

SALES AND USE TAX AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act, the Transportation Finances Act, and related provisions.

Highlighted Provisions:

This bill:

- ▶ requires adjustments to the property tax certified tax rate under certain circumstances if a county, city, or town imposes a local option sales and use tax for transportation for the first time on or after July 1, 2007;
- ▶ enacts and modifies definitions;
- ▶ modifies state and local sales and use tax rates, including reducing the state sales and use tax rate;
- ▶ modifies the distribution of revenues collected from certain local option sales and use taxes;
- ▶ addresses the amount of the refund allowed to a qualified emergency food agency;
- ▶ enacts an additional state sales and use tax and provides that the revenues collected from the tax shall be deposited into the General Fund;
- ▶ enacts a state sales and use tax for transportation and provides that the revenues collected from the tax shall be deposited into the:
 - Public Transportation System Tax Highway Fund;
 - Transportation Corridor Preservation Fund for Counties of the First or Second



- 28 Class; and
- 29 • Transportation Investment Fund of 2005;
- 30 ▶ modifies the sales and use tax revenues required to be deposited into the:
- 31 • Local Transportation Corridor Preservation Fund;
- 32 • Public Transportation System Tax Highway Fund; or
- 33 • Transportation Investment Fund of 2005;
- 34 ▶ provides for the distribution of revenues and interest in the State Projects Within
- 35 Counties Fund and provides for the repeal of that fund;
- 36 ▶ creates the Transportation Corridor Preservation Fund for Counties of the First or
- 37 Second Class and provides for the expenditure of revenues deposited into that fund;
- 38 ▶ grants rulemaking authority to the Transportation Commission;
- 39 ▶ repeals obsolete language; and
- 40 ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides an effective date.

45 This bill provides revisor instructions.

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **17-34-3**, as last amended by Chapter 9, Laws of Utah 2005, First Special Session

49 **17-50-322**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session

50 **17C-1-403**, as renumbered and amended by Chapter 359, Laws of Utah 2006

51 **17C-1-406**, as enacted by Chapter 359, Laws of Utah 2006

52 **59-2-924**, as last amended by Chapters 26, 105 and 359, Laws of Utah 2006

53 **59-12-102**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session

54 **59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session

55 **59-12-205**, as last amended by Chapters 222 and 253, Laws of Utah 2006

56 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2006

57 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006

58 **59-12-503**, as enacted by Chapter 131, Laws of Utah 1997

- 59 **59-12-504**, as last amended by Chapter 253, Laws of Utah 2006
- 60 **59-12-902**, as last amended by Chapter 18, Laws of Utah 2004
- 61 **63-55b-172**, as last amended by Chapter 1, Laws of Utah 2005, Second Special Session
- 62 **72-2-117.5**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 63 **72-2-121**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 64 **72-2-121.1**, as enacted by Chapter 282, Laws of Utah 2003
- 65 **72-2-124**, as last amended by Chapters 11 and 135, Laws of Utah 2006

66 ENACTS:

- 67 **59-12-1801**, Utah Code Annotated 1953
- 68 **59-12-1802**, Utah Code Annotated 1953
- 69 **59-12-1803**, Utah Code Annotated 1953
- 70 **59-12-1901**, Utah Code Annotated 1953
- 71 **59-12-1902**, Utah Code Annotated 1953
- 72 **59-12-1903**, Utah Code Annotated 1953
- 73 **72-2-125**, Utah Code Annotated 1953

74 REPEALS:

- 75 **59-12-701**, as last amended by Chapter 296, Laws of Utah 2003
- 76 **59-12-702**, as last amended by Chapter 186, Laws of Utah 2004
- 77 **59-12-703**, as last amended by Chapter 253, Laws of Utah 2006
- 78 **59-12-704**, as last amended by Chapter 296, Laws of Utah 2003
- 79 **59-12-705**, as enacted by Chapter 284, Laws of Utah 1996
- 80 **59-12-1001**, as last amended by Chapter 253, Laws of Utah 2006
- 81 **59-12-1002**, as last amended by Chapter 253, Laws of Utah 2006
- 82 **59-12-1301**, as enacted by Chapter 243, Laws of Utah 1998
- 83 **59-12-1302**, as last amended by Chapter 253, Laws of Utah 2006
- 84 **59-12-1401**, as last amended by Chapter 317, Laws of Utah 2004
- 85 **59-12-1402**, as last amended by Chapter 253, Laws of Utah 2006
- 86 **59-12-1403**, as enacted by Chapter 192, Laws of Utah 2001
- 87 **59-12-1501**, as enacted by Chapter 282, Laws of Utah 2003
- 88 **59-12-1502**, as enacted by Chapter 282, Laws of Utah 2003
- 89 **59-12-1503**, as last amended by Chapter 253, Laws of Utah 2006

