ordinance 1-7-3 to match the wording of personnel policy 7-2.

Legal Comments – City Attorney

Steve Brooks, Attorney

Fiscal Comments – Business Administrator/Budget Officer

Cody Cardon,
Business Administrator

Administrative Comments – City Administrator

Steve Brooks,
Acting City Administrator



ORDINANCE NO. 940

**AN ORDINANCE AMENDING THE RIVERDALE MUNICIPAL ORDINANCE CODE,
TITLE 1, ADMINISTRATION, CHAPTER 7, OFFICERS AND EMPLOYEES, TO ADD NEW
OR MODIFY EXISTING SECTIONS THAT WILL BETTER CLARIFY AND DEFINE THIS
SECTION CONCERNING THE EMPLOYEE APPEAL BOARD AND TO PROVIDE FOR
SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, Riverdale City (hereafter "City") is a municipal corporation, duly organized and existing under the laws of the State of Utah; and;

WHEREAS, Utah Code Annotated §10-9-102 empowers municipalities of the state to enact all ordinances and rules that they consider necessary for proper operation of a state recognized municipal corporation; and

WHEREAS, the City finds it is in the best interest of the community and its citizens to better clarify issues concerning the Riverdale City Employee Appeal Board in order to better serve the employees and community; and

WHEREAS, it appearing that the proposed code additions are in accord with the City's goals, desires and needs and will promote health, safety and the general welfare of the community at large, the Riverdale City Council finds it to be in the best interests of the City;

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF RIVERDALE:

Section 1. Repealer. Any provision of the Riverdale Municipal Ordinance Code found to be in conflict with this ordinance is hereby repealed.

Section 2. The Riverdale Municipal Ordinance, TITLE 1, ADMINISTRATION, CHAPTER 7, OFFICERS AND EMPLOYEES, SECTIONS 3 APPEAL BOARD, is hereby adopted as outlined in Attachment 1, attached hereto and incorporated hereby.

Section 3. All other titles, chapters and sections not otherwise amended hereby shall remain unchanged, in full force and effect.

Section 4. Severability. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 5. Effective date. This ordinance shall take effect immediately upon its adoption and posting.

PASSED, ADOPTED AND ORDERED POSTED this ____ day of December, 2021.

Braden Mitchell, Mayor pro tem

Attest:

Michelle Marigoni, City Recorder

CHAPTER 7 OFFICERS AND EMPLOYEES

SECTION:

[1-7-0](#): Undue Influence In Hiring Practices

[1-7-1](#): Human Resource Manual

[1-7-2](#): Salaries

[1-7-3](#): Appeal Board

1-7-3: APPEAL BOARD:

The policies and procedures of Riverdale City concerning an Appeal Board shall be established and recognized more fully in, and as a part of, the City's personnel policy.

A. Purpose: The purpose of this section is to establish a procedure whereby the City can establish an Appeal Board to hear appeals of all ~~appointive officers and employees of the City, except for members of the Police Department, Fire Department and heads of departments, who are discharged or transferred from one (1) position to another~~ full time regular employees, who are not appointed, contract or probationary employees . (Ord.940, 12-2021)

**RIVERDALE CITY
CITY COUNCIL AGENDA
December 7, 2021**

AGENDA ITEM: G2

SUBJECT: Consideration to approve Resolution #2021-27 making amendments to Personnel Policies Handbook policy 7-2: Pre-Determination Hearing.

PRESENTER: Stacey Comeau, Human Resources

INFORMATION: a. [Resolution 2021-27](#)

[BACK TO AGENDA](#)



RESOLUTION NO. 2021-27

A RESOLUTION ADOPTING AN AMENDMENT TO THE RIVERDALE CITY PERSONNEL POLICIES & PROCEDURES HANDBOOK

WHEREAS, Riverdale City has previously adopted a Personnel Policy Handbook which includes Employee Personnel Policies and Procedures; and

WHEREAS, it is necessary, from time to time, to make amendments to the Personnel Policy Handbook in order to supplement, change, clarify, or revise certain sections of the Handbook; and

WHEREAS, the City Council has reviewed the affected Sections of the Personnel Policy and has determined a need to amend said sections; ands

WHEREAS, the City finds the amendment of this policy to be in the best interest of Riverdale City and the employees of Riverdale City; and

WHEREAS, this amendment to the Personnel Policy Handbook will be made available to all City employees.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Riverdale that the amendment to the Riverdale City Personnel Policies Handbook as set forth in the attached Exhibit A (7-2 Pre-determination Hearing, is hereby adopted and the Policy Handbook shall be amended with these changes incorporated therein and now read as outlined in said Exhibit A, as an amendment to the policy.

All other title, chapters, sections and terms in the Personnel Policy Handbook shall remain the same unless specifically amended hereby.

This resolution shall take effect immediately upon its adopting and passage.

PASSED AND ADOPTED this _____ day of December, 2021

Braden Mitchell, Mayor pro tem

Attest:

Michelle Marigoni, City Recorder

Exhibit A

7-2 Pre Determination Hearing

Unless the City Administrator or Department Head has good cause to believe that a predetermination hearing would present a personal danger to any involved party, whenever a full time regular employee, who is not an appointed, contracted or probationary employee, is subject to possible suspension without pay for more than two days, demotion, or termination, a pre determination hearing shall be held prior to imposing such disciplinary action. The employee shall be given written notice of the hearing which includes an explanation of the charges against the employee and notice that discipline up to and including termination is being considered. The pre determination hearing shall be conducted by the employee's Department Head, or his/her designee, for the purpose of allowing the employee to respond to the charges and present information the employee believes is relevant to the decision. The employee has the right to have another individual present during any portion of the disciplinary process. The city may also request the presence of a police officer(s) for security purposes during any portion of the disciplinary process. A decision as to the disciplinary action to be taken, if any, shall be made by the Department Head and the employee shall be notified in writing within a reasonable time after the hearing. If disciplinary action of suspension without pay for more than two days, demotion, or termination is imposed, the Department Head shall provide the employee written notice of such disciplinary action along with a written explanation of employee rights for appeal or grievance, if any.

The City will maintain a written record of the hearing but not the Appeal Board's deliberations.

Evidence presented at the hearing shall comply with the generally accepted Rules of Civil Procedure, including but not limited to, pre-disclosure, relevance, foundation, admission, hearsay, etc., then in effect for the State of Utah, in order to be submitted or considered. In situations of disputes on the admission of evidence, only the Appeals Board can decide the admission or weight, if any, to place on the evidence.

**RIVERDALE CITY
CITY COUNCIL AGENDA
December 7, 2021**

AGENDA ITEM: G3

SUBJECT: Consideration to approve Resolution #2021-28 establishing a process for mid-term vacancy for Mayor or Council

PRESENTER: Steve Brooks, Acting City Administrator

INFORMATION:

- a. [Resolution 2021-28](#)
- b. [Utah State Code 20A-1-510 Midterm vacancies in municipal offices](#)

[**BACK TO AGENDA**](#)



RESOLUTION NO. 2021-28

A RESOLUTION ESTABLISHING A PROCEDURE TO FILL A VACANT CITY COUNCIL SEAT

WHEREAS, Section 20A-1-510 of the Utah Code sets forward a basic procedure to fill mid-term vacancies in municipal offices; and

WHEREAS, the City Council desires to expound on the statutory procedure to specify the details of conducting the required interviews, voting, and lots to ensure that the process is clear, efficient, and fair;

NOW, THEREFORE, be it resolved by the Riverdale City Council as follows.

Section 1. Adoption of Procedure. The Riverdale City Council hereby adopts the Procedure to Fill Vacancy on City Council, attached as Exhibit 1 hereto, and incorporated in the Riverdale City Council Rules and Procedures as Section 9.3. This procedure shall be followed to fill any future vacancy on the Riverdale City Council, whether such vacancy is of a Council member or of the Mayor.

Section 2. Effective Date. This Resolution is effective immediately upon passage.

DATED: December 7, 2021.

Attest:

Braden Mitchell, Mayor pro tem

Michelle Marigoni, City Recorder

Exhibit 1

9.3 MID-TERM VACANCIES

- A. In accordance with Utah Code Annotated section 20A-1-510, if any vacancy occurs in the office of mayor or city council, the legislative body shall appoint a registered voter in the city who meets the qualifications for office to fill the unexpired term of the vacated office.
 - 1. Qualifications
 - a. Must be at least 18 years of age, a United States citizen and a registered voter in Riverdale City;
 - b. Must have resided within the boundaries of Riverdale City for at least twelve (12) consecutive months immediately preceding the date of appointment;
 - c. Must not be a convicted felon; must not have been convicted of treason or of an election crime; must not have been declared mentally incompetent; and must not have had the right to hold public office restricted pursuant to Article IV, Section 6, of the Utah Constitution and U.C.A. 20A-2-101.5.
 - 2. Procedure
 - a. Public notice of the vacancy will be given at least two weeks before council meets to fill the vacancy. Notice will include the date, time, and place where the interview will be conducted, the person responsible for distributing and collection of, and the deadline for application submission.
 - b. The City will accept applications for a period of no less than two weeks. Applications will include a number of pre-interview questions.
 - c. Applicants meeting the position requirements will be notified of the date and time of the interview, to be held during a regular city council meeting.
 - d. During the regularly scheduled open meeting, applicants will be interviewed by council members. This will consist of Council members rotating and taking turns in asking Applicants up to two of their own questions. All questions will be directed to and answered by all applicants.
Applicants will be interviewed in a rotating order determined at or just prior to the meeting (Candidate A answers question 1 first, then Candidate B, then Candidate C, etc. until all candidates have answered question 1. Candidate B then answers question 2 first, then Candidate C, then Candidate D, etc., until all candidates have answered question 2. This same rotation will continue until all questions are answered).
Responses will be limited to two minutes per question. Additional follow-up clarifying questions from Council members will be limited to a one-minute response time. Each participant will have two minutes for a closing statement. City staff shall keep time for answers.
Council members will then consider the answers to the interview questions and the information provided on the Application(s) to make their voting decision.

- e. First vote: Each Council member shall note their first-choice as documented by a ballot sheet provided by city staff.
- f. Second vote: The two individuals having the highest number of votes after a first vote is taken shall appear before the Council, who shall vote again as documented by a ballot sheet provided by city staff. If neither candidate receives a majority vote at that time, the vacancy shall be filled by lot in the presence of the municipal legislative body. (20A-1-510 (c)). (Ballot sheets on both the First and Second votes shall be kept by the City Recorder for 60 days after the vote and considered to be an open record and subject to disclosure).
- g. Lots: If the decision comes down to being filled by lot, the City Recorder shall provide an unused deck of cards consisting of only one suit (hearts, diamonds, spades, or clubs) The City Recorder shall present the cards to the two applicants, each of whom shall draw one card. The applicant with the highest card shall be appointed (Ace (highest), King, Queen, Jack, 10, 9, 8, and so on).
- h. The applicant selected in the meeting shall be affirmed and sworn in at the same meeting, followed by a signed resolution appointing the applicant to fill the vacancy.

Effective 5/9/2017

20A-1-510 Midterm vacancies in municipal offices.

- (1)
- (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.
 - (b) Before acting to fill the vacancy, the municipal legislative body shall:
 - (i) give public notice of the vacancy at least two weeks before the municipal legislative body meets to fill the vacancy;
 - (ii) identify, in the notice:
 - (A) the date, time, and place of the meeting where the vacancy will be filled;
 - (B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and
 - (C) the deadline for submitting an interested individual's name; and
 - (iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.
 - (c)
 - (i) If, for any reason, the municipal legislative body does not fill the vacancy within 30 days after the day on which the vacancy occurs, the municipal legislative body shall fill the vacancy from among the names that have been submitted.
 - (ii) The two individuals having the highest number of votes of the municipal legislative body after a first vote is taken shall appear before the municipal legislative body and the municipal legislative body shall vote again.
 - (iii) If neither candidate receives a majority vote of the municipal legislative body at that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.
- (2)
- (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:
 - (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and
 - (ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.
 - (b) In appointing an interim replacement, the municipal legislative body shall:
 - (i) comply with the notice requirements of this section; and
 - (ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.
- (3)
- (a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:
 - (i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and
 - (ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.
 - (b) While serving as acting mayor under Subsection (3)(a)(ii), the council chair continues to:

- (i) act as a council member; and
- (ii) vote at council meetings.

Amended by Chapter 91, 2017 General Session

**RIVERDALE CITY
CITY COUNCIL AGENDA
December 7, 2021**

AGENDA ITEM: G4

SUBJECT: Consideration to approve Resolution #2021-29 establishing a Memorial Project and Donation policy.

PRESENTER: Steve Brooks, Acting City Attorney

INFORMATION:

- a. Resolution 2021-29
- b. Attachment
- c. Golden Spike Park History

BACK TO AGENDA



Resolution No. 2021-29

A RESOLUTION ADOPTING MEMORIAL AND COMMUNITY PROJECT DONATION POLICY

WHEREAS, on occasions the Riverdale City receives requests from individuals, groups or organizations about re-naming certain landmarks, locations or fixtures or receives requests from the same to make donations to beautiful or enhance city property; and

WHEREAS, in an effort to better clarify and serve the public in this regard, the Riverdale City Council has sought out solutions to better address these occasions; and

WHEREAS, by adopting a policy, the public would be better informed and allow for certain things to materialize following the processes outlined in the policy; and

WHEREAS, protecting the integrity of City property is paramount for the residents in Riverdale City; and

WHEREAS, the City Council discussed the policy on _____, and finds the attached policy to be in the best interests of the residents and property of Riverdale City.

NOW THEREFORE, be it resolved by the Riverdale City Council as follows:

1. Policy Adoption. The **Riverdale City Memorial and Community Project Donation Policy** attached as Exhibit A is hereby adopted.

PASSED AND ADOPTED this _____ day of _____, 2021.

Braden Mitchell, Mayor pro tem

Attest:

Michelle Marigoni, City Recorder

Exhibit A

RIVERDALE CITY MEMORIAL AND COMMUNITY PROJECT DONATION POLICY

I. Purpose

To establish a policy for non-artistic donations proposed in public parks, facilities, open space and trails on City property or on public easements.

II. Authorization

The City Council shall retain final authority for accepting donations and/or authorizing any use of City owned property.

III. Objectives

- Ensure uniformity and a timeline for requests
- Facilitate and encourage contributions to the City
- Protect the integrity of City property
- Provide opportunities for residents to augment the provision of City services and create a vested connection to place and community
- Provide customer service consistent with open and responsive government

IV. Qualifying Donations

- Community project enhancements and/or services, such as eagle scout and youth program projects, civic club projects, etc.
- Memorial items, such as benches, picnic table or trees
- Artistic donations **will not be considered** as part of this policy but will be handled separately through the City Council.
- Third party consideration discouraged. Unless specifically approved by the City Council, third parties, including non-profit organizations, may not market or include donations to the City as part of a donation or additional consideration to that party or organization. The City Council may only approve such arrangements where the consideration is used to offset costs or enhance existing services or donations directly provided by that organization to the City (such as Adopt a Trail programs).

V. RIVERDALE CITY ‘Donation List’

RIVERDALE CITY has created a list of items (Exhibit E) that may represent a benefit to the community but are not currently funded within the budget. It is recommended that all proposals review this list of approved items. Donations identified on this list have a higher probability of being approved.

VI. Process

The purpose of this policy is to establish a uniform process for donations in public parks, facilities, open space and trails on City property or public easements.

The following guidelines will be used when donating items:

A. Written Proposal and Letter of Intent

A written proposal (Exhibit B) must be submitted to the Executive Office at Riverdale City Municipal Corporation for review. The proposal submitted should include: an explanation or scope of the proposed donation; specifications, including type,

dimensions, material and proposed location; estimated value of the donation; and any other pertinent information. Additionally, a draft Letter of Intent (Exhibit C), detailing the general criteria and obligations for a donation needs to accompany the proposal.