- 90 **59-12-1701**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 91 **59-12-1702**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 92 **59-12-1703**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 93 **59-12-1704**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
- 94 **59-12-1705**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session

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

97 Section 1. Section **17-34-3** is amended to read:

98 **17-34-3. Taxes or service charges.**

99 (1) (a) If a county furnishes the municipal-type services and functions described in
100 Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the
101 entire cost of the services or functions so furnished shall be defrayed from funds that the county
102 has derived from:

103 (i) taxes that the county may lawfully levy or impose outside the limits of incorporated
104 towns or cities;

105 (ii) service charges or fees the county may impose upon the persons benefited in any
106 way by the services or functions; or

107 (iii) a combination of these sources.

108 (b) As the taxes or service charges or fees are levied and collected, they shall be placed
109 in a special revenue fund of the county and shall be disbursed only for the rendering of the
110 services or functions established in Section 17-34-1 within the unincorporated areas of the
111 county or as provided in Subsection 10-2-121(2).

112 (2) For the purpose of levying taxes, service charges, or fees provided in this section,
113 the county legislative body may establish a district or districts in the unincorporated areas of
114 the county.

115 (3) Nothing contained in this chapter may be construed to authorize counties to impose
116 or levy taxes not otherwise allowed by law.

117 (4) (a) A county required under Subsection 17-34-1(4) to provide advanced life support
118 and paramedic services to the unincorporated area of the county and that previously paid for
119 those services through a countywide levy may increase its levy under Subsection (1)(a)(i) to
120 generate in the unincorporated area of the county the same amount of revenue as the county

121 loses from that area due to the required decrease in the countywide certified tax rate under
122 Subsection 59-2-924(2)~~(4)~~ (f)(i).

123 (b) An increase in tax rate under Subsection (4)(a) is exempt from the notice and
124 hearing requirements of Sections 59-2-918 and 59-2-919.

125 (5) Notwithstanding any other provision of this chapter, a county providing fire,
126 paramedic, and police protection services in a designated recreational area, as provided in
127 Subsection 17-34-1(5), may fund those services from the county general fund with revenues
128 derived from both inside and outside the limits of cities and towns, and the funding of those
129 services is not limited to unincorporated area revenues.

130 Section 2. Section **17-50-322** is amended to read:

131 **17-50-322. County funding for a fixed guideway.**

132 (1) For purposes of this section, "fixed guideway" means a public transit facility that
133 uses and occupies:

- 134 (a) rail for the use of public transit; or
- 135 (b) a separate right-of-way for the use of public transit.

136 (2) (a) Except as provided in Subsection (2)(b), a county legislative body may not levy
137 a property tax or expend revenues from uniform fees or any tax or fee imposed in lieu of a
138 property tax, to purchase, erect, repair, rebuild, maintain, or otherwise fund a fixed guideway.

139 (b) Subsection (2)(a) does not apply to a property tax levy imposed by a county for the
140 purpose of paying for bonds if~~[-(f)]~~ before January 1, 2007, the bonds were issued or approved
141 by voters for issuance to fund a fixed guideway~~[-and]~~.

142 ~~[(ii) the county does not impose a sales and use tax authorized by Section 59-12-1703.]~~

143 Section 3. Section **17C-1-403** is amended to read:

144 **17C-1-403. Tax increment under a pre-July 1, 1993 project area plan.**

145 (1) This section applies to tax increment under a pre-July 1, 1993 project area plan
146 only.

147 (2) (a) Beginning with the first tax year after April 1, 1983 for which an agency accepts
148 tax increment, an agency may be paid:

- 149 (i) (A) for the first through the fifth tax years, 100% of tax increment;
- 150 (B) for the sixth through the tenth tax years, 80% of tax increment;
- 151 (C) for the eleventh through the fifteenth tax years, 75% of tax increment;

152 (D) for the sixteenth through the twentieth tax years, 70% of tax increment; and
153 (E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or
154 (ii) for an agency that has caused a taxing entity committee to be created under
155 Subsection 17C-1-402(1), any percentage of tax increment up to 100% and for any length of
156 time that the taxing entity committee approves.

157 (b) Notwithstanding any other provision of this section:

158 (i) an agency may be paid 100% of tax increment from a project area for 32 years after
159 April 1, 1983 to pay principal and interest on agency indebtedness incurred before April 1,
160 1983, even though the size of the project area from which tax increment is paid to the agency
161 exceeds 100 acres of privately owned property under a project area plan adopted on or before
162 April 1, 1983; and

163 (ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983
164 may be refinanced and paid from 100% of tax increment if the principal amount of the debt is
165 not increased in the refinancing.

166 (3) (a) For purposes of this Subsection (3), "additional tax increment" means the
167 difference between 100% of tax increment for a tax year and the amount of tax increment an
168 agency is paid for that tax year under the percentages and time periods specified in Subsection
169 (2)(a).

170 (b) Notwithstanding the tax increment percentages and time periods in Subsection
171 (2)(a), an agency may be paid additional tax increment for a period ending 32 years after the
172 first tax year after April 1, 1983 for which the agency receives tax increment from the project
173 area if:

174 (i) (A) the additional tax increment is used solely to pay all or part of the value of the
175 land for and the cost of the installation and construction of a publicly or privately owned
176 convention center or sports complex or any building, facility, structure, or other improvement
177 related to the convention center or sports complex, including parking and infrastructure
178 improvements;

179 (B) construction of the convention center or sports complex or related building,
180 facility, structure, or other improvement is commenced on or before June 30, 2002;

181 (C) the additional tax increment is pledged to pay all or part of the value of the land for
182 and the cost of the installation and construction of the convention center or sports complex or

183 related building, facility, structure, or other improvement; and

184 (D) the agency board and the community legislative body have determined by
185 resolution that the convention center or sports complex is:

186 (I) within and a benefit to a project area;

187 (II) not within but still a benefit to a project area; or

188 (III) within a project area in which substantially all of the land is publicly owned and a
189 benefit to the community; or

190 (ii) (A) the additional tax increment is used to pay some or all of the cost of the land
191 for and installation and construction of a recreational facility[~~as defined in Section~~
192 ~~59-12-702,~~] or a cultural facility, including parking and infrastructure improvements related to
193 the recreational or cultural facility, whether or not the facility is located within a project area;

194 (B) construction of the recreational or cultural facility is commenced on or before
195 December 31, 2005; and

196 (C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part
197 of the cost of the land for and the installation and construction of the recreational or cultural
198 facility, including parking and infrastructure improvements related to the recreational or
199 cultural facility.

200 (c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without its
201 consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would
202 have been paid without that Subsection.

203 (4) Notwithstanding any other provision of this section, an agency may use tax
204 increment received under Subsection (2) for any of the uses indicated in Subsection (3).

205 Section 4. Section **17C-1-406** is amended to read:

206 **17C-1-406. Additional tax increment under certain post-June 30, 1993 project**
207 **area plans.**

208 (1) This section applies to a post-June 30, 1993 project area plan adopted before May
209 1, 2006.

210 (2) An agency may, without the approval of the taxing entity committee, elect to be
211 paid 100% of annual tax increment for each year beyond the periods specified in Subsection
212 17C-1-404(2) to a maximum of 25 years, including the years the agency is paid tax increment
213 under Subsection 17C-1-404(2), if:

214 (a) for an agency in a city in which is located all or a portion of an interchange on I-15
215 or that would directly benefit from an interchange on I-15:

216 (i) the tax increment paid to the agency during the additional years is used to pay some
217 or all of the cost of the installation, construction, or reconstruction of:

218 (A) an interchange on I-15, whether or not the interchange is located within a project
219 area; or

220 (B) frontage and other roads connecting to the interchange, as determined by the
221 Department of Transportation created under Section 72-1-201 and the Transportation
222 Commission created under Section 72-1-301, whether or not the frontage or other road is
223 located within a project area; and

224 (ii) the installation, construction, or reconstruction of the interchange or frontage and
225 other roads has begun on or before June 30, 2002; or

226 (b) for an agency in a city of the first or second class:

227 (i) the tax increment paid to the agency during the additional years is used to pay some
228 or all of the cost of the land for and installation and construction of a recreational facility[~~as~~
229 ~~defined in Section 59-12-702;~~] or a cultural facility, including parking and infrastructure
230 improvements related to the recreational or cultural facility, whether or not the facility is
231 located within a project area; and

232 (ii) the installation or construction of the recreational or cultural facility has begun on
233 or before June 30, 2002.