B. General Criteria

In general, the following criteria will be considered: Any existing agreements, regulations or deeds, proposal, scope, easements, utilities, existing structures, quality and/or quantity of an object(s), size, future or ongoing maintenance, public safety, estimated value, relationship to the natural environment, users of the proposed site, future development plans, landscape design, existing infrastructure, environmental concerns, visibility and accessibility and if the item is identified on the RIVERDALE CITY “donations list.”

All applications may be reviewed by such city agencies as Engineering, Finance, Public Works, Recreation, Legal, Administration or Planning before making a recommendation. Should the donation be proposed for a historic building, site or district, RIVERDALE CITY will consult with the Planning staff and the appropriate departments and organizations. Finally, donations made on property with a conservation easement or deed restriction shall require approval from the easement holder if required per the applicable easement or deed.

The City Council shall retain final authority for all use of City owned property.

C. Timeline and Review Process

Once an application is considered complete, (verified in writing) staff will process and respond to each application within 60 days of submittal. One of the following responses will be provided:

1. Application acceptance and prepare for Council approval.
2. Application denial due to the applicant not meeting the terms of agreement of general criteria.
3. Application modification request which may include a general modification to the scope of the project
4. No timeframe shall be set for Council approval.

D. Implementation

The following guidelines are provided for the installation, construction or placement of any donation:

1. Project and Process

This donation agreement shall be appurtenant to the following location and project: _____

2. Funding

All costs including initial installation, labor and materials are the responsibility of the donor. All donations with an estimated value over \$5000 need to be reported to the Finance Department.

3. Installation

Riverdale City Public Works Department will oversee the installation of all donations. Donations requiring installation services outside of the Public Work's

regular duties may require an outside contractor at the applicant's expense. Furthermore, the Public Works Department shall approve final locations and the installation timeline for all donations.

4. Location

RIVERDALE CITY reserves the right to amend and/or reject any location provided by the applicant, based on any existing agreements, regulations or deeds, scope, proposal, easements, utilities, existing structures, quality and/or quantity of an object(s), size, maintenance, public safety, relationship to the natural environment, users of the proposed site, future development plans, landscape design, existing infrastructure, proximity to other donations, environmental concerns, visibility and accessibility and if the item is identified on the RIVERDALE CITY "Donations List." Unless specifically agreed to in writing, the City may, at any future date, elect in its sole discretion to remove or relocate the donation. No permanent right, title, or interest of any kind shall vest in the Donor's behalf by virtue of this agreement.

5. Vandalism & Maintenance

All normal maintenance costs are at the City's expense, however, no special maintenance and/or replacement will be undertaken. Special maintenance shall be defined as exceeding normal maintenance as determined and provided by the Public Works.

The City reserves the right to relocate any donation.

6. Plaques

No upright, free standing signs or plaque donations are discouraged and only allowed with City Council approval. Other details such as materials and wording must be approved by the City as part of the written proposal.

7. Materials

All donated benches, tables, species of trees, etc, must be approved by the Public Works Department. Trees may only be planted between May 15th to October 1st; weather permitting, approved and coordinated with the Public Parks Department.

8. Liability

In no event shall the City be liable for value or tax assertions/claims by the Donor. The Donor(s) agree(s) to hold the City harmless and indemnify the City for any and all claims which might arise from any person, entity or corporation, resulting from the Donor's use of the City property or right-of-way for installation purposes, or arising from the Donor's performance or improvement/item donated pursuant to this policy.

9. Other

This agreement shall be in effect for the life of the donated item in accordance with generally applicable standards.

(Exhibit B)

Written Proposal

Date: _____

Applicant: _____

Address: _____

Phone: _____

Email: _____

Scope of donation(s) (*Why and what are you submitting for this request?*)

Location (*Where are you proposing to donate the item(s)? maps, photos are encouraged. Please be specific*)

Type of Donation (*Please provide size, shape, materials, quantity of donation.*)

Approximate Cost of Donation

(Exhibit C)

Donation Letter of Intent

The following terms and conditions are provided for the installation, construction or placement of any donation:

1. Project and Process

This donation agreement shall be appurtenant to the following location and project: _____

2. Funding

All costs including initial installation, labor and materials are the responsibility of the donor. All donations with an estimated value over \$5000 need to be reported to the Finance Department.

3. Installation

Riverdale City Public Works Department will oversee the installation of all donations. Donations requiring installation services outside of the Public Works Department's regular duties may require an outside contractor at the applicant's expense. Furthermore, the Public Works Department shall approve final locations and the installation timeline for all donations.

4. Location

RIVERDALE CITY reserves the right to amend and/or reject any location provided by the applicant, based on any existing agreements, regulations or deeds, scope, proposal, easements, utilities, existing structures, quality and/or quantity of an object(s), size, maintenance, public safety, relationship to the natural environment, users of the proposed site, future development plans, landscape design, existing infrastructure, proximity to other donations, environmental concerns, visibility and accessibility and if the item is identified on the RIVERDALE CITY "Donations List." Unless specifically agreed to in writing, the City may, at any future date, elect in its sole discretion to remove or relocate the donation. No permanent right, title, or interest of any kind shall vest in the Donor's behalf by virtue of this agreement.

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6. Plaques

No upright, free standing signs or plaque donations are discouraged or allowed without City Council approval. Other details such as materials and wording must be approved by the City as part of the written proposal.

7. Materials

All donated benches, tables, species of trees, etc., must be approved by

the Public Works Department. Materials or items not specified within this document will be reviewed and approved by Public Works. Trees may only be planted between May 15th to October 1st; weather permitting, approved and coordinated with the Public Works Department.

8. Liability

In no event shall the City be liable for value or tax assertions/claims by the Donor. The Donor(s) agree(s) to hold the City harmless and indemnify the City for any and all claims which might arise from any person, entity or corporation, resulting from the Donor's use of the City property or right-of-way for installation purposes, or arising from the Donor's performance or improvement/item donated pursuant to this policy.

9. Other

This agreement shall be in effect for the life of the donated item in accordance with generally applicable standards.

THIS AGREEMENT is made by and between RIVERDALE CITY MUNICIPAL CORPORATION (City) and _____ Donor(s)) to set forth the terms and conditions under which the City will permit the applicant to donate certain improvements on City property at _____ (location), Riverdale City, Utah. Subject to the following terms and conditions of this agreement.

DATED this _____ day of _____, 20____

Mayor

Attest by :

Donor's Signature

Donor's Name (Printed)

Mailing Address

email address or phone number

On the _____ day of _____, 20____, personally appeared before me _____ who, being first duly sworn and upon oath, and in full recognition of the penalty for perjury in the State of Utah, did acknowledge to me that she/he is the Owner(s) of the property or, if the Owner(s) is a Corporation, that she/he is an authorized representative of the Corporation, and that she/he signed the foregoing instrument on their behalf.

Notary Public

EXHIBIT E

DONATIONS LIST

All proposed donations must meet City specifications and be approved by the Public Works Department.

- Interior Plants
- Trees
- Shrubs
- Flowers
- Picnic tables
- Benches
- Playground equipment
- Drinking fountains (existing water service must be considered)
- Doggy waste dispensers or bags
- Ball Field Conditioner
- Ball Field Bleachers
- Recreational Equipment – (ball sports, swimming, exercise, etc.)
- Soccer or Lacrosse goals or nets
- Garbage cans
- Shade Structures
- Memorial Markers
- Flags (national or municipal)
- Trailhead (tools) kiosk/informational items
- Signage (informational and without sponsorship)
- Trailhead Kiosk
- Bicycle Racks

History of Riverdale's Golden Spike Park

By: Camee Ellis
17 November 2021

Pomona Orchards. Charles and Anna Marie Helland Taylor owned a 40-acre farm originally located on the west bench of Riverdale. It occupied the land where the Cinedome 70, and now Larry H. Miller dealership, Cherry Creek Apartments, and Golden Spike Park are located. Charles Taylor traveled to California to go to school to learn how to raise fruit trees. Upon his return to Riverdale, he named his farm Pomona Orchards, after Pomona the Greek goddess of fruit trees, gardens, and orchards. Pictured here are Charles Taylor (left) and his son-in-law Everett Johnson.



Golden Spike Park. Golden Spike Park, located at 1150 West 5000 South, features a large pavilion, playground, two baseball diamonds, a large open grass area, and walking trail. The name for the park was suggested by a local antique automobile club. The park filled with water during the Canal Disaster in 1999.



Other Facts

- Park developed under Councilman Wallace Knight's leadership.
- The Year 1969 - 100th Anniversary of the driving of the Golden Spike
- March 1970, Golden Spike Empire Vintage Car Club formed
- The car club met at the park
- Former Riverdale police chief Wes Woolsey was a member of the club.
- April 1970, park was officially named "Golden Spike Park" after reviewing suggestions from several residents
- Summer 1971, city crews spent many hours cleaning and fixing up the area
- February 1971, eight-acre park landscaped and grass planted
- June 1971, city council approved a sprinkling system for two acres on the west side, the other six acres were flooded with irrigation water.
- June 1973, the park had an open irrigation ditch flowing near the park, along 1150 West
- June 1973, \$1,000 approved for restrooms construction
- Restrooms built. Labor provided by Riverdale Lions Club, funded by Riverdale City. Used plans from the U.S. Forest Service.
- December 1973, parks department purchased a pavilion for Golden Spike Park, along with 10 fiberglass tables and bleachers for \$2,479.

RIVERDALE

City Council Schedules Zone Talks

RIVERDALE—The City Council has scheduled a public hearing on the planned unit development ordinance and rezoning request by the Classic Construction Co. on May 4 at 6:30 p.m.

The company has requested a change from R-3-A to R-4 or R-5 zoning on a tract of land between 4300 and 4800 South to allow for construction of a condominium complex.

In other matters the council:

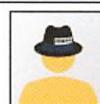
—Officially named the new city park the Riverdale Golden Spike Park after reviewing suggestions from several residents.

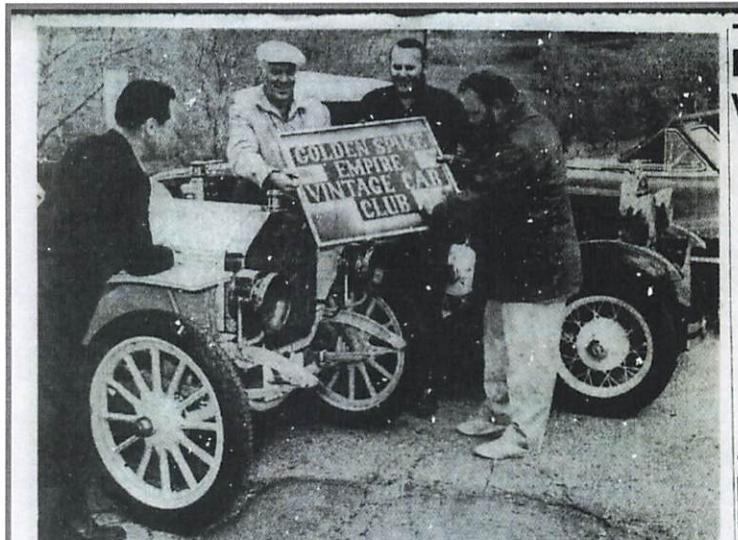
—Discussed changing the city's planned commercial (C-P) zones back to their original A-1 classification and decided to arrange a meeting later in May or June with the Planning Commission and property owners.

Clipped By:

camee_ellis

Tue, Nov 16, 2021





GIVING final touches to the name plaque for a recently organized antique car club in Weber, Davis, Box Elder and Morgan counties are Ed Niederhauser, George O'Connor, Harry J. Mosher and Ron Shupe (left to right), club members.

Early-Time Car Owners Organize Club in Four-County 'Spike' Empire

Weber, Davis, Box Elder and Morgan counties have an anniversary to celebrate Wednesday.

On April 15, 1965, the four counties, for promotional purposes, became the "Golden Spike Empire," the culmination of a two-month name-the-area-contest.

It was on that day the judges picked the name submitted by three persons, Mrs. Ruth B. Pierce of 628 S. 1st West in Brigham City, Harry J. Mosher of 3352 Adams, and Mrs. Bertha B. Larimore of 5130 S. 2175 W. in Roy.

3 RESIDENTS

The three residents of the "Golden Spike Empire" shared \$500 prize money for submitting the winning name, which was selected from 2,969 entries.

Golden spike was suggested as a name by nearly 100 of the contestants, but only three added the empire.

Judges said they picked Golden Spike Empire over the others because, "empire has a ring to it and a connotation of a grandeur that we well believe

can be applied to our historic area-contest.

One of the initial uses of the new name was to designate the Weber, Box Elder, Morgan and Davis county area in a promotional tourist brochure issued by the "Empire" counties and the Utah Tourist and Publicity Council.

SECOND NATURE

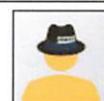
Since that time Golden Spike has been used in a number of business and organizational names and the use of Golden Spike Empire when referring to the four-county area is becoming almost second-nature to most.

Recently a club utilizing the full name and encompassing the four-counties was started.

The Golden Spike Empire Vintage Car Club will be one of the organizations to help celebrate the fifth anniversary of naming the area.

Incidentally, one of the men instrumental in starting the club and naming it is Mr. Mosher, one of the three who submitted the winning name five years ago.

Clea Th



Clipped By:

camee_ellis

Wed, Nov 17, 2021

PARENTS VOICE CONCERN

Can't Cover Canal, Riverdale Says

RIVERDALE—Legal difficulties prevent covering the Riverdale bench canal, Mayor Gail Sanders said Wednesday night.

More than 50 people attended a council meeting held at the new LDS Church at 1175 W.

5500 S., to air concerns about we would have to use general funds money. Our attorney said

While costs and legal entanglements prevent covering the ditch, the council did agree to install a chain link fence in

"We have been working with our attorney and engineer to see how we could go about cov-

ering the canal and how much it would cost," said Mayor San-

ders. "To cover and pipe the canal foot,

this could create serious problems. The only legal way would be if we formed an improve-

ment district. But then how would we determine who should be in the district?" asked the

mayor. The canal is privately owned.

According to the city engineer, a four-foot pipe would be needed for the canal. The cost

of this was estimated at \$30 a foot.

He said the council was tak-

funding action to prevent children from getting to the canal by going through the city main-

"We put a wooden fence with a gate up in back of the main-

tenance yard and building be-

cause we thought it would look better than a chain link fence.

But people are knocking the locked gate down constantly, so

they can use it as an entrance to the Golden Spike Park," he said.

When the gate is down, the children go through the yard to get to the canal to play, he said.

The council approved a motion to replace the wooden fence with a chain link fence.



Clipped By:

camee_ellis

Tue, Nov 16, 2021

**RIVERDALE CITY
CITY COUNCIL AGENDA
December 7, 2021**

AGENDA ITEM: G5

SUBJECT: Presentation and discussion regarding Municipal Energy Sales and Use Tax and Municipal Telecommunications License Tax.

PRESENTER: Fred Philpot and Cody Cardon

INFORMATION:

- a. Executive Summary
- b. Presentation information

BACK TO AGENDA



City Council Executive Summary

For the Council meeting on:
December 7, 2021

Petitioner:
Cody Cardon, Business Administrator
Steve Brooks, Interim City Admin/Attorney

Summary of Proposed Action

Discussion, public hearing, and possible action on Ordinance 941 to implement a Municipal Energy Sales and Use Tax and Ordinance 942 to implement a Municipal Telecommunications License Tax.

Summary of Supporting Facts & Options

At the Council's request we have invited Fred Philpot of Lewis Young Roberts & Burningham Inc. to discuss the ins and outs of Municipal Energy Sales and Use Tax and a Municipal Telecommunications License Tax. After this discussion, a public hearing has been set to take public comment regarding the possible implementation of these taxes. Proposed action could then be taken on the implementation of these taxes.

Substantial information on the above taxes are attached to this executive summary and will be discussed as part of the meeting.

Legal Comments - City Attorney

Steve Brooks, Attorney

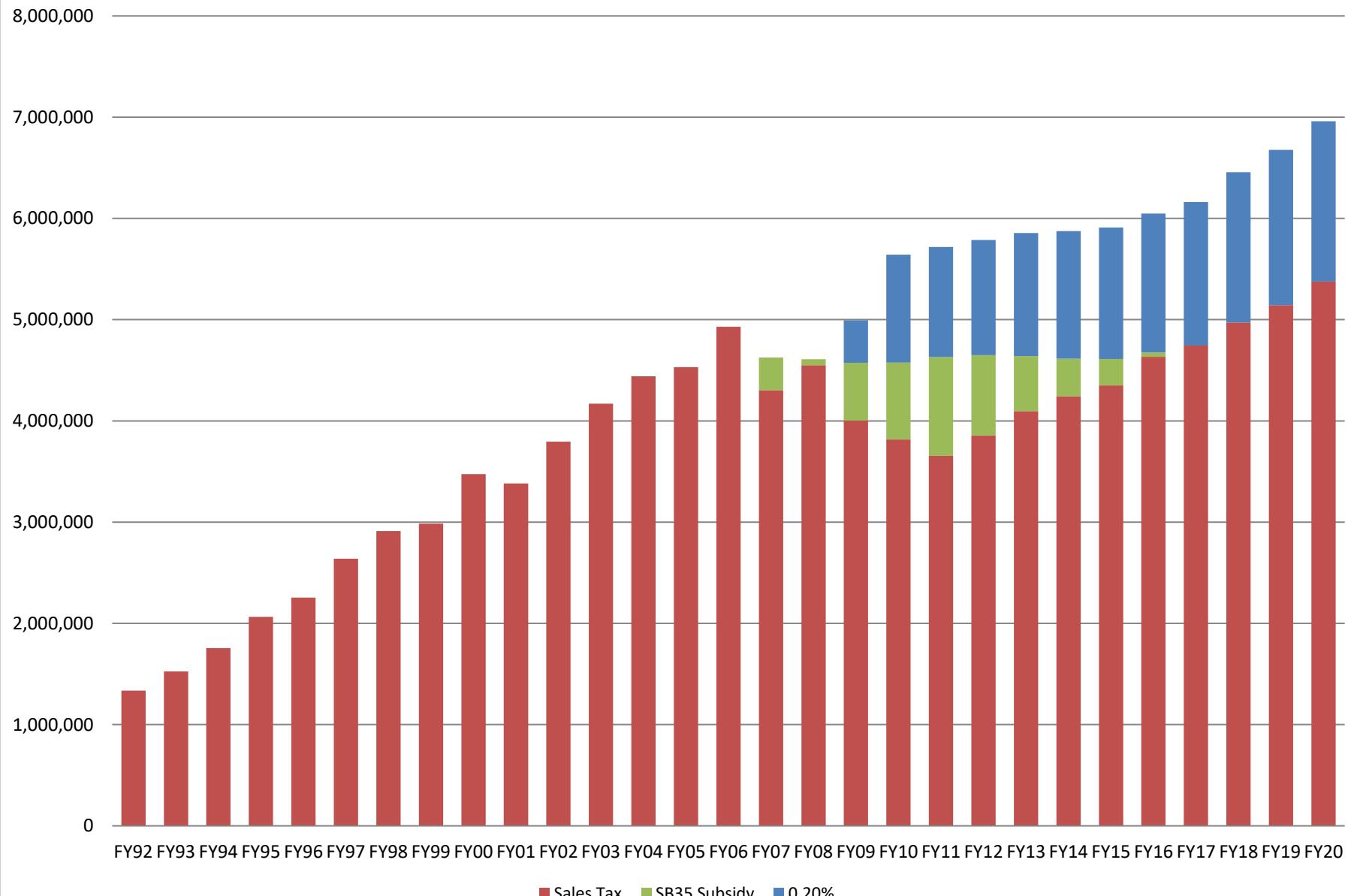
Fiscal Comments - Business Administrator/Budget Officer

Cody Cardon,
Business Administrator

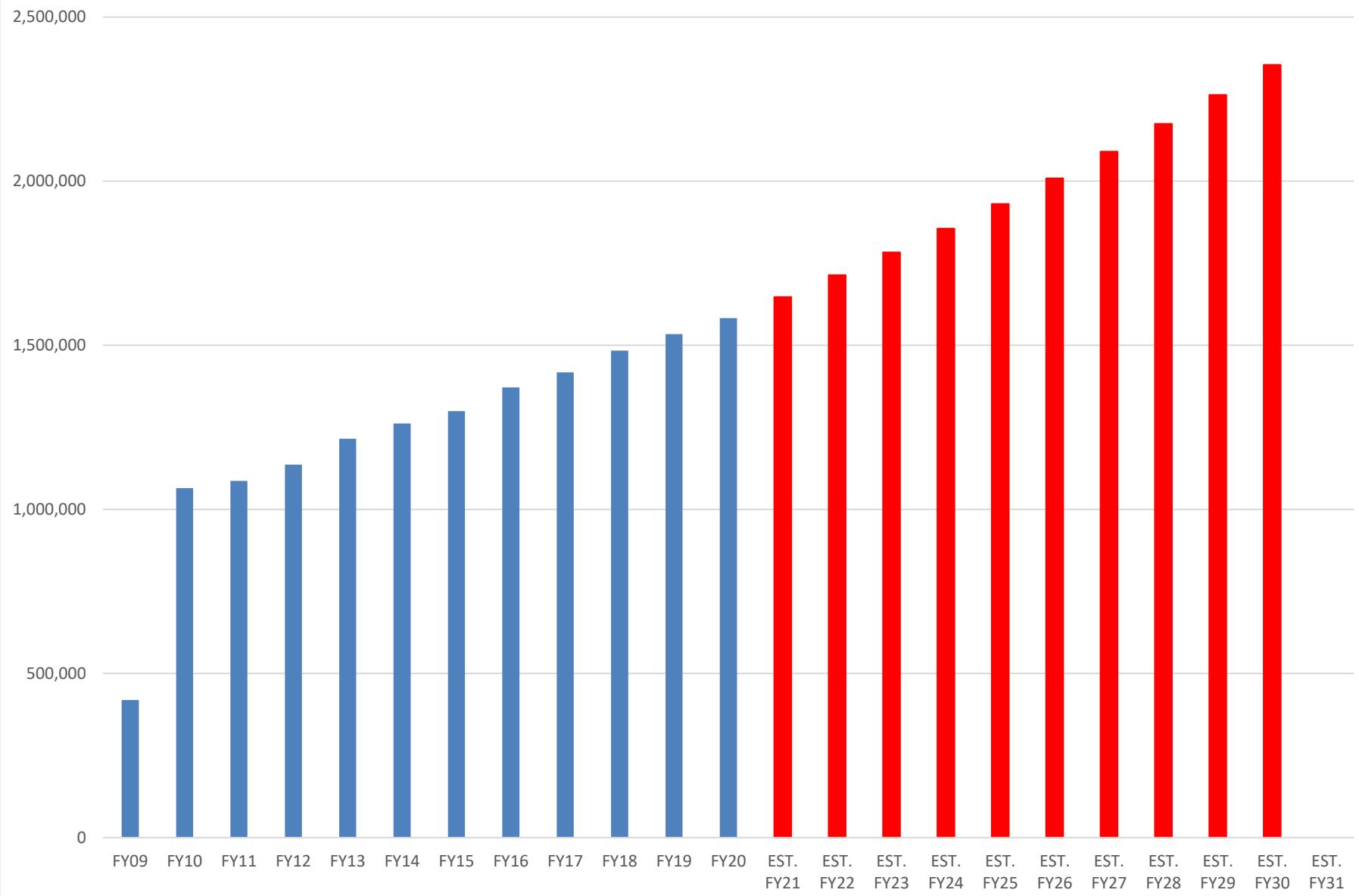
Administrative Comments - City Administrator

Steve Brooks,
Interim City Administrator

Riverdale City Sales Tax



**RIVERDALE CITY
CITY OPTION SALES TAX 0.20%**



**RIVERDALE CITY
PROPERTY TAX ANALYSIS**

Prior Property Tax Rates

City Property				City Property			
Year	Tax Rate	Value	Tax	Year	Tax Rate	Value	Tax
12/31/2000	0.001366	\$ 100,000	\$ 136.60	12/31/2011	0.001307	\$ 100,000	\$ 130.70
12/31/2001	0.001293	100,000	129.30	12/31/2012	0.001365	100,000	136.50
12/31/2002	0.001220	100,000	122.00	12/31/2013	0.001263	100,000	126.30
12/31/2003	0.001150	100,000	115.00	12/31/2014	0.001242	100,000	124.20
12/31/2004	0.001150	100,000	115.00	12/31/2015	0.001201	100,000	120.10
12/31/2005	0.001115	100,000	111.50	12/31/2016	0.001144	100,000	114.40
12/31/2006	0.001131	100,000	113.10	12/31/2017	0.001078	100,000	107.80
12/31/2007	0.001339	100,000	133.90	12/31/2018	0.001024	100,000	102.40
12/31/2008	0.001292	100,000	129.20	12/31/2019	0.000972	100,000	97.20
12/31/2009	0.001313	100,000	131.30	12/31/2020	0.000921	100,000	92.10
12/31/2010	0.001278	\$ 100,000	\$ 127.80	12/31/2021	0.000848	\$ 100,000	\$ 84.80

2021 Municipal Property Tax Rates

Municipality	City Property	Fire Provider	Combined Tax					
	Tax Rate	Value	Tax	Police Provider	Fire Provider	Tax Rate	Rates	Rank
West Haven	0.000000	\$ 100,000	\$ -	Weber County	Weber Fire District	0.001269	0.001269	5
Marriott-Slaterville	0.000000	100,000	-	Weber County	Weber Fire District	0.001269	0.001269	5
Plain City	0.000298	100,000	29.80	Weber County	Volunteer	0.000000	0.000298	1
Farr West	0.000424	100,000	42.40	Weber County	Weber Fire District	0.001269	0.001693	7
Uintah City	0.000594	100,000	59.40	Weber County	Volunteer	0.000000	0.000594	2
Harrisville	0.000708	100,000	70.80	Harrisville	Northview Fire District	0.001037	0.001745	9
Riverdale	0.000848	100,000	84.80	Riverdale	Riverdale	0.000000	0.000848	3
Huntsville Town	0.000939	100,000	93.90	Weber County	Volunteer	0.000000	0.000939	4
Pleasant View	0.001076	100,000	107.60	Pleasant View	Northview Fire District	0.001037	0.002113	10
North Ogden	0.001180	100,000	118.00	North Ogden	Northview Fire District	0.001037	0.002217	12
Roy	0.001733	100,000	173.30	Roy	Roy	0.000000	0.001733	8
Washington Terrace	0.002187	100,000	218.70	Weber County	Volunteer/Ogden	0.000000	0.002187	11
Ogden	0.002397	100,000	239.70	Ogden	Ogden	0.000000	0.002397	13
South Ogden	0.002700	\$ 100,000	\$ 270.00	South Ogden	South Ogden	0.000000	0.002700	14

Average Combined Rate

Proceeds at Average Combined Rate

0.001572

1,386,242.43

3. Taxing Unit Areas

- Click year below to see where your tax goes

- Click on the Entity name for taxing history

[\[View All Years\]](#) [\[Collapse Section\]](#)

Tax Year	Unit	Rate		
Entity		Rate	Amount	%
Weber County		.001424	\$244.36	14%
Weber County G O Bond Fund		.000141	\$24.20	1%
Library		.000474	\$81.34	5%
Weber School District		.003839	\$658.77	39%
Statewide School Basic Levy		.001661	\$285.03	17%
Mosquito Abatement Distr		.000084	\$14.41	1%
Weber Basin Water - General		.000132	\$22.65	1%
Central Weber Sewer Distr		.000503	\$86.31	5%
Riverdale City		.000848	\$145.52	9%
Weber / Morgan Health		.000082	\$14.07	1%
Paramedic Fund		.000136	\$23.34	1%
Multicounty Assess & Collect		.000012	\$2.06	0%
Assess & Collect / County		.000214	\$36.72	2%
Weber Area 911 And Em Serv		.000215	\$36.89	2%
State Charter School Levy Weber		.000066	\$11.33	1%
Weber County Flood Control		.000046	\$7.89	0%

RIVERDALE CITY
TELECOMMUNICATION AND ENERGY TAX ANALYSIS

TAX RATES AND REVENUES SUMMARY

Location	Tax Rate Percentages		Franchise Tax Revenues Per Financial Statements			Population
	Municipal Telecommunication License Tax	Municipal Energy Tax	FY2018	FY2019	FY2020	
Weber County	0.0%	0.0%	-	-	-	260,186
Farr West**	0.0%	0.0%	-	-	-	7,385
Harrisville	3.5%	6.0%	372,567	349,580	369,925	6,872
Hooper	3.5%	0.0%	124,418	97,369	87,332	9,152
Huntsville	2.0%	0.0%	*	*	*	642
Marriott-Slaterville	3.5%	0.0%	33,777	20,543	25,749	1,898
North Ogden	3.5%	6.0%	1,070,634	1,013,993	1,027,007	20,582
Ogden	3.5%	6.0%	8,493,348	8,194,468	8,029,286	87,773
Plain City	3.5%	6.0%	397,538	339,486	350,669	7,669
Pleasant View	3.5%	6.0%	706,785	686,406	684,785	10,839
Riverdale	0.0%	0.0%	-	-	-	8,838
Roy	3.5%	6.0%	2,413,279	2,323,033	2,415,955	39,613
South Ogden	3.5%	6.0%	1,206,878	1,136,838	1,141,306	17,199
Uintah	3.5%	5.0%	72,668	71,933	74,000	1,353
Washington Terrace	3.5%	6.0%	685,289	673,404	657,681	9,248
West Haven	3.5%	0.0%	154,083	198,511	163,157	16,109

* Huntsville only reports total taxes, does not separate tax types

** Farr West implemented both franchise taxes with the approval of they FY2022 budget adoption

SIMPLE RESIDENTIAL REVENUE PROJECTION

Assumptions:	3,312	Monthly Revenue		Per Housing Unit	
				Annual Revenue	Per Month
Number of housing units in Riverdale	3,312		\$2,318	\$27,821	\$0.70
Average monthly cell phone bill per line	\$10				
Estimated Cell phones per household	2				
Average monthly land line phone bill (50%)	\$40		\$2,318	\$27,821	\$0.70
Average monthly gas bill	\$50		\$9,936	\$119,232	\$3.00
Average monthly electric bill	\$80		\$15,898	\$190,771	\$4.80
Energy franchise tax rate used	6.0%				
Telecom franchise tax rate used	3.5%				
Tax Commission Administrative Fee	0.65%				
Subtotal			\$30,470	\$365,645	\$9.20
Less - possible admin fee			(\$198)	(\$2,377)	
Estimated Net Revenue - Residential			\$30,272	\$363,268	



T-MOBILE FEES & CHARGES

PLANS \$6.66

Federal Universal Service Fund	\$0.30
Regulatory Programs & Telco	\$3.18
Recovery Fee	
Regulatory Programs & Telco	\$3.18
Recovery Fee	

GOVERNMENT TAXES & FEES

No City Gross Receipts Tax Total

PLANS \$4.61

State & Local Sales Tax	\$0.47
State & Local Sales Tax	\$0.23
State 911	\$0.25
State Universal Service Fund	\$0.36
State Excise Tax	\$0.52
City 911	\$0.71
State & Local Sales Tax	\$0.23
State 911	\$0.25
State Universal Service Fund	\$0.36
State Excise Tax	\$0.52
City 911	\$0.71

TAXES & FEES BREAKDOWN

Below are your T-Mobile fees & charges and your government taxes & fees

 The taxes & fees below were summarized as line items above. Here is the breakdown of the individual charges.