234 (3) Notwithstanding any other provision of this section, an agency may use tax
235 increment received under Subsection 17C-1-404(2) for any of the uses indicated in this section.

236 (4) Notwithstanding Subsection (2), a school district may not, without its consent,
237 receive less tax increment because of application of Subsection (2) than it would have received
238 without that Subsection.

239 Section 5. Section **59-2-924** is amended to read:

240 **59-2-924. Report of valuation of property to county auditor and commission --**
241 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**
242 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**

243 (1) (a) Before June 1 of each year, the county assessor of each county shall deliver to
244 the county auditor and the commission the following statements:

245 (i) a statement containing the aggregate valuation of all taxable property in each taxing
246 entity; and

247 (ii) a statement containing the taxable value of any additional personal property
248 estimated by the county assessor to be subject to taxation in the current year.

249 (b) The county auditor shall, on or before June 8, transmit to the governing body of
250 each taxing entity:

251 (i) the statements described in Subsections (1)(a)(i) and (ii);

252 (ii) an estimate of the revenue from personal property;

253 (iii) the certified tax rate; and

254 (iv) all forms necessary to submit a tax levy request.

255 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad
256 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the
257 prior year.

258 (ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not
259 include:

260 (A) collections from redemptions;

261 (B) interest; and

262 (C) penalties.

263 (iii) (A) Except as provided in Subsection (2)(a)(v), the certified tax rate shall be
264 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the
265 taxing entity by the amount calculated under Subsection (2)(a)(iii)(B).

266 (B) For purposes of Subsection (2)(a)(iii)(A), the legislative body of a taxing entity
267 shall calculate an amount as follows:

268 (I) calculate for the taxing entity the difference between:

269 (Aa) the aggregate taxable value of all property taxed; and

270 (Bb) any redevelopment adjustments for the current calendar year;

271 (II) after making the calculation required by Subsection (2)(a)(iii)(B)(I), calculate an
272 amount determined by increasing or decreasing the amount calculated under Subsection
273 (2)(a)(iii)(B)(I) by the average of the percentage net change in the value of taxable property for
274 the equalization period for the three calendar years immediately preceding the current calendar
275 year;

276 (III) after making the calculation required by Subsection (2)(a)(iii)(B)(II), calculate the
277 product of:

278 (Aa) the amount calculated under Subsection (2)(a)(iii)(B)(II); and

279 (Bb) the percentage of property taxes collected for the five calendar years immediately
280 preceding the current calendar year; and

281 (IV) after making the calculation required by Subsection (2)(a)(iii)(B)(III), calculate an
282 amount determined by subtracting from the amount calculated under Subsection
283 (2)(a)(iii)(B)(III) any new growth as defined in this section:

284 (Aa) within the taxing entity; and

285 (Bb) for the current calendar year.

286 (C) For purposes of Subsection (2)(a)(iii)(B)(I), the aggregate taxable value of all
287 property taxed includes:

288 (I) the total taxable value of the real and personal property contained on the tax rolls;
289 and

290 (II) the taxable value of any additional personal property estimated by the county
291 assessor to be subject to taxation in the current year.

292 (D) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
293 the commission may prescribe rules for calculating redevelopment adjustments for a calendar
294 year.

295 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
296 Act, the commission shall make rules determining the calculation of ad valorem property tax
297 revenues budgeted by a taxing entity.

298 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues
299 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax
300 revenues are calculated for purposes of Section 59-2-913.

301 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)
302 shall be calculated as follows:

303 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified
304 tax rate is zero;

305 (B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

306 (I) in a county of the first, second, or third class, the levy imposed for municipal-type

307 services under Sections 17-34-1 and 17-36-9; and

308 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
309 purposes and such other levies imposed solely for the municipal-type services identified in
310 Section 17-34-1 and Subsection 17-36-3(22); and

311 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy
312 imposed by that section, except that the certified tax rates for the following levies shall be
313 calculated in accordance with Section 59-2-913 and this section:

314 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
315 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

316 (II) levies to pay for the costs of state legislative mandates or judicial or administrative
317 orders under Section 59-2-906.3.

318 (vi) (A) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be
319 established at that rate which is sufficient to generate only the revenue required to satisfy one
320 or more eligible judgments, as defined in Section 59-2-102.

321 (B) The ad valorem property tax revenue generated by the judgment levy shall not be
322 considered in establishing the taxing entity's aggregate certified tax rate.

323 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use
324 the taxable value of property on the assessment roll.

325 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the
326 assessment roll does not include new growth as defined in Subsection (2)(b)(iii).

327 (iii) "New growth" means:

328 (A) the difference between the increase in taxable value of the taxing entity from the
329 previous calendar year to the current year; minus

330 (B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

331 (iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

332 (A) the amount of increase to locally assessed real property taxable values resulting
333 from factoring, reappraisal, or any other adjustments; or

334 (B) the amount of an increase in the taxable value of property assessed by the
335 commission under Section 59-2-201 resulting from a change in the method of apportioning the
336 taxable value prescribed by:

337 (I) the Legislature;

- 338 (II) a court;
- 339 (III) the commission in an administrative rule; or
- 340 (IV) the commission in an administrative order.

341 (c) (i) Beginning January 1, 1997, if a taxing entity receives increased revenues from
342 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
343 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
344 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
345 rate to offset the increased revenues.

346 (ii) (A) Except as provided in Subsection (2)(c)(ii)(B), for a tax imposed for the first
347 time in accordance with Section 59-12-502 on or after July 1, 2007, if a taxing entity receives
348 increased revenues from uniform fees on tangible personal property under Section 59-2-404,
349 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of any county, city, or town
350 imposing a sales and use tax under Section 59-12-502 for the first time, the taxing entity shall
351 decrease its certified tax rate to offset the increased revenues.

352 (B) The requirement of Subsection (2)(c)(ii)(A) for a taxing entity to decrease its
353 certified tax rate does not apply to a taxing entity within a county if that county:

354 (I) on June 30, 2007, imposes a tax under Chapter 12, Part 15, County Option Sales
355 and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit; and

356 (II) imposes a tax for the first time in accordance with Section 59-12-502 on July 1,
357 2007.

358 (d) (i) ~~[Beginning]~~ Subject to Subsection (2)(d)(iii), beginning on July 1, 1997, if a
359 county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and
360 Use Tax, the county's certified tax rate shall be:

361 (A) decreased on a one-time basis by the amount of the estimated sales and use tax
362 revenue to be distributed to the county under Subsection 59-12-1102(3); and

363 (B) increased by the amount necessary to offset the county's reduction in revenue from
364 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
365 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
366 (2)(d)(i)(A).

367 ~~[(ii) The commission shall determine estimates of sales and use tax distributions for~~
368 ~~purposes of Subsection (2)(d)(i):]~~

369 (ii) (A) Except as provided in Subsection (2)(d)(ii)(B) and subject to Subsections
370 (2)(d)(iii) and (iv), if a county, city, or town imposes a sales and use tax for the first time in
371 accordance with Section 59-12-502 on or after July 1, 2007, the county's, city's, or town's
372 certified tax rate shall be:

373 (I) decreased on a one-time basis by the amount of the estimated sales and use tax
374 revenue under Section 59-12-502 to be distributed to the county, city, or town for the first year
375 that the county, city, or town imposes the tax; and

376 (II) increased by the amount necessary to offset the county's, city's, or town's reduction
377 in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405,
378 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under
379 Subsection (2)(d)(ii)(A)(I).

380 (B) The requirement of Subsection (2)(d)(ii)(A) for a county's, city's, or town's certified
381 tax rate to be increased or decreased does not apply to a city, town, or unincorporated area
382 within a county if that county:

383 (I) on June 30, 2007, imposes a tax under Chapter 12, Part 15, County Option Sales
384 and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit; and

385 (II) imposes a tax for the first time in accordance with Section 59-12-502 on July 1,
386 2007.

387 (iii) The commission shall determine estimates of sales and use tax distributions for
388 purposes of Subsections (2)(d)(i)(A) and (2)(d)(ii)(A)(I).

389 (iv) A certified tax rate increase or decrease required by Subsection (2)(d)(ii) shall be
390 made:

391 (A) for the calendar year beginning on the January 1 of the year in which the sales and
392 use tax is imposed that requires the certified tax rate to be increased or decreased in accordance
393 with Subsection (2)(d)(ii) if that sales and use tax is imposed for the first time on January 1 or
394 April 1; or

395 (B) for the calendar year beginning on the January 1 of the year immediately following
396 the year in which the sales and use tax is imposed that requires the certified tax rate to be
397 increased or decreased in accordance with Subsection (2)(d)(ii) if that sales and use tax is
398 imposed for the first time on July 1 or October 1.