T-MOBILE FEES & CHARGES

PLANS \$11.62

City Gross Receipts Tax	\$0.23
Federal Universal Service Fund	\$0.30
Federal Universal Service Fund	\$0.03
City Gross Receipts Tax	\$0.14
Regulatory Programs & Telco	\$1.16
Recovery Fee	
Regulatory Programs & Telco	\$3.18
Recovery Fee	

City Gross Receipts Tax	\$0.11
City Gross Receipts Tax	\$0.11
Regulatory Programs & Telco	\$3.18
Recovery Fee	
Regulatory Programs & Telco	\$3.18
Recovery Fee	

...CONTINUED - GOVERNMENT TAXES & FEES

State & Local Sales Tax	\$0.24
State 911	\$0.25
State Universal Service Fund	\$0.36
State Excise Tax	\$0.52
City 911	\$0.71
State & Local Sales Tax	\$0.24
State 911	\$0.25
State Universal Service Fund	\$0.36
State Excise Tax	\$0.52
City 911	\$0.71

City Gross Receipts Tax Total = \$0.59

GOVERNMENT TAXES & FEES

PLANS \$6.78

State & Local Sales Tax	\$0.48
State & Local Sales Tax	\$0.30
State 911	\$0.25
State Universal Service Fund	\$0.36
State Excise Tax	\$0.52
City 911	\$0.71



Questions about your bill? Call toll free 1-888-221-7070 rockymountainpo

BILLING DATE: Nov 4, 2021

ACCOUNT NUMBER [REDACTED]

DUE DATE: Dec 1, 2021 AMOUNT DUE: \$100.00

NEW CHARGES - 11/21 - CONTINUED	UNITS	COST PER UNIT	CHARGE
Tax Act Adjustment		-0.0302000	-1.69
Efficiency & S T E P Programs		0.0442000	2.51
Paperless Bill Credit			-0.50
Municipal Energy Sales/use Tax		0.0600000	3.91
Utah Sales Tax		0.0440000	2.87
Total New Charges			71.97

Service from 10/14/2021 - 11/9/2021

Dominion Energy

Rate - GS

Charge for Gas Used(Avg cost per DTH \$ (7.65283))	40.56
Tax Reform 3	0.05
Basic Service Fee Total	6.75
Utah Sales Tax (4.4%)	2.08
Municipal Energy Tax (6%)	2.84
Energy Assistance	0.07
Current Gas Billing	52.35
Current Charge (Budget Amount)	\$65.00

Verizon Wireless

\$24.74

Monthly charges and credits

\$20.00

Smartphone Line Access (Nov 9 - Dec 8)

\$20.00

Surcharges

\$2.63

Fed Universal Service Charge

\$0.35

Regulatory Charge

\$0.16

Administrative Charge

\$1.95

UT MuniTelecomm Lic. Surchg

\$0.17

Taxes and gov fees

\$2.11

UT State 911 Emerg Svrc Chg

\$0.25

UT Radio Network Charge

\$0.52

UT State Universal Svrc Chg

\$0.36

UT State Unified 911 Svrc Chg

\$0.71

UT State Ss Tax-Telco

\$0.18

Weber Cnty Ss Tax-Telco

\$0.09



UTAH STATE TAX COMMISSION
DIVISION OF REVENUE ACCOUNTING
CITY OR TOWN OPTION DISTRIBUTION
NOVEMBER 2021

UT_ftR057

2022-05

	TOTAL DISTRIB	TOTAL DEDUCT	FINAL DISTRIB	BALANCE OWED	TOTAL PAID	BALANCE FWD
Totals:	\$1,123,873.64	\$8,906.10	\$1,114,967.54	\$0.00	\$1,114,967.55	\$0.00

CNTY/ CITY	LOCALITY	TOTAL DISTRIB	TOTAL DEDUCT	FINAL DISTRIB	BALANCE OWED	TOTAL PAID	BALANCE FWD
18096	Murray	\$419,724.40	\$3,326.09	\$416,398.31	\$0.00	\$416,398.31	\$0.00
18139	South Salt Lake	\$422,603.38	\$3,348.90	\$419,254.47	\$0.00	\$419,254.48	\$0.00
24014	Naples	\$30,654.33	\$242.92	\$30,411.41	\$0.00	\$30,411.41	\$0.00
24024	Vernal	\$88,255.24	\$699.38	\$87,555.86	\$0.00	\$87,555.86	\$0.00
29036	Riverdale	\$162,636.30	\$1,288.81	\$161,347.49	\$0.00	\$161,347.49	\$0.00

CITY OR TOWN OPTION SALES TAX ENTITIES
ANALYSIS OF ENTITIES

Entity	Population	FY 2021 General Fund Budget	FY2021 City Option Sales	Percentage of Total	Municipal	Telecommunication	Municipal Energy Tax	Last Property Tax Rate Increase	Actively Use Lobbyists
		(Original Revenues)	Tax	Revenues	Impact Fees				
Murray	50,637	\$ 48,796,755	\$ 4,656,480	9.54%	Yes	3.500%	6.000%	2018	Yes
South Salt Lake	26,777	\$ 35,723,505	\$ 4,519,645	12.65%	Yes	3.500%	6.000%	2010	Yes
Naples	2,280	\$ 2,280,845	\$ 240,930	10.56%	No	3.500%	6.000%	Unknown	No
Vernal	10,079	\$ 9,879,975	\$ 873,487	8.84%	Yes	3.500%	6.000%	2011	No
Riverdale	9,343	\$ 11,367,163	\$ 1,890,803	16.63%	No	0.000%	0.000%	2010	No



Part 2 of 2

UTAH CODE TITLE 59, CHAPTER 12
SALES & USE TAX ACT
OTHER SALES TAX RATES AND FEES
In addition to combined sales and use tax
Rates In effect as of October 1, 2021

Please see instructions below

TR = Transient Room Tax (TRT) county-wide
SR = State Transient Room Tax
TM = Municipal Transient Room Tax
(includes Additional Municipal TRT)
TT = Tourism Transient Room Tax
MD = MIDA Accommodations Tax
MV = Motor Vehicle Rental Tax
FF = Tourism-Short Term Leasing Tax
FP = Tourism ST Leasing Population
FG = Tourism - Restaurant Tax

ES = E911 Emergency Telephone
SE = Unified Statewide 911
RN = Radio Network
TL = Municipal Telecommunication License Tax (formerly TC)
ET = Municipal Energy Tax (formerly ME)
(a) Taxing entity is not an incorporated city or town
(b) Snyderville Basin Transit District is located in unincorporated
Summit County, uses Park City as the mailing city and is generally
ZIP Code 84098.
*Monthly charge per telephone line

Location	Cnty/ City Code	Tax Return to be Filed:																
		Transient Room					Combined Trans Rate	Tourism			Combined ST Lease	FG	Telecommunications					
		TR	SR	TM	TT	MD		MV	FF	FP			ES*	SE*	RN*	Tot ES*		
Washington City	27-027	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Hildale	27-035	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Wayne County	28-000	4.25%	0.32%				4.57%	2.50%			2.50%	1.00%	0.71	0.25	0.52	1.48		
Bicknell	28-001	4.25%	0.32%				4.57%	2.50%			2.50%	1.00%	0.71	0.25	0.52	1.48		
Hanksville	28-005	4.25%	0.32%	1.00%			5.57%	2.50%			2.50%	1.00%	0.71	0.25	0.52	1.48		
Loa	28-007	4.25%	0.32%				4.57%	2.50%			2.50%	1.00%	0.71	0.25	0.52	1.48		
Lyman	28-008	4.25%	0.32%				4.57%	2.50%			2.50%	1.00%	0.71	0.25	0.52	1.48		
Torrey	28-010	4.25%	0.32%				4.57%	2.50%			2.50%	1.00%	0.71	0.25	0.52	1.48		
Weber County	29-000	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48		
Farr West	29-012	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48		
Harrisville	29-016	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Hooper	29-018	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	
Huntsville	29-019	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	2.00%	
Marriott-Slaterville	29-022	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	
North Ogden	29-026	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Ogden	29-027	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Plain City	29-030	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Pleasant View	29-031	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Riverdale	29-036	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48		
Roy	29-037	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
South Ogden	29-040	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	
Uintah	29-043	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	5.000%
Washington Terrace	29-049	4.25%	0.32%				4.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
West Haven	29-051	4.25%	0.32%	1.00%			5.57%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	
Falcon Hill Riverdale	(a) 29-300					15.00%	15.00%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%
Falcon Hill Roy	(a) 29-301					15.00%	15.00%	2.50%	3.00%	4.00%	9.50%	1.00%	0.71	0.25	0.52	1.48	3.50%	6.000%

Municipal Telecommunication License Tax

 Return to Tax Listing
(/index.php?page_id=784)

Municipal Telecommunication License Tax

Filing frequency:	See Sales Related Taxes (/index.php?page_id=977)
Payment frequency:	See Sales Related Taxes (/index.php?page_id=977)
Forms:	TC-62Z (/forms/current/tc-62ztemplate.xls); must be filed electronically using Taxpayer Access Point (http://tap.utah.gov/)
Publications:	Pub-62 (/forms/pubs/pub-62.pdf)
Statutes:	10-1 Part 4 (https://le.utah.gov/asp/codelookup/codelookup.asp?chapter=10-1)
Rule:	R865-19S-118 (https://rules.utah.gov/publicat/code/r865/r865-19s.htm#T77)
Revenue:	Used by the municipality that imposed the tax
Sourcing:	Zip+4 Boundaries Tables (/index.php?page_id=1033) (downloads)
Information:	Municipalities may adopt this tax on a telecommunication provider's gross receipts from certain telecommunication services. Telecommunication providers may either pay the tax themselves or collect the tax from their customers. Sales and use tax exemptions do not apply to these fees. See Publication 62 (/forms/pubs/pub-62.pdf) for applicable exemptions.

Part 4
Municipal Telecommunications License Tax Act

10-1-401 Title.

This part is known as the "Municipal Telecommunications License Tax Act."

Enacted by Chapter 253, 2003 General Session

10-1-402 Definitions.

As used in this part:

- (1) "Commission" means the State Tax Commission.
- (2)
 - (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
 - (b) For purposes of this section and Section 10-1-407, "customer" means:
 - (i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
 - (c) "Customer" does not include a reseller:
 - (i) of telecommunications service; or
 - (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- (3)
 - (a) "End user" means the person who uses a telecommunications service.
 - (b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- (4)
 - (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
 - (i) a tax, fee, or charge:
 - (A) imposed by a governmental entity;
 - (B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - (C) imposed only on a telecommunications provider;
 - (ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
 - (b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.
- (5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (6) "Municipality" means a city, town, or metro township.

- (7) "Place of primary use":
- (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
 - (i) the residential street address of the customer; or
 - (ii) the primary business street address of the customer; or
 - (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (8) Notwithstanding where a call is billed or paid, "service address" means:
- (a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:
 - (i) to which a call is charged; and
 - (ii) from which the call originates or terminates;
 - (b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - (i) the telecommunications system of the telecommunications provider; or
 - (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
 - (c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.
- (9)
- (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:
 - (i) owns, controls, operates, or manages a telecommunications service; or
 - (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.
 - (b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
 - (i) that person; or
 - (ii) the telecommunications service that the person owns, controls, operates, or manages.
 - (c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.
- (10) "Telecommunications service" means:
- (a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
 - (b) mobile telecommunications service, as defined in Section 59-12-102:
 - (i) that originates and terminates within the boundaries of one state; and
 - (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - (c) an ancillary service as defined in Section 59-12-102.
- (11)
- (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:
 - (i) a tax;
 - (ii) a license;
 - (iii) a fee;
 - (iv) a license fee;
 - (v) a license tax;

- (vi) a franchise fee; or
 - (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).
- (b) "Telecommunications tax or fee" does not include:
- (i) the municipal telecommunication's license tax authorized by this part; or
 - (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:
 - (A) on telecommunications providers; and
 - (B) on persons who are not telecommunications providers.

Amended by Chapter 210, 2021 General Session

10-1-403 Municipality and military installation development authority may levy municipal telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.

- (1)
 - (a)
 - (i) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.
 - (ii) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
 - (b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.
 - (c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.
- (2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.
- (3)
 - (a) For purposes of this Subsection (3):
 - (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.
 - (ii) "Annexing area" means an area that is annexed into a municipality.
 - (b)
 - (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

- (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
 - (A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;
 - (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
 - (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
 - (D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.

(c)

- (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

- (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

- (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;
- (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
- (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
- (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not subject to the notice requirements of Subsection (3)(b) if:

- (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and
- (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate of 3.5%.

(5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

- (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and
- (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that is less than 3.5%.

(6)

- (a) A municipality may not levy or collect a municipal telecommunications license tax for telecommunications service provided within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
- (b) Subsection (6)(a) does not apply to the military installation development authority's levy of a municipal telecommunications license tax.

(7)

- (a) The State Tax Commission shall provide to the military installation development authority the collection data necessary to verify that revenue collected by the State Tax Commission is distributed to the military installation development authority in accordance with this part.
- (b) The data described in Subsection (7)(a) shall include the State Tax Commission's breakdown of military installation development authority revenue, including reports of collections and distributions.

Amended by Chapter 414, 2021 General Session

10-1-404 Municipal telecommunications license tax ordinance provisions.

An ordinance required by Subsection 10-1-403(1) shall include a provision that:

(1) levies a municipal telecommunications license tax:

(a) on the gross receipts from telecommunications service attributed to the municipality in accordance with Section 10-1-407;

(b) at a rate:

(i) not to exceed the rate specified in Subsection 10-1-403(1)(c); and

(ii) subject to the requirements of Section 10-1-407; and

(c) beginning on a date:

(i) on or after July 1, 2004; and

(ii) subject to the requirements of Section 10-1-403;

(2) on or before the effective date of the ordinance, the municipality shall enter into the uniform interlocal agreement with the commission described in Section 10-1-405 under which the commission collects, enforces, and administers the municipal telecommunications license tax;

(3) exempts a municipality from the limitation on the rate that may be imposed under Subsection (1)(b)(i) if the exemption from the limitation on the rate that may be imposed under Subsection (1)(b)(i) is approved by a majority vote of the voters in the municipality that vote in:

(a) a municipal general election; or

(b) a regular general election; and

(4) incorporates the provisions of Section 10-1-408.

Amended by Chapter 415, 2013 General Session

10-1-405 Collection of taxes by commission -- Uniform interlocal agreement --

Administrative charge -- Rulemaking authority.

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

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

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

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

(A) except for:

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

(II) Section 59-12-104;

(III) Section 59-12-104.1;

(IV) Section 59-12-104.2;

(V) Section 59-12-104.3;

(VI) Section 59-12-107.1; and

(VII) Section 59-12-123; and

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

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

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

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

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

(2)

- (a) The uniform interlocal agreement described in Subsection (1) shall provide that the commission shall:
 - (i) transmit money collected under this part monthly by electronic funds transfer by the commission to the municipality;
 - (ii) conduct audits of the municipal telecommunications license tax;
 - (iii) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part; and
 - (iv) collect, enforce, and administer the municipal telecommunications license tax authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement that meets the requirements of this section.
- (3) If a telecommunications provider pays a municipal telecommunications license tax to the commission, the telecommunications provider shall pay the municipal telecommunications license tax to the commission:
- (a) monthly on or before the last day of the month immediately following the last day of the previous month if:
 - (i) the telecommunications provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or
 - (ii) the telecommunications provider is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the telecommunications provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.
- (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate that exceeds 3.5%:
- (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission shall collect the municipal telecommunications license tax:
 - (i) within the municipality;
 - (ii) at a rate of 3.5%; and
 - (iii) from a telecommunications provider required to pay the municipal telecommunications license tax on or after July 1, 2007; and
 - (b) the commission shall collect a municipal telecommunications license tax within the municipality at the rate imposed by the municipality if:
 - (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax under this part at a rate of up to 3.5%;
 - (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing the rate of the municipal telecommunications license tax; and
 - (iii) a telecommunications provider is required to pay the municipal telecommunications license tax on or after the day on which the ordinance described in Subsection (4)(b)(ii) takes effect.