399 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort

400 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be
401 decreased on a one-time basis by the amount necessary to offset the first 12 months of
402 estimated revenue from the additional resort communities sales and use tax imposed under
403 Section 59-12-402.

404 ~~[(f) For the calendar year beginning on January 1, 1999, and ending on December 31,~~
405 ~~1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the~~
406 ~~adjustment in revenues from uniform fees on tangible personal property under Section~~
407 ~~59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under~~
408 ~~Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.]~~

409 ~~[(g) For purposes of Subsections (2)(h) through (j):]~~

410 ~~[(i) "1998 actual collections" means the amount of revenues a taxing entity actually~~
411 ~~collected for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:]~~

412 ~~[(A) motor vehicles required to be registered with the state that weigh 12,000 pounds~~
413 ~~or less; and]~~

414 ~~[(B) state-assessed commercial vehicles required to be registered with the state that~~
415 ~~weigh 12,000 pounds or less.]~~

416 ~~[(ii) "1999 actual collections" means the amount of revenues a taxing entity actually~~
417 ~~collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.]~~

418 ~~[(h) For the calendar year beginning on January 1, 2000, the commission shall make~~
419 ~~the following adjustments:]~~

420 ~~[(i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for~~
421 ~~the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were~~
422 ~~greater than the sum of:]~~

423 ~~[(A) the taxing entity's 1999 actual collections; and]~~

424 ~~[(B) any adjustments the commission made under Subsection (2)(f);]~~

425 ~~[(ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for~~
426 ~~the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were~~
427 ~~greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual~~
428 ~~collections were less than the sum of:]~~

429 ~~[(A) the taxing entity's 1999 actual collections; and]~~

430 ~~[(B) any adjustments the commission made under Subsection (2)(f); and]~~

431 ~~[(iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if,~~
432 ~~for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections~~
433 ~~were less than the taxing entity's 1999 actual collections.]~~

434 ~~[(i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing~~
435 ~~entity's certified tax rate under this section and a taxing entity's certified revenue levy under~~
436 ~~Section 59-2-906.1 by the amount necessary to offset the difference between:]~~

437 ~~[(A) the taxing entity's 1998 actual collections; and]~~

438 ~~[(B) the sum of:]~~

439 ~~[(f) the taxing entity's 1999 actual collections; and]~~

440 ~~[(H) any adjustments the commission made under Subsection (2)(f).]~~

441 ~~[(ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing~~
442 ~~entity's certified tax rate under this section and a taxing entity's certified revenue levy under~~
443 ~~Section 59-2-906.1 by the amount necessary to offset the difference between:]~~

444 ~~[(A) the sum of:]~~

445 ~~[(f) the taxing entity's 1999 actual collections; and]~~

446 ~~[(H) any adjustments the commission made under Subsection (2)(f); and]~~

447 ~~[(B) the taxing entity's 1998 actual collections.]~~

448 ~~[(iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing~~
449 ~~entity's certified tax rate under this section and a taxing entity's certified revenue levy under~~
450 ~~Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection~~
451 ~~(2)(f).]~~

452 ~~[(j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
453 ~~for purposes of Subsections (2)(f) through (i), the commission may make rules establishing the~~
454 ~~method for determining a taxing entity's 1998 actual collections and 1999 actual collections.]~~

455 ~~[(k)]~~ (f) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
456 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
457 unincorporated area of the county shall be decreased by the amount necessary to reduce
458 revenues in that fiscal year by an amount equal to the difference between the amount the county
459 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
460 countywide and the amount the county spent during fiscal year 2000 for those services,
461 excluding amounts spent from a municipal services fund for those services.

462 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection
463 (2)[~~(f)~~] (f)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that
464 fiscal year by the amount that the county spent during fiscal year 2000 for advanced life
465 support and paramedic services countywide, excluding amounts spent from a municipal
466 services fund for those services.

467 (ii) (A) A city or town located within a county of the first class to which Subsection
468 (2)[~~(f)~~] (f)(i) applies may increase its certified tax rate by the amount necessary to generate
469 within the city or town the same amount of revenues as the county would collect from that city
470 or town if the decrease under Subsection (2)[~~(f)~~] (f)(i) did not occur.

471 (B) An increase under Subsection (2)[~~(f)~~] (f)(ii)(A), whether occurring in a single
472 fiscal year or spread over multiple fiscal years, is not subject to the notice and hearing
473 requirements of Sections 59-2-918 and 59-2-919.

474 (f) (g) (i) The certified tax rate of each county required under Subsection
475 17-34-1(4)(b) to provide detective investigative services to the unincorporated area of the
476 county shall be decreased:

477 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year
478 by at least \$4,400,000; and

479 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
480 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in
481 revenues under Subsection (2)[~~(f)~~] (g)(i)(A).

482 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a
483 county to which Subsection (2)[~~(f)~~] (g)(i) applies may increase its certified tax rate to generate
484 within the city or town the same amount of revenue as the county would have collected during
485 county fiscal year 2001 from within the city or town except for Subsection (2)[~~(f)~~] (g)(i)(A).

486 (II) Beginning with municipal fiscal year 2003, a city or town located within a county
487 to which Subsection (2)[~~(f)~~] (g)(i) applies may increase its certified tax rate to generate within
488 the city or town the same amount of revenue as the county would have collected during county
489 fiscal year 2002 from within the city or town except for Subsection (2)[~~(f)~~] (g)(i)(B).

490 (B) (I) Except as provided in Subsection (2)[~~(f)~~] (g)(ii)(B)(II), an increase in the city or
491 town's certified tax rate under Subsection (2)[~~(f)~~] (g)(ii)(A), whether occurring in a single fiscal
492 year or spread over multiple fiscal years, is subject to the notice and hearing requirements of

493 Sections 59-2-918 and 59-2-919.

494 (II) For an increase under this Subsection (2)[~~(f)~~] (g)(ii) that generates revenue that
495 does not exceed the same amount of revenue as the county would have collected except for
496 Subsection (2)[~~(f)~~] (g)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if
497 the city or town:

498 (Aa) publishes a notice that meets the size, type, placement, and frequency
499 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed
500 by the county to one imposed by the city or town, and explains how the revenues from the tax
501 increase will be used; and

502 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the
503 city or town's regular budget hearing.

504 [~~(m)~~] (h) (i) This Subsection (2)[~~(m)~~] (h) applies to each county that:

505 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part
506 13, Utah Special Service District Act, to provide jail service, as provided in Subsection
507 17A-2-1304(1)(a)(x); and

508 (B) levies a property tax on behalf of the special service district under Section
509 17A-2-1322.

510 (ii) (A) The certified tax rate of each county to which this Subsection (2)[~~(m)~~] (h)
511 applies shall be decreased by the amount necessary to reduce county revenues by the same
512 amount of revenues that will be generated by the property tax imposed on behalf of the special
513 service district.

514 (B) Each decrease under Subsection (2)[~~(m)~~] (h)(ii)(A) shall occur contemporaneously
515 with the levy on behalf of the special service district under Section 17A-2-1322.

516 [~~(n)~~] (i) (i) As used in this Subsection (2)[~~(n)~~] (i):

517 (A) "Annexing county" means a county whose unincorporated area is included within a
518 fire district by annexation.

519 (B) "Annexing municipality" means a municipality whose area is included within a fire
520 district by annexation.

521 (C) "Equalized fire protection tax rate" means the tax rate that results from:

522 (I) calculating, for each participating county and each participating municipality, the
523 property tax revenue necessary to cover all of the costs associated with providing fire

524 protection, paramedic, and emergency services:

525 (Aa) for a participating county, in the unincorporated area of the county; and

526 (Bb) for a participating municipality, in the municipality; and

527 (II) adding all the amounts calculated under Subsection (2)~~(m)~~ (i)(i)(C)(I) for all
528 participating counties and all participating municipalities and then dividing that sum by the
529 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

530 (Aa) for participating counties, in the unincorporated area of all participating counties;
531 and

532 (Bb) for participating municipalities, in all the participating municipalities.

533 (D) "Fire district" means a county service area under Title 17A, Chapter 2, Part 4,
534 County Service Area Act, in the creation of which an election was not required under
535 Subsection 17B-2-214(3)(c).

536 (E) "Fire protection tax rate" means:

537 (I) for an annexing county, the property tax rate that, when applied to taxable property
538 in the unincorporated area of the county, generates enough property tax revenue to cover all the
539 costs associated with providing fire protection, paramedic, and emergency services in the
540 unincorporated area of the county; and

541 (II) for an annexing municipality, the property tax rate that generates enough property
542 tax revenue in the municipality to cover all the costs associated with providing fire protection,
543 paramedic, and emergency services in the municipality.