Amended by Chapter 354, 2020 General Session

10-1-406 Limitation of other telecommunications taxes or fees.

- (1) Subject to the other provisions of this section, a municipality may not levy or collect a telecommunications tax or fee on a person except for a telecommunications tax or fee imposed by the municipality:
 - (a) on a telecommunications provider to recover the management costs of the municipality caused by the activities of the telecommunications provider in the right-of-way of a municipality if the telecommunications tax or fee:
 - (i) is imposed in accordance with Section 72-7-102; and
 - (ii) is not related to:
 - (A) a municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way; or
 - (B) increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way; or
 - (b) on a person that:
 - (i) is not subject to a municipal telecommunications license tax under this part; and
 - (ii) locates telecommunications facilities, as defined in Section 72-7-108, in the municipality.
- (2) Subsection (1)(a) may not be interpreted as exempting a telecommunications provider from complying with any ordinance:
 - (a) related to excavation, construction, or installation of a telecommunications facility; and
 - (b) that addresses the safety and quality standards of the municipality for excavation, construction, or installation.
- (3) A telecommunications tax or fee imposed under Subsection (1)(b) shall be imposed:
 - (a) by ordinance; and
 - (b) on a competitively neutral basis.

Enacted by Chapter 253, 2003 General Session

10-1-407 Attributing the gross receipts from telecommunications service to a municipality -- Rate impact.

- (1) The gross receipts from a telecommunications service are attributed to a municipality if the gross receipts are from a transaction for telecommunications service that is located within the municipality:
 - (a) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and
 - (b) determined in accordance with Section 59-12-215.
- (2) (a) The rate imposed on the gross receipts for telecommunications service shall be determined in accordance with Subsection (2)(b) if the location of a transaction for telecommunications service is determined under Subsection (1) to be a municipality other than the municipality in which is located:
 - (i) for telecommunications service other than mobile telecommunications service, the customer's service address; or
 - (ii) for mobile telecommunications service, the customer's primary place of use.

(b) The rate imposed on the gross receipts for telecommunications service described in Subsection (2)(a) shall be the lower of:

 - (i) the rate imposed by the taxing jurisdiction in which the transaction is located under Subsection (1); or
 - (ii) the rate imposed by the municipality in which it is located:
 - (A) for telecommunications service other than mobile telecommunications service, the customer's service address; or

(B) for mobile telecommunications service, the customer's primary place of use.

Amended by Chapter 384, 2008 General Session

10-1-408 Procedure for taxes erroneously recovered from customers.

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this part unless the customer meets the same requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in Subsection 59-12-110.1(3).

Amended by Chapter 255, 2004 General Session

10-1-410 Transactions consisting of telecommunications service and nontelecommunications services.

- (1) For purposes of this section, "nontelecommunications services" means services or tangible personal property that are:
 - (a) not telecommunications service; and
 - (b) provided by a telecommunications provider to a customer.
- (2) Except to the extent prohibited by federal law, if a telecommunications provider provides nontelecommunications services to a customer as part of the same transaction in which the telecommunications provider provides telecommunications service, the gross receipts from the nontelecommunications services provided by the telecommunications provider are subject to a tax under this part unless:
 - (a) the charge for the nontelecommunications services is separately identified in the statement of the transaction with the customer of the telecommunications service; or
 - (b) from the books and records of the telecommunications provider that are kept in the regular course of business, the telecommunications provider can reasonably identify the portion of the total charge for the transaction that is attributable to:
 - (i) the nontelecommunications services; and
 - (ii) the telecommunications service.

Enacted by Chapter 253, 2003 General Session

Effective 5/5/2021

59-12-102 Definitions.

As used in this chapter:

- (1) "800 service" means a telecommunications service that:
 - (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
 - (b) is typically marketed:
 - (i) under the name 800 toll-free calling;
 - (ii) under the name 855 toll-free calling;
 - (iii) under the name 866 toll-free calling;
 - (iv) under the name 877 toll-free calling;
 - (v) under the name 888 toll-free calling; or
 - (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.
- (2)
 - (a) "900 service" means an inbound toll telecommunications service that:
 - (i) a subscriber purchases;
 - (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
 - (A) prerecorded announcement; or
 - (B) live service; and
 - (iii) is typically marketed:
 - (A) under the name 900 service; or
 - (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.
 - (b) "900 service" does not include a charge for:
 - (i) a collection service a seller of a telecommunications service provides to a subscriber; or
 - (ii) the following a subscriber sells to the subscriber's customer:
 - (A) a product; or
 - (B) a service.
- (3)
 - (a) "Admission or user fees" includes season passes.
 - (b) "Admission or user fees" does not include:
 - (i) annual membership dues to private organizations; or
 - (ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).
- (4) "Affiliate" or "affiliated person" means a person that, with respect to another person:
 - (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
 - (b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.
- (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.
- (6) "Agreement combined tax rate" means the sum of the tax rates:
 - (a) listed under Subsection (7); and
 - (b) that are imposed within a local taxing jurisdiction.
- (7) "Agreement sales and use tax" means a tax imposed under:
 - (a) Subsection 59-12-103(2)(a)(i)(A);

- (b) Subsection 59-12-103(2)(b)(i);
- (c) Subsection 59-12-103(2)(c)(i);
- (d) Subsection 59-12-103(2)(d);
- (e) Subsection 59-12-103(2)(e)(i)(A)(I);
- (f) Section 59-12-204;
- (g) Section 59-12-401;
- (h) Section 59-12-402;
- (i) Section 59-12-402.1;
- (j) Section 59-12-703;
- (k) Section 59-12-802;
- (l) Section 59-12-804;
- (m) Section 59-12-1102;
- (n) Section 59-12-1302;
- (o) Section 59-12-1402;
- (p) Section 59-12-1802;
- (q) Section 59-12-2003;
- (r) Section 59-12-2103;
- (s) Section 59-12-2213;
- (t) Section 59-12-2214;
- (u) Section 59-12-2215;
- (v) Section 59-12-2216;
- (w) Section 59-12-2217;
- (x) Section 59-12-2218;
- (y) Section 59-12-2219; or
- (z) Section 59-12-2220.

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

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

- (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
- (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and
 - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
 - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
 - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
 - (A) an inspection;
 - (B) a repair, including a structural repair or modification;
 - (C) changing landing gear; and
 - (D) addressing issues related to an aging fixed wing turbine powered aircraft;
 - (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
 - (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

- (10) "Alcoholic beverage" means a beverage that:

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

(11) "Alternative energy" means:

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

(12)

 - (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:
 - (i) uses alternative energy to produce electricity; and
 - (ii) has a production capacity of two megawatts or greater.
 - (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
 - (i) connected to an electric grid; or
 - (ii) located on the premises of an electricity consumer.

(13)

 - (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
 - (b) "Ancillary service" includes:
 - (i) a conference bridging service;
 - (ii) a detailed communications billing service;
 - (iii) directory assistance;
 - (iv) a vertical service; or
 - (v) a voice mail service.

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

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

 - (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
 - (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

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

- (a) who is not the purchaser of the cleaning or washing of the tangible personal property; and
- (b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

- (a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;
- (b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or
- (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18)

- (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:
 - (i) material from a plant or tree; or
 - (ii) other organic matter that is available on a renewable basis, including:
 - (A) slash and brush from forests and woodlands;
 - (B) animal waste;
 - (C) waste vegetable oil;
 - (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
 - (E) aquatic plants; and
 - (F) agricultural products.
- (b) "Biomass energy" does not include:
 - (i) black liquor; or
 - (ii) treated woods.

(19)

- (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:
 - (i) distinct and identifiable; and
 - (ii) sold for one nonitemized price.
- (b) "Bundled transaction" does not include:
 - (i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;
 - (ii) the sale of real property;
 - (iii) the sale of services to real property;
 - (iv) the retail sale of tangible personal property and a service if:
 - (A) the tangible personal property:
 - (I) is essential to the use of the service; and
 - (II) is provided exclusively in connection with the service; and
 - (B) the service is the true object of the transaction;
 - (v) the retail sale of two services if:
 - (A) one service is provided that is essential to the use or receipt of a second service;
 - (B) the first service is provided exclusively in connection with the second service; and
 - (C) the second service is the true object of the transaction;

- (vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:
 - (A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or
 - (B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
 - (vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:
 - (A) that retail sale includes:
 - (I) food and food ingredients;
 - (II) a drug;
 - (III) durable medical equipment;
 - (IV) mobility enhancing equipment;
 - (V) an over-the-counter drug;
 - (VI) a prosthetic device; or
 - (VII) a medical supply; and
 - (B) subject to Subsection (19)(f):
 - (I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - (II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.
- (c)
- (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:
 - (A) packaging that:
 - (I) accompanies the sale of the tangible personal property, product, or service; and
 - (II) is incidental or immaterial to the sale of the tangible personal property, product, or service;
 - (B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or
 - (C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."
 - (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.
- (d)
- (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:
 - (A) a binding sales document; or
 - (B) another supporting sales-related document that is available to a purchaser.
 - (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:
 - (A) a bill of sale;
 - (B) a contract;

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

(e)

- (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:
 - (A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or
 - (B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.
- (ii) For purposes of Subsection (19)(b)(vi), a seller:
 - (A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
 - (B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.
- (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

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

- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
 - (i) on a transaction; and
 - (ii) in the states that are members of the agreement;
- (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
- (c) maintains a record of the transaction described in Subsection (20)(a)(i).

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

- (a) by the governing board of the agreement; and
- (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22)

- (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
 - (i) listing the items that constitute "clothing"; and
 - (ii) that are consistent with the list of items that constitute "clothing" under the agreement.

- (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (112).
- (25)
 - (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.
 - (b)
 - (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.
 - (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.
 - (c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.
- (26) "Component part" includes:
 - (a) poultry, dairy, and other livestock feed, and their components;
 - (b) baling ties and twine used in the baling of hay and straw;
 - (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
 - (d) feed, seeds, and seedlings.
- (27) "Computer" means an electronic device that accepts information:
 - (a)
 - (i) in digital form; or
 - (ii) in a form similar to digital form; and
 - (b) manipulates that information for a result based on a sequence of instructions.
- (28) "Computer software" means a set of coded instructions designed to cause:
 - (a) a computer to perform a task; or
 - (b) automatic data processing equipment to perform a task.
- (29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
 - (a) future updates or upgrades to computer software;
 - (b) support services with respect to computer software; or
 - (c) a combination of Subsections (29)(a) and (b).
- (30)
 - (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
 - (b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).
 - (c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).
- (31) "Construction materials" means any tangible personal property that will be converted into real property.
- (32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
- (33)
 - (a) "Delivery charge" means a charge:

- (i) by a seller of:
 - (A) tangible personal property;
 - (B) a product transferred electronically; or
 - (C) a service; and
 - (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.
- (b) "Delivery charge" includes a charge for the following:
- (i) transportation;
 - (ii) shipping;
 - (iii) postage;
 - (iv) handling;
 - (v) crating; or
 - (vi) packing.
- (34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
- (35) "Dietary supplement" means a product, other than tobacco, that:
- (a) is intended to supplement the diet;
 - (b) contains one or more of the following dietary ingredients:
 - (i) a vitamin;
 - (ii) a mineral;
 - (iii) an herb or other botanical;
 - (iv) an amino acid;
 - (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
 - (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);
 - (c)
 - (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
 - (A) tablet form;
 - (B) capsule form;
 - (C) powder form;
 - (D) softgel form;
 - (E) gelcap form; or
 - (F) liquid form; or
 - (ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:
 - (A) as conventional food; and
 - (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
 - (d) is required to be labeled as a dietary supplement:
 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.

(36)

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

- (37) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.
- (39)
- (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:
 - (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided:
 - (I) by a purchaser of the mailing list; or
 - (II) at the discretion of the purchaser of the mailing list; and
 - (ii) if the cost of the printed material is not billed directly to the recipients.
 - (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
 - (c) "Direct mail" does not include multiple items of printed material delivered to a single address.

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

 - (a) address information; or
 - (b) telephone number information.

(41)

 - (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:
 - (i) cannot withstand repeated use; and
 - (ii) are purchased by, for, or on behalf of a person other than:
 - (A) a health care facility as defined in Section 26-21-2;
 - (B) a health care provider as defined in Section 78B-3-403;
 - (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
 - (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
 - (b) "Disposable home medical equipment or supplies" does not include:
 - (i) a drug;
 - (ii) durable medical equipment;
 - (iii) a hearing aid;
 - (iv) a hearing aid accessory;
 - (v) mobility enhancing equipment; or
 - (vi) tangible personal property used to correct impaired vision, including:
 - (A) eyeglasses; or
 - (B) contact lenses.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

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

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

(43)

- (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
 - (A) the official United States Pharmacopoeia;
 - (B) the official Homeopathic Pharmacopoeia of the United States;
 - (C) the official National Formulary; or
 - (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
 - (ii) intended for use in the:
 - (A) diagnosis of disease;
 - (B) cure of disease;
 - (C) mitigation of disease;
 - (D) treatment of disease; or
 - (E) prevention of disease; or
 - (iii) intended to affect:
 - (A) the structure of the body; or
 - (B) any function of the body.
- (b) "Drug" does not include:
- (i) food and food ingredients;
 - (ii) a dietary supplement;
 - (iii) an alcoholic beverage; or
 - (iv) a prosthetic device.
- (44)
- (a) Except as provided in Subsection (44)(c), "durable medical equipment" means equipment that:
- (i) can withstand repeated use;
 - (ii) is primarily and customarily used to serve a medical purpose;
 - (iii) generally is not useful to a person in the absence of illness or injury; and
 - (iv) is not worn in or on the body.
- (b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).
- (c) "Durable medical equipment" does not include mobility enhancing equipment.
- (45) "Electronic" means:
- (a) relating to technology; and
- (b) having:
- (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- (46) "Electronic financial payment service" means an establishment:
- (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
- (b) that performs electronic financial payment services.
- (47) "Employee" means the same as that term is defined in Section 59-10-401.
- (48) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

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

(a) is powered by turbine engines;

(b) operates on jet fuel; and

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

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

(51)

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

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

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

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52)

(a) "Fundraising sales" means sales:

(i)

(A) made by a school; or

(B) made by a school student;

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

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

(b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity" means a school activity:

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

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

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

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

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

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(55)

- (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
 - (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
 - (ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;
 - (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
 - (iv) the National Guard;
 - (v) an independent entity as defined in Section 63E-1-102; or
 - (vi) a political subdivision as defined in Section 17B-1-102.
- (b) "Governmental entity" does not include the state systems of public and higher education, including:
 - (i) a school;
 - (ii) the State Board of Education;
 - (iii) the Utah Board of Higher Education; or
 - (iv) an institution of higher education described in Section 53B-1-102.

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

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

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in:
 - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
 - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or

- (H) rubber; and
 - (ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or
 - (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.
- (58)
- (a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:
 - (i) tangible personal property; or
 - (ii) a product transferred electronically.
 - (b) "Installation charge" does not include a charge for:
 - (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically;
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.
- (59) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.
- (60)
- (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
 - (i)
 - (A) a fixed term; or
 - (B) an indeterminate term; and
 - (ii) consideration.
 - (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
 - (c) "Lease" or "rental" does not include:
 - (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
 - (A) upon completion of required payments; and
 - (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or
 - (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
 - (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
 - (i) set-up of tangible personal property;
 - (ii) maintenance of tangible personal property; or
 - (iii) inspection of tangible personal property.
- (61) "Lesson" means a fixed period of time for the duration of which a trained instructor:
- (a) is present with a student in person or by video; and
 - (b) actively instructs the student, including by providing observation or feedback.

- (62) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
 - (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
 - (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- (63) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
- (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
- (65) "Local taxing jurisdiction" means a:
- (a) county that is authorized to impose an agreement sales and use tax;
 - (b) city that is authorized to impose an agreement sales and use tax; or
 - (c) town that is authorized to impose an agreement sales and use tax.
- (66) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- (67) "Manufacturing facility" means:
- (a) an establishment described in:
 - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
 - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
 - (b) a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or
 - (H) rubber; and
 - (ii) the new products under Subsection (67)(b)(i) would otherwise be made with nonrecycled materials; or
 - (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.
- (68)
- (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.
 - (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.
- (69)
- (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of

a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

- (A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;
- (B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;
- (C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;
- (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- (E) provides software development or research and development activities related to any activity described in this Subsection (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;
- (F) provides or offers fulfillment or storage services for a marketplace seller;
- (G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;
- (H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or
- (I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

- (A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;
- (B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;
- (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;
- (D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or
- (E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

- (b) "Marketplace facilitator" does not include:
- (i) a person that only provides payment processing services; or
 - (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.
- (70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.
- (71) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:
- (a) child or stepchild, regardless of whether the child or stepchild is:
 - (i) an adopted child or adopted stepchild; or
 - (ii) a foster child or foster stepchild;
 - (b) grandchild or stepgrandchild;
 - (c) grandparent or stepgrandparent;
 - (d) nephew or stepnephew;
 - (e) niece or stepniece;
 - (f) parent or stepparent;
 - (g) sibling or stepsibling;
 - (h) spouse;
 - (i) person who is the spouse of a person described in Subsections (71)(a) through (g); or
 - (j) person similar to a person described in Subsections (71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (72) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- (73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (74)
- (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
 - (i) the origination point of the conveyance, routing, or transmission is not fixed;
 - (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
 - (iii) the origination point described in Subsection (74)(a)(i) and the termination point described in Subsection (74)(a)(ii) are not fixed.
 - (b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."
- (75)
- (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment" means equipment that is:
 - (i) primarily and customarily used to provide or increase the ability to move from one place to another;
 - (ii) appropriate for use in a:
 - (A) home; or
 - (B) motor vehicle; and
 - (iii) not generally used by persons with normal mobility.
 - (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (75)(a).

- (c) "Mobility enhancing equipment" does not include:
 - (i) a motor vehicle;
 - (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
 - (iii) durable medical equipment; or
 - (iv) a prosthetic device.
- (76) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- (77) "Model 2 seller" means a seller registered under the agreement that:
 - (a) except as provided in Subsection (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and
 - (b) retains responsibility for remitting all of the sales tax:
 - (i) collected by the seller; and
 - (ii) to the appropriate local taxing jurisdiction.
- (78)
 - (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under the agreement that has:
 - (i) sales in at least five states that are members of the agreement;
 - (ii) total annual sales revenues of at least \$500,000,000;
 - (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
 - (iv) entered into a performance agreement with the governing board of the agreement.
 - (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.
- (79) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.
- (80) "Modular home" means a modular unit as defined in Section 15A-1-302.
- (81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- (82) "Oil sands" means impregnated bituminous sands that:
 - (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;
 - (b) yield mixtures of liquid hydrocarbon; and
 - (c) require further processing other than mechanical blending before becoming finished petroleum products.
- (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.
- (84) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.
- (85)
 - (a) "Other fuels" means products that burn independently to produce heat or energy.
 - (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.
- (86)

- (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.
 - (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal includes a transmission by message or sound.
- (87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- (88) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- (89)
- (a) "Permanently attached to real property" means that for tangible personal property attached to real property:
 - (i) the attachment of the tangible personal property to the real property:
 - (A) is essential to the use of the tangible personal property; and
 - (B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or
 - (ii) if the tangible personal property is detached from the real property, the detachment would:
 - (A) cause substantial damage to the tangible personal property; or
 - (B) require substantial alteration or repair of the real property to which the tangible personal property is attached.
 - (b) "Permanently attached to real property" includes:
 - (i) the attachment of an accessory to the tangible personal property if the accessory is:
 - (A) essential to the operation of the tangible personal property; and
 - (B) attached only to facilitate the operation of the tangible personal property;
 - (ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or
 - (iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (89)(c)(iii) or (iv).
 - (c) "Permanently attached to real property" does not include:
 - (i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:
 - (A) convenience;
 - (B) stability; or
 - (C) for an obvious temporary purpose;
 - (ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (89)(b)(ii);
 - (iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (A) a computer;
 - (B) a telephone;
 - (C) a television; or
 - (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (iv) an item listed in Subsection (130)(c).

(90) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality,

district, or other local governmental entity of the state, or any group or combination acting as a unit.

(91) "Place of primary use":

- (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
 - (i) the residential street address of the customer; or
 - (ii) the primary business street address of the customer; or
- (b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(92)

- (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:
 - (i) through the use of a:
 - (A) bank card;
 - (B) credit card;
 - (C) debit card; or
 - (D) travel card; or
 - (ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.
- (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

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

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

- (a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;
- (b) that:
 - (i) is paid for in advance; and
 - (ii) enables the origination of a call using an:
 - (A) access number; or
 - (B) authorization code;
- (c) that is dialed:
 - (i) manually; or
 - (ii) electronically; and
- (d) sold in predetermined units or dollars that decline:
 - (i) by a known amount; and
 - (ii) with use.

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

- (a) that provides the right to utilize:
 - (i) mobile wireless service; and
 - (ii) other service that is not a telecommunications service, including:
 - (A) the download of a product transferred electronically;
 - (B) a content service; or
 - (C) an ancillary service;
- (b) that:
 - (i) is paid for in advance; and

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

- (A) access number; or
- (B) authorization code;

(c) that is dialed:

- (i) manually; or
- (ii) electronically; and

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

- (i) by a known amount; and
- (ii) with use.

(96)

(a) "Prepared food" means:

- (i) food:
 - (A) sold in a heated state; or
 - (B) heated by a seller;
- (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
- (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided by the seller, including a:
 - (A) plate;
 - (B) knife;
 - (C) fork;
 - (D) spoon;
 - (E) glass;
 - (F) cup;
 - (G) napkin; or
 - (H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

- (A) cuts;
- (B) repackages; or
- (C) pasteurizes; or

(ii)

- (A) the following:
 - (I) raw egg;
 - (II) raw fish;
 - (III) raw meat;
 - (IV) raw poultry; or
- (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (96)(b)(ii)(A) to prevent food borne illness; or

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

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

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

- (I) by weight or volume; and
- (II) as a single item; or

(C) a bakery item, including:

- (I) a bagel;
- (II) a bar;
- (III) a biscuit;
- (IV) bread;
- (V) a bun;
- (VI) a cake;
- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

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

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

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

(a)

- (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

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

(98)

(a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

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

(b) "Prewritten computer software" includes:

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

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

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

(iii) except as provided in Subsection (98)(c), prewritten computer software or a prewritten portion of prewritten computer software:

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

(B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

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

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

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

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

(99)

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

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

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

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

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

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

(100)

(a) Except as provided in Subsection (100)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

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

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(101)

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

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

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

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

(b) "Prosthetic device" includes:

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

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(102)

(a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

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

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

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

(103)

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

- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and

(ii) made available in printed or electronic format.

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

(104)

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

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.

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

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

(ii) expenses of the seller, including:

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

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

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

- (A)
 - (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

- (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
- (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
- (D)
 - (I)
 - (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.

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

- (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or
 - (III) coupon;
 - (B) that is allowed by a seller;
 - (C) taken by a purchaser on a sale; and
 - (D) that is not reimbursed by a third party; or
- (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
 - (A) the following from credit extended on the sale of tangible personal property or services:
 - (I) a carrying charge;
 - (II) a financing charge; or
 - (III) an interest charge;
 - (B) a delivery charge;
 - (C) an installation charge;
 - (D) a manufacturer rebate on a motor vehicle; or
 - (E) a tax or fee legally imposed directly on the consumer.

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

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

- (106) "Qualifying data center" means a data center facility that:
- (a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;
 - (b) is located in the state;
 - (c) is a new operation constructed on or after July 1, 2016;
 - (d) consists of one or more buildings that total 150,000 or more square feet;
 - (e) is owned or leased by:
 - (i) the operator of the data center facility; or
 - (ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and
 - (f) is located on one or more parcels of land that are owned or leased by:
 - (i) the operator of the data center facility; or
 - (ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.
- (107) "Regularly rented" means:
- (a) rented to a guest for value three or more times during a calendar year; or
 - (b) advertised or held out to the public as a place that is regularly rented to guests for value.
- (108) "Rental" means the same as that term is defined in Subsection (60).
- (109)
- (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible personal property" means:
 - (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
 - (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
 - (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
 - (B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.
 - (b) "Repairs or renovations of tangible personal property" does not include:
 - (i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or
 - (ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.
- (110) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.
- (111)
- (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

- (i) at a residential address; or
 - (ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.
- (b) For purposes of Subsection (111)(a)(i), a residential address includes an:
- (i) apartment; or
 - (ii) other individual dwelling unit.
- (112) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.
- (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:
- (a) resale;
 - (b) sublease; or
 - (c) subrent.
- (114)
- (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.
 - (b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.
- (115)
- (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.
 - (b) "Sale" includes:
 - (i) installment and credit sales;
 - (ii) any closed transaction constituting a sale;
 - (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
 - (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
 - (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.
- (116) "Sale at retail" means the same as that term is defined in Subsection (113).
- (117) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:
- (a) by a purchaser-lessee;
 - (b) to a lessor;
 - (c) for consideration; and
 - (d) if:
 - (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;
 - (ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:
 - (A) for the tangible personal property or product transferred electronically; and
 - (B) to the purchaser-lessee; and
 - (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

- (A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and
 - (B) account for the lease payments as payments made under a financing arrangement.
- (118) "Sales price" means the same as that term is defined in Subsection (104).
- (119)
- (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:
 - (i) sales that are directly related to the school's educational functions or activities including:
 - (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;
 - (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
 - (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
 - (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
 - (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
 - (I) food and food ingredients; or
 - (II) prepared food; or
 - (D) transportation charges for official school activities; or
 - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
 - (b) "Sales relating to schools" does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection (119)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
 - (B) that is required to collect sales and use taxes under this chapter.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."
- (120) For purposes of this section and Section 59-12-104, "school" means:
- (a) an elementary school or a secondary school that:
- (i) is a:
 - (A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(121)

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

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(122)

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

(i) used primarily in the process of:

(A)

(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

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

(ii) consumed primarily in the process of:

(A)

(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

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

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (122)(a); or

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

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

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

(124)

(a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable" means tangible personal property that:

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

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

(iii) is:

(A) included in the purchase price of the accommodations and services; and
(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

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

- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;
- (v) lotion;
- (vi) a magazine;
- (vii) makeup;
- (viii) a meal;
- (ix) mouthwash;
- (x) nail polish remover;
- (xi) a newspaper;
- (xii) a notepad;
- (xiii) a pen;
- (xiv) a pencil;
- (xv) a razor;
- (xvi) saline solution;
- (xvii) a sewing kit;
- (xviii) shaving cream;
- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

- (i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
- (ii) a product transferred electronically.

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

- (a) described in Section 318(C) of the agreement; and
- (b) approved by the governing board of the agreement.

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

(127)

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

- (i) designed for human use; and
- (ii) that is:
 - (A) worn in conjunction with:
 - (I) an athletic activity; or
 - (II) a recreational activity; and
 - (B) not suitable for general use.

- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
 - (i) listing the items that constitute "sports or recreational equipment"; and
 - (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.
- (128) "State" means the state of Utah, its departments, and agencies.
- (129) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.
- (130)
 - (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property" means personal property that:
 - (i) may be:
 - (A) seen;
 - (B) weighed;
 - (C) measured;
 - (D) felt; or
 - (E) touched; or
 - (ii) is in any manner perceptible to the senses.
 - (b) "Tangible personal property" includes:
 - (i) electricity;
 - (ii) water;
 - (iii) gas;
 - (iv) steam; or
 - (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.
 - (c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:
 - (i) a dishwasher;
 - (ii) a dryer;
 - (iii) a freezer;
 - (iv) a microwave;
 - (v) a refrigerator;
 - (vi) a stove;
 - (vii) a washer; or
 - (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (d) "Tangible personal property" does not include a product that is transferred electronically.
 - (e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) a hot water heater;
 - (ii) a water filtration system; or
 - (iii) a water softener system.
- (131)

- (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:
- (i) telecommunications switching or routing equipment, machinery, or software; or
 - (ii) telecommunications transmission equipment, machinery, or software.
- (b) The following apply to Subsection (131)(a):
- (i) a pole;
 - (ii) software;
 - (iii) a supplementary power supply;
 - (iv) temperature or environmental equipment or machinery;
 - (v) test equipment;
 - (vi) a tower; or
 - (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (131)(c).
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi).
- (132) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.
- (133) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:
- (a) telecommunications enabling or facilitating equipment, machinery, or software;
 - (b) telecommunications switching or routing equipment, machinery, or software; or
 - (c) telecommunications transmission equipment, machinery, or software.
- (134)
- (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.
 - (b) "Telecommunications service" includes:
 - (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
 - (A) on the code, form, or protocol of the content;
 - (B) for the purpose of electronic conveyance, routing, or transmission; and
 - (C) regardless of whether the service:
 - (I) is referred to as voice over Internet protocol service; or
 - (II) is classified by the Federal Communications Commission as enhanced or value added;
 - (ii) an 800 service;
 - (iii) a 900 service;
 - (iv) a fixed wireless service;
 - (v) a mobile wireless service;
 - (vi) a postpaid calling service;
 - (vii) a prepaid calling service;
 - (viii) a prepaid wireless calling service; or
 - (ix) a private communications service.

- (c) "Telecommunications service" does not include:
- (i) advertising, including directory advertising;
 - (ii) an ancillary service;
 - (iii) a billing and collection service provided to a third party;
 - (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I)
 - (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
 - (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

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

 - (A) equipment; or
 - (B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;

(ix) a radio and television audio and video programming service:

 - (A) regardless of the medium; and
 - (B) including:
 - (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
 - (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

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

(xi) tangible personal property.

(135)

- (a) "Telecommunications service provider" means a person that:
 - (i) owns, controls, operates, or manages a telecommunications service; and
 - (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or resale to any person of the telecommunications service.
- (b) A person described in Subsection (135)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:
 - (i) that person; or
 - (ii) the telecommunications service that the person owns, controls, operates, or manages.

(136)

- (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for switching or routing:
- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (136)(a):
- (i) a bridge;
 - (ii) a computer;
 - (iii) a cross connect;
 - (iv) a modem;
 - (v) a multiplexer;
 - (vi) plug in circuitry;
 - (vii) a router;
 - (viii) software;
 - (ix) a switch; or
 - (x) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (136)(c).
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

(137)

- (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:
- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (137)(a):
- (i) an amplifier;
 - (ii) a cable;
 - (iii) a closure;
 - (iv) a conduit;
 - (v) a controller;
 - (vi) a duplexer;
 - (vii) a filter;
 - (viii) an input device;
 - (ix) an input/output device;
 - (x) an insulator;
 - (xi) microwave machinery or equipment;
 - (xii) an oscillator;
 - (xiii) an output device;
 - (xiv) a pedestal;
 - (xv) a power converter;
 - (xvi) a power supply;

(xvii) a radio channel;
(xviii) a radio receiver;
(xix) a radio transmitter;
(xx) a repeater;
(xxi) software;
(xxii) a terminal;
(xxiii) a timing unit;
(xxiv) a transformer;
(xxv) a wire; or
(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

(138)

(a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:
(i) offered by an institution of higher education; and
(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(139) "Tobacco" means:

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

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

(141)

(a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.
(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

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

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and
(b) with respect to which a computer processing application is used to act on data or information:
(i) code;
(ii) content;
(iii) form; or
(iv) protocol.

(143)

- (a) Subject to Subsection (143)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:
 - (i) an aircraft as defined in Section 72-10-102;
 - (ii) a vehicle as defined in Section 41-1a-102;
 - (iii) an off-highway vehicle as defined in Section 41-22-2; or
 - (iv) a vessel as defined in Section 41-1a-102.
 - (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
 - (i) a vehicle described in Subsection (143)(a); or
 - (ii)
 - (A) a locomotive;
 - (B) a freight car;
 - (C) railroad work equipment; or
 - (D) other railroad rolling stock.
- (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (143).
- (145)
- (a) "Vertical service" means an ancillary service that:
 - (i) is offered in connection with one or more telecommunications services; and
 - (ii) offers an advanced calling feature that allows a customer to:
 - (A) identify a caller; and
 - (B) manage multiple calls and call connections.
 - (b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.
- (146)
- (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.
 - (b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.
- (147)
- (a) Except as provided in Subsection (147)(b), "waste energy facility" means a facility that generates electricity:
 - (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:
 - (A) tires;
 - (B) waste coal;
 - (C) oil shale; or
 - (D) municipal solid waste; and
 - (ii) in amounts greater than actually required for the operation of the facility.
 - (b) "Waste energy facility" does not include a facility that incinerates:
 - (i) hospital waste as defined in 40 C.F.R. 60.51c; or
 - (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- (148) "Watercraft" means a vessel as defined in Section 73-18-2.
- (149) "Wind energy" means wind used as the sole source of energy to produce electricity.
- (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Amended by Chapter 64, 2021 General Session
Amended by Chapter 367, 2021 General Session

Amended by Chapter 367, 2021 General Session, (Coordination Clause)

Amended by Chapter 414, 2021 General Session

Amended by Chapter 29, 2020 General Session, (Coordination Clause)

Municipal Energy Tax

 [Return to Tax Listing
\(/index.php?page_id=784\)](/index.php?page_id=784)

Municipal Energy Tax

Filing frequency:	See Sales Related Taxes (/index.php?page_id=977)
Payment frequency:	See Sales Related Taxes (/index.php?page_id=977)
Forms:	TC-62E (/forms/current/tc-62etemplate.xls) (this file also includes TC-62ER and TC-62ET) Must be filed electronically using Taxpayer Access Point (http://tap.utah.gov/)
Publications:	Pub 54 (/forms/pubs/pub-54.pdf)
Statutes:	10-1 Part 3 (https://le.utah.gov/asp/codelookup/codelookup.asp?chapter=10-1)
Revenue:	Used by the municipality that imposed the tax
Information:	Municipalities may adopt this tax on gas and electricity delivered within their jurisdiction. Sales and use tax exemptions do not apply to this tax. See Publication 54 (/forms/pubs/pub-54.pdf) for applicable exemptions.



STATE OF UTAH

Utah State Tax Commission
210 North 1950 West
Salt Lake City, UT 84134

FREQUENTLY ASKED QUESTIONS

Municipal Energy Sales and Use Tax

Q: What is municipal energy sales and use tax?

A: A municipality may levy municipal energy sales and use tax up to 6 percent of the delivered value of taxable energy (gas and electricity) sold or used within its borders. This is in addition to any local-option sales and use taxes the municipality imposes.

Q: Who is required to pay municipal energy sales and use tax and how is it to be paid?

A: A user of taxable energy is liable for the municipal energy sales and use tax on all components of the delivered value of the taxable energy. The delivered value is the arm's length sales price of the energy, including any transportation, freight, service or customer demand charges, or other costs incurred in the obtaining the energy.

In most cases the municipal energy sales and use tax is charged by the supplier and the tax is paid directly to the supplier by the user.

If the supplier or the transporter does not collect the municipal energy sales tax, the user must pay the tax directly to the Tax Commission.

Q: Do I need to pay municipal energy sales and use tax if I am exempt from paying sales and use tax?

A: Yes, exemptions from sales and use taxes do not apply to the municipal energy sales and use tax.

Q: How do I become licensed to report municipal energy sales and use tax?

A: To become licensed for municipal energy sales and use tax you must have a sales tax license. To obtain a sales tax license and also register for municipal energy sales tax, complete Form TC-69, Utah State Business and Tax Registration. Check box 19 in section 7e of the TC-69. This form is found on our website at tax.utah.gov/forms-pubs.

If you already have a sales tax license, check the box on the **Checklist & Questionnaire** indicating you need to be licensed for municipal energy sales and use tax and we will get you licensed.

Q: What if I already reported the municipal energy sales and use tax on the TC-62E?

A: Review your invoices to verify all the tax was reported, complete the **Summary**, and explain in Section D why no tax is due.

References may be found in Administrative Rule R865-19S-103 and Publication 54. These references and other supplemental research sources may be found at tax.utah.gov.

Part 3 **Municipal Energy Sales and Use Tax Act**

10-1-301 Title.

This part shall be known as the "Municipal Energy Sales and Use Tax Act."

Enacted by Chapter 280, 1996 General Session

10-1-302 Purpose and intent.

The Legislature finds that:

- (1) the energy industry has previously been highly regulated and monopolistic;
- (2) municipalities have historically raised town or city, respectively, general fund revenues by collecting franchise and business license revenues from the energy industry;
- (3) substantial restructuring of the energy industry has created an opportunity for increased competition within the energy industry;
- (4) the restructuring of the energy industry has diminished the effectiveness and fairness of the revenues collected by municipalities;
- (5) to provide for a stable revenue source for municipalities and to create a more competitive environment for the energy industry, it is necessary to enact taxing authority for municipalities that accomplishes those goals; and
- (6) this part does not alter or affect the municipalities' authority to grant or regulate franchises, or to control municipal streets, highways, or other property.

Amended by Chapter 176, 2014 General Session

10-1-303 Definitions.

As used in this part:

- (1) "Commission" means the State Tax Commission.
- (2) "Contractual franchise fee" means:
 - (a) a fee:
 - (i) provided for in a franchise agreement; and
 - (ii) that is consideration for the franchise agreement; or
 - (b)
 - (i) a fee similar to Subsection (2)(a); or
 - (ii) any combination of Subsections (2)(a) and (b).
- (3)
 - (a) "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - (i) the value of the energy itself; and
 - (ii) any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.
 - (b) "Delivered value" does not include the amount of a tax paid under:
 - (i) Title 59, Chapter 12, Sales and Use Tax Act; or
 - (ii) this part.
- (4) "De minimis amount" means an amount of taxable energy that does not exceed the greater of:

- (a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property or services; or
- (b) \$10,000.
- (5) "Energy supplier" means a person supplying taxable energy, except that the commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.
- (6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.
- (7) "Franchise tax" means:
 - (a) a franchise tax;
 - (b) a tax similar to a franchise tax; or
 - (c) any combination of Subsections (7)(a) and (b).
- (8) "Municipality" means a city, town, or metro township.
- (9) "Person" is as defined in Section 59-12-102.
- (10) "Taxable energy" means gas and electricity.

Amended by Chapter 210, 2021 General Session

10-1-304 Municipality and military installation development authority may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

- (1)
 - (a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:
 - (i) by ordinance as provided in Section 10-1-305; and
 - (ii) of up to 6% of the delivered value of the taxable energy.
 - (b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
- (2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.
- (3)
 - (a) For purposes of this Subsection (3):
 - (i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4, Annexation.
 - (ii) "Annexing area" means an area that is annexed into a municipality.
 - (b)
 - (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.
 - (ii) The notice described in Subsection (3)(b)(i)(B) shall state:
 - (A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;
 - (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);
 - (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and
 - (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.

(c)

- (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.
- (ii) The notice described in Subsection (3)(c)(i)(B) shall state:
 - (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;
 - (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);
 - (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and
 - (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4)

- (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.
- (b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

(5)

- (a) A municipality may not levy a municipal energy sales and use tax within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
- (b) Subsection (5)(a) does not apply to the military installation development authority's levy of a municipal energy sales and use tax.

Amended by Chapter 367, 2021 General Session, (Coordination Clause)

Amended by Chapter 414, 2021 General Session

Amended by Chapter 29, 2020 General Session, (Coordination Clause)

10-1-305 Municipal energy sales and use tax ordinance provisions.

Each municipal energy sales and use tax ordinance under Subsection 10-1-304(1) shall include:

- (1) a provision imposing a tax on every sale or use of taxable energy made within a municipality at a rate determined by the municipality that is up to 6% of the delivered value of the taxable energy;
- (2) provisions substantially the same as those required by Title 59, Chapter 12, Part 1, Tax Collection, as they relate to sales and use tax, except that:
 - (a) the tax shall be calculated on the delivered value of the taxable energy to the consumer;
 - (b) an exemption is not allowed from a tax imposed under this part for the sale or use of taxable energy that is exempt from the state sales and use tax under Title 59, Chapter 12, Part 1, Tax Collection, except that the municipality shall include in its ordinance an exemption for:
 - (i) the sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - (ii) the sales and use of taxable energy that the municipality is prohibited from taxing under federal law or the Constitution of the United States or the Utah Constitution;

- (iii) the sales and use of taxable energy purchased or stored in the state for resale;
 - (iv) the sales or use of taxable energy to a person if the primary use is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - (v) taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - (vi) the sales or use of taxable energy for any purpose other than use as a fuel or energy; and
 - (vii) the sale of taxable energy for use outside a municipality imposing a municipality energy sales and use tax;
- (c) the ordinance may provide for an exemption from the municipal energy sales and use tax under this part for customers who, as of July 1, 1997, were being supplied electrical energy by a supplier other than the municipality if:
- (i) the municipality is a generator of electrical energy for customers within its borders; and
 - (ii) the municipality is unable to generate electrical energy for the customer;
- (d) the name of the municipality as the taxing agency shall be substituted for that of the state when necessary for purposes of this part; and
- (e) an additional license to collect the tax is not required if one has been issued under Section 59-12-106;
- (3) a provision that, on or before the effective date of the ordinance, the municipality shall enter into a contract with the commission to have the commission perform all functions related to the administration or operation of the ordinance, except that a municipality may collect the municipal energy sales and use tax directly as provided in Subsection 10-1-307(3);
- (4) a provision that:
- (a) except as provided under Subsection (4)(b), the sale, storage, use, or other consumption of taxable energy is exempt from the tax due under the ordinance if the delivered value of the taxable energy has been subject to a municipal energy sales or use tax under an ordinance enacted in accordance with this part by another municipality in this state; and
 - (b) the municipality shall be paid the difference between the tax paid to another municipality as described in this section and the tax that would otherwise be due under the ordinance if the tax due under the ordinance exceeds the tax paid to another municipality; and
- (5) a provision providing a credit against the tax in the amount of a contractual franchise fee paid if:
- (a) an energy supplier pays a contractual franchise fee to a municipality pursuant to a franchise agreement in effect on July 1, 1997;
 - (b) the contractual franchise fee is passed through by the energy supplier to a taxpayer as a separately itemized charge; and
 - (c) the energy supplier has accepted the franchise; and
- (6) a provision providing that the ordinance adopts by reference any amendments to the provisions of Title 59, Chapter 12, Part 1, Tax Collection, that relate to levying or collecting a municipal energy sales and use tax.

Amended by Chapter 180, 1998 General Session

10-1-306 Rules for delivered value and point of sale.

- (1) The delivered value of taxable energy under this part shall be established pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The rules made by the commission under Subsection (1):

- (a) shall provide that an arm's length sales price for taxable energy sold or used by a taxpayer in the municipality is the delivered value, unless the sales price does not include some portion of the taxable energy or component of delivered value;
 - (b) shall establish one or more default methods for determining the delivered value for each customer class one time per calendar year on or before January 31 for taxable energy when the commission determines that the sales price does not accurately reflect delivered value; and
 - (c) shall provide that for purposes of determining the point of sale or use of taxable energy the location of the meter is normally the point of sale or use unless the taxpayer demonstrates that the use is not in a municipality imposing the municipal energy sales and use tax.
- (3) In establishing a default method under Subsection (2)(b), the commission:
- (a) shall take into account quantity discounts and other reductions or increases in value that are generally available in the marketplace for various grades or types of property and classes of services; and
 - (b) may consider:
 - (i) generally applicable tariffs for various classes of utility services approved by the Public Service Commission or other governmental entity;
 - (ii) posted prices;
 - (iii) spot-market prices;
 - (iv) trade publications;
 - (v) market data; and
 - (vi) other information and data prescribed by the commission.

Amended by Chapter 382, 2008 General Session

10-1-307 Administration, collection, and enforcement of taxes by commission -- Distribution of revenues -- Administrative charge -- Collection of taxes by municipality.

- (1)
- (a) Subject to Subsection (1)(b) and except as provided in Subsection (3), the commission shall administer, collect, and enforce the municipal energy sales and use tax from energy suppliers according to the procedures established in:
 - (i) Title 59, Chapter 1, General Taxation Policies; and
 - (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and 59-12-123.
 - (b) If an energy supplier pays a municipal energy sales and use tax to the commission, the energy supplier shall pay the municipal energy sales and use tax to the commission:
 - (i) monthly on or before the last day of the month immediately following the last day of the previous month if:
 - (A) the energy supplier is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or
 - (B) the energy supplier is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the energy supplier is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.
- (2)
- (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the difference between:

- (i) the entire amount collected by the commission from the municipal energy sales and use tax authorized by this part based on:
 - (A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; or
 - (B) the point of use of the taxable energy if the use occurs in a municipality that imposes a municipal energy sales and use tax as provided in this part; and
 - (ii) the administrative charge described in Subsection (2)(c).
- (b) In accordance with Subsection (2)(a), the commission shall transfer to the municipality monthly by electronic transfer the revenues generated by the municipal energy sales and use tax levied by the municipality and collected by the commission.
- (c)
- (i) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a municipal energy sales and use tax under this part.
 - (ii) The commission may not retain or deposit an administrative charge from revenues a municipality collects under Subsection (3) from a tax under this part.
- (3) An energy supplier shall pay the municipal energy sales and use tax revenues it collects from its customers under this part directly to each municipality in which the energy supplier has sales of taxable energy if:
- (a) the municipality is the energy supplier; or
 - (b)
- (i) the energy supplier estimates that the municipal energy sales and use tax collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more; and
 - (ii) the energy supplier collects the tax imposed by this part.
- (4) An energy supplier paying a tax under this part directly to a municipality may retain the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's costs of collecting and remitting the tax.
- (5) An energy supplier paying the tax under this part directly to a municipality shall file an information return with the commission, at least annually, on a form prescribed by the commission.
- (6)
- (a) As used in this Subsection (6):
 - (i) "2005 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2005.
 - (ii) "2006 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006, reduced by the 2006 rebate amount.
 - (iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:
 - (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006; and
 - (B) the 2005 base amount, plus:
 - (I) 10% of the 2005 base amount; and
 - (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2006.

- (iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:
 - (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007; and
 - (B) the 2006 base amount, plus:
 - (I) 10% of the 2006 base amount; and
 - (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2007.
 - (v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30, 2005.
 - (vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30, 2006.
 - (vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30, 2007.
 - (viii) "Gas supplier" means an energy supplier that supplies natural gas.
 - (ix) "Natural gas portion" means the amount of municipal energy sales and use tax proceeds attributable to sales and uses of natural gas.
- (b)
- (i) In December 2006, each gas supplier shall reduce the natural gas portion of municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate amount.
 - (ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2006 rebate amount is exhausted.
 - (iii) For December 2006 and for each month thereafter that the gas supplier is required under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:
 - (A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and
 - (B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.
- (c)
- (i) In December 2007, each gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate amount.
 - (ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2007 rebate amount is exhausted.
 - (iii) For December 2007 and for each month thereafter that the gas supplier is required under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:
 - (A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and

- (B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.
- (d) Nothing in this Subsection (6) may be construed to require a reduction under Subsection (6) (b) or (c) if the rebate amount is zero or negative.

Amended by Chapter 354, 2020 General Session

10-1-308 Report of tax collections -- Allocation when location of taxpayer cannot be accurately determined.

- (1) All municipal energy sales and use taxes collected under this part shall be reported to the commission on forms that accurately identify the municipality where the taxpayer is located.
- (2) The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to proportionally distribute all taxes collected if the municipality where the taxpayer is located cannot be accurately determined.

Amended by Chapter 382, 2008 General Session

10-1-310 Existing energy franchise taxes or contractual franchise fees.

- (1) Except as authorized in Subsection (2), Section 59-12-203, or Section 10-1-304, a municipality may not:
 - (a) impose on, charge, or collect a franchise tax or contractual a franchise fee from an energy supplier; or
 - (b) collect a franchise tax or contractual franchise fee pursuant to a franchise agreement in effect on July 1, 1997.
- (2) A municipality that collects a contractual franchise fee from an energy supplier pursuant to a franchise agreement in effect on July 1, 1997, may continue to collect that fee at the same rate for the remaining term of the franchise agreement, except the municipality shall provide a credit against the municipal energy sales and use tax in the amount of the contractual franchise fee paid by the energy supplier pursuant to Subsection 10-1-305(5).
- (3)
 - (a) Subject to the requirements of Subsection (3)(b), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:
 - (i) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and
 - (ii) imposes the contractual franchise fee on or after the day on which Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act is:
 - (A) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-304 is reduced; and
 - (B) is not superseded by a law imposing a substantially equivalent tax.
 - (b) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(a) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.
- (4) This section may not affect the validity of any existing or future franchise agreement and any franchise agreement effective on July 1, 1997, shall remain in full force and effect, unless otherwise terminated or altered by agreement or applicable law.

Enacted by Chapter 280, 1996 General Session

**RIVERDALE CITY
CITY COUNCIL AGENDA
December 7, 2021**

AGENDA ITEM: G7

- SUBJECT:** a. Consideration of Ordinance 941 approving Municipal Energy Sales and Use Tax
 b. Consideration of Ordinance 942 approving Municipal Telecommunications License Tax
- PRESENTER:** Steve Brooks
- INFORMATION:** a. [Ordinance 941](#)
 b. [Ordinance 942](#)

[**BACK TO AGENDA**](#)



ORDINANCE NO. 941

AN ORDINANCE OF RIVERDALE CITY, UTAH AMENDING TITLE 1 OF THE RIVERDALE CITY MUNICIPAL CODE

WHEREAS, Riverdale City Council has known for some time that the financial future of the city needs more diverse options in order to practice sound accounting purposes; and

WHEREAS, Riverdale City's finances rests almost exclusively on the amount of sales tax revenue that the City brings in; and

WHEREAS, in previous years, the State has allowed Riverdale City to keep an extra proportion of the sales tax revenue's collected within the City because of the unique situation that Riverdale is in with a small population base but a large commercial base but those allotments will expire in 2030, if not sooner; and

WHEREAS, in recent years, the state has continued to divert different proportions of Riverdale's tax money to other entities, thus placing more additional strains on the city budget; and

WHEREAS, Riverdale City Council has been left with no other options than to seek out other sources of income to meet the future requirements that the city will face; and

WHEREAS, in order to place as little of a burden as it can on the resident's, the Riverdale City Council is looking for options that spread costs around to those that most use the city services and resources; and

WHEREAS, the Riverdale City Council finds at this time that it is necessary to implement a Municipal Energy Sales and Use Tax in Riverdale City to help with the burden and rising costs that are associated with operating a municipality and finds it in the best interest of all parties to implement some measures at this time.

NOW THEREFORE, it is hereby ordained by the Riverdale City Council that Title 1, Administration, Chapter 10, Financial Administration, of the Riverdale City Municipal Code be amended as follows:

Section 1. The following Chapter 10-20 is added to Title 1 as follows:

CHAPTER 10 **FINANCIAL ADMINISTRATION**

SECTION S :

[1-10-1: Special Purpose Budgetary Funds](#)

[1-10-20: Municipal Energy Sales and Use Tax](#)

1-10-20: MUNICIPAL ENERGY SALES AND USE TAX

1-10-21: DEFINITIONS.

A. “Consumer” means a person who acquires taxable energy for any use that is subject to the municipal energy sales and use tax.

B. “Contractual franchise fee” means:

1. A fee:

a. Provided for in a franchise agreement; and

b. That is consideration for the franchise agreement; or

2. a. A fee similar to subsection (B)(1)(a) of this section; or

b. Any combination of subsections (B)(1)(a) or (B)(1)(b) of this section.

C. 1. “Delivered value” means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

a. The value of the energy itself; and

b. Any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

2. “Delivered value” does not include the amount of a tax paid under Title 59, Chapter 12, Part 1, Tax Collection, Part 2, Local Sales and Use Tax Act, Utah Code Annotated 1953, or this chapter.

D. “De minimis amount” means an amount of taxable energy that does not exceed the greater of:

1. Five percent of the energy supplier’s estimated total Utah gross receipts from sales of property or services; or

2. Ten thousand dollars.

E. “Energy supplier” or “Supplier” means a person supplying taxable energy, except for persons supplying a de minimis amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

F. “Franchise agreement” means a franchise or an ordinance, contract, or agreement granting a franchise.

G. “Franchise tax” means:

1. A franchise tax;

2. A tax similar to a franchise tax; or

3. Any combination of subsection (G)(1) or (G)(2) of this section.

H. "Person," "sale," "storage" and "use" mean the same as defined in Section 59-12-102, Utah Code Annotated 1953.

I. "Renewable energy source" means the same as defined in Section 54-17-502, Utah Code Annotated 1953.

J. "Taxable energy" means gas and electricity.

1-10-22: MUNICIPAL ENERGY SALES AND USE TAX LEVIED.

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within the city equaling six percent (6.0%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the municipal energy sales and use tax.

1-10-23: EFFECTIVE DATE.

The municipal energy sales and use tax shall become effective on and after January 1, 2022.

A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.

B. The tax shall be in addition to any sales or use tax on taxable energy imposed by the city authorized by Title 59, Chapter 12, Utah Code, Sales and Use Tax Act.

1-10-24: EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX.

A. No exemptions are granted from the municipal energy sales and use tax except as expressly provided in Section 10-1-305(2)(b), Utah Code Annotated 1953, notwithstanding an exemption granted by Section 59-1-104, Utah Code Annotated 1953.

B. The following are exempt from the municipal energy sales and use tax, pursuant to Section 10-1-305(2)(b), Utah Code Annotated 1953:

1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13, Utah Code Annotated 1953;

2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;

3. Sales and use of taxable energy purchased or stored for resale;

4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13, Utah Code Annotated 1953;

5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and
7. The sale of taxable energy for use outside the boundaries of the city.

C. The sale, storage, use, or other consumption of taxable energy is exempt from the municipal energy sales and use tax levied by this chapter, provided:

1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax under an ordinance enacted in accordance with UCA 10-1-301 et seq, by another municipality within the state authorized by Title 59, Chapter 12, Part 3, Utah Code Annotated 1953; and
2. The city is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.

1-10-25: NO EFFECT UPON EXISTING FRANCHISES – CREDIT FOR FRANCHISE FEES.

A. This chapter shall not alter any existing franchise agreements between the city and energy suppliers.

B. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

1. The energy supplier pays the contractual franchise fee to the city pursuant to a franchise agreement in effect on July 1, 1997;
2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
3. The energy supplier has accepted the franchise.

1-10-26: TAX COLLECTION CONTRACT WITH STATE TAX COMMISSION.

On or before the effective date of this ordinance, the city shall contract with the Utah State Tax Commission to perform all functions incident to the administration and collection of the municipal energy sales and use tax, in accordance with this chapter, except for functions relating to taxes collected by the city as the energy supplier as provided in Section 10-1-307(3), Utah Code Annotated 1953, as amended. The mayor, with the approval of the city council and the city attorney, is hereby authorized to enter into agreements with the State Tax Commission that may be necessary to the continued administration and operation of the municipal energy sales and use tax ordinance enacted by this chapter.

1-10-27: MONTHLY PAYMENTS BY SUPPLIER AND DEDUCTION OF FRANCHISE FEES.

A. An energy supplier shall pay the municipal energy sales and use tax revenues collected from consumers directly to the city monthly if:

1. The city is the energy supplier; or
2. a. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals one million dollars (\$1,000,000.00) or more; and
- b. The energy supplier collects the municipal energy sales and use tax.

B. An energy supplier paying the municipal energy sales and use tax directly to the city may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Utah Code Annotated section 10-1-307(4).

1-10-28: INCORPORATION OF TITLE 59, CHAPTER 12, PART 1, UTAH CODE ANNOTATED 1953, INCLUDING AMENDMENTS.

A. Except as herein provided, and except insofar as they are inconsistent with the provisions of the Municipal Energy Sales and Use Tax Act, as well as this chapter, all of the provisions of Title 59, Chapter 12, Part 1, Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this ordinance, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-1119, Utah Code Annotated 1953, and excepting the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.

B. Wherever, and to the extent that in Title 59, Chapter 12, Part 1, and Title 10, Part 3, Utah Code Annotated 1953, the state of Utah is named or referred to as the “taxing agency,” the name of the city shall be substituted, insofar as is necessary for the purposes of that part. Nothing in this subsection shall be deemed to require substitution of the name “Riverdale City” for the word “State” when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of Riverdale City be substituted for that of the state in any section when the result of such a substitution would require action to be taken by or against Riverdale City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.

C. Any amendments to the provisions of Title 59, Chapter 12, Part 1, Tax Collection, Utah Code Annotated 1953, that relate to levying or collecting a municipal energy sales and use tax and that would be applicable to Riverdale City for the purposes of carrying out this chapter are hereby adopted and incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

**1-10-29: NO ADDITIONAL LICENSE TO COLLECT THE MUNICIPAL ENERGY
SALES AND USE TAX REQUIRED – NO ADDITIONAL LICENSE OR REPORTING
REQUIREMENTS.**

No additional license to collect or report the municipal energy sales and use tax levied by this chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106, Utah Code Annotated 1953.

(Ord. 941 12-2021)

Section 2. This ordinance shall take effect upon its adoption and publication or posting by the City Council of Riverdale City, Utah this _____ day of _____, 2021.

Braden Mitchell, Mayor Pro Tem

ATTEST:

Michelle Marigoni, City Recorder



ORDINANCE NO. 942

AN ORDINANCE OF RIVERDALE CITY, UTAH AMENDING TITLE 3 OF THE RIVERDALE CITY MUNICIPAL CODE

WHEREAS, Riverdale City Council has known for some time that the financial future of the city needs more diverse options in order to practice sound accounting purposes; and

WHEREAS, Riverdale City's finances rests almost exclusively on the amount of sales tax revenue that the City brings in; and

WHEREAS, in previous years, the State has allowed Riverdale City to keep an extra proportion of the sales tax revenue's collected within the City because of the unique situation that Riverdale is in with a small population base but a large commercial base but those allotments will expire in 2030, if not sooner; and

WHEREAS, in recent years, the state has continued to divert different proportions of Riverdale's tax money to other entities, thus placing more additional strains on the city budget; and

WHEREAS, Riverdale City Council has been left with no other options than to seek out other sources of income to meet the future requirements that the city will face; and

WHEREAS, in order to place as little of a burden as it can on the resident's, the Riverdale City Council is looking for options that spread costs around to those that most use the city services and resources; and

WHEREAS, the Riverdale City Council finds at this time that it is necessary to implement a Municipal Telecommunications License Tax in Riverdale City to help with the burden and rising costs that are associated with operating a municipality and finds it in the best interest of all parties to implement some measures at this time.

NOW THEREFORE, it is hereby ordained by the Riverdale City Council that Title 3 of the Riverdale City Municipal Code be amended as follows:

Section 1. The following Chapter 10-30 is added to Title 1 as follows:

Chapter 10 FINANCIAL ADMINISTRATION

SECTIONS:

[1-10-1: Special Purpose Budgetary Funds](#)

[1-10-30: Municipal telecommunications License Tax Act](#)

1-10-30: ADOPTION OF MUNICIPAL TELECOMMUNICATIONS LICENSE TAX ACT.

The Municipal Telecommunications License Tax Act, Section 10-1-401, et seq., Utah Code Annotated 1953, as amended from time to time, is hereby adopted by this reference in its entirety as if set forth in full herein. If there are any inconsistencies between the Municipal Telecommunications License Tax Act, Section 10-1-401, et seq., Utah Code Annotated 1953, as amended and the terms of this chapter, then the terms of the Telecommunications License Tax Act, Section 10-1-401, et seq., Utah Code Annotated 1953, as amended shall be controlling.

1-10-31: DEFINITIONS.

All words and phrases in this chapter shall have the same meaning given to them in the Municipal Telecommunications License Tax Act, Section 10-1-401, et seq., Utah Code Annotated 1953. In addition, the following words and phrases shall have the following meaning, unless a different meaning clearly appears from the context:

“Gross receipts attributed to the municipality” means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Title 59, Chapter 12, Utah Code Annotated 1953, Sales and Use Tax Act, and determined in accordance with Section 59-12-207, Utah Code Annotated 1953.

“Municipality” means Riverdale City, Utah.

1-10-32: LEVY OF TAX.

There is hereby levied a municipal telecommunication license tax on the gross receipts from telecommunications service attributed to the city.

1-10-33: RATE.

The rate of the tax levy shall be three and one-half percent (3.50%) of the telecommunications provider’s gross receipts from telecommunications service that are attributed to the city. If the location of a transaction is determined to be a place other than the city, then the rate imposed on the gross receipts for telecommunications services shall be as determined pursuant to the provisions of Section 10-1-407, Utah Code Annotated 1953.

1-10-34: RATE LIMITATION AND EXEMPTION THEREFROM.

The rate of this levy shall not exceed four percent of the telecommunications provider's gross receipts from telecommunications service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in the city that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election.

1-10-35: EFFECTIVE DATE OF TAX LEVY.

This tax shall be levied beginning January 1, 2022.

1-10-36: CHANGES IN RATE OR REPEAL OF THE TAX.

This chapter is subject to the requirements of Section 10-1-403, Utah Code Annotated 1953. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Section 10-1-403, Utah Code Annotated 1953.

1-10-37: INTERLOCAL AGREEMENT FOR COLLECTION OF THE TAX.

On or before the effective date of this ordinance, Riverdale City shall enter into the uniform interlocal agreement with the Utah State Tax Commission as described in Section 10-1-405, Utah Code Annotated 1953, for the collection, enforcement, and administration of this municipal telecommunications license tax.

1-10-38: PROCEDURES FOR TAXES ERRONEOUSLY RECOVERED FROM CUSTOMERS.

Pursuant to the provisions of Utah Code Section 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax except as provided in Utah Code Section 10-1-408.

1-10-39: REPEAL OF INCONSISTENT TAXES AND FEES.

Any tax or fee previously enacted by the city under authority of Section 10-1-203, Utah Code Annotated 1953, or Title 11, Chapter 26, Utah Code Annotated 1953, Local Taxation of Utilities Limitation, is hereby repealed.

Nothing in this chapter shall be interpreted to repeal or prohibit any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with

Section 72-7-102, Utah Code Annotated 1953, and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way, nor does this chapter limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this chapter and locate telecommunications facilities, as defined in Section 72-7-108, Utah Code Annotated 1953, in the city.

(Ord. 942 12-2021)

Section 2. This ordinance shall take effect upon its adoption and publication or posting by the City Council of Riverdale City, Utah this _____ day of _____, 2021.

Braden Mitchell, Mayor Pro Tem

ATTEST:

Michelle Marigoni, City Recorder