544 (F) "Participating county" means a county whose unincorporated area is included
545 within a fire district at the time of the creation of the fire district.

546 (G) "Participating municipality" means a municipality whose area is included within a
547 fire district at the time of the creation of the fire district.

548 (ii) In the first year following creation of a fire district, the certified tax rate of each
549 participating county and each participating municipality shall be decreased by the amount of
550 the equalized fire protection tax rate.

551 (iii) In the first year following annexation to a fire district, the certified tax rate of each
552 annexing county and each annexing municipality shall be decreased by the fire protection tax
553 rate.

554 (iv) Each tax levied under this section by a fire district shall be considered to be levied

555 by:

556 (A) each participating county and each annexing county for purposes of the county's
557 tax limitation under Section 59-2-908; and

558 (B) each participating municipality and each annexing municipality for purposes of the
559 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
560 city.

561 (3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

562 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county
563 auditor of:

564 (i) its intent to exceed the certified tax rate; and

565 (ii) the amount by which it proposes to exceed the certified tax rate.

566 (c) The county auditor shall notify all property owners of any intent to exceed the
567 certified tax rate in accordance with Subsection 59-2-919(2).

568 (4) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
569 reduced for any year to the extent necessary to provide a community development and renewal
570 agency established under Title 17C, Limited Purpose Local Government Entities - Community
571 Development and Renewal Agencies, with approximately the same amount of money the
572 agency would have received without a reduction in the county's certified tax rate if:

573 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or
574 (2)(d)(i);

575 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
576 previous year; and

577 (iii) the decrease results in a reduction of the amount to be paid to the agency under
578 Section 17C-1-403 or 17C-1-404.

579 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
580 year to the extent necessary to provide a community development and renewal agency with
581 approximately the same amount of money as the agency would have received without an
582 increase in the certified tax rate that year if:

583 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
584 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

585 (ii) The certified tax rate of a city, school district, or special district increases

586 independent of the adjustment to the taxable value of the base year.

587 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or
588 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a community
589 development and renewal agency established under Title 17C, Limited Purpose Local
590 Government Entities - Community Development and Renewal Agencies, for the payment of
591 bonds or other contract indebtedness, but not for administrative costs, may not be less than that
592 amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or
593 (2)(d)(i).

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

595 **59-12-102. Definitions.**

596 As used in this chapter:

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

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

600 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
601 Section 59-12-102.1.

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

603 (a) listed under Subsection (4); and

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

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

606 (a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);

607 (b) Section 59-12-204;

608 (c) Section 59-12-401;

609 (d) Section 59-12-402;

610 (e) Section 59-12-501;

611 (f) Section 59-12-502;

612 [~~(g) Section 59-12-703;~~]

613 [~~(h)~~] (g) Section 59-12-802;

614 [~~(i)~~] (h) Section 59-12-804;

615 [~~(j) Section 59-12-1001;~~]

616 [~~(k)~~] (i) Section 59-12-1102;

- 617 ~~[(t) Section 59-12-1302;]~~
- 618 ~~[(m) Section 59-12-1402; or]~~
- 619 ~~[(n) Section 59-12-1503;]~~
- 620 (j) Section 59-12-1802; or
- 621 (k) Section 59-12-1902.
- 622 (5) "Aircraft" is as defined in Section 72-10-102.
- 623 (6) "Alcoholic beverage" means a beverage that:
- 624 (a) is suitable for human consumption; and
- 625 (b) contains .5% or more alcohol by volume.
- 626 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 627 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 628 device that is started and stopped by an individual:
- 629 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 630 device, skill device, or ride device; and
- 631 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 632 or ride device.
- 633 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 634 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 635 by an individual:
- 636 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 637 property; and
- 638 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 639 property.
- 640 (10) "Authorized carrier" means:
- 641 (a) in the case of vehicles operated over public highways, the holder of credentials
- 642 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 643 Plan and the International Fuel Tax Agreement;
- 644 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 645 certificate or air carrier's operating certificate; or
- 646 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 647 stock, the holder of a certificate issued by the United States Surface Transportation Board.

648 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
649 following that is used as the primary source of energy to produce fuel or electricity:

- 650 (i) material from a plant or tree; or
- 651 (ii) other organic matter that is available on a renewable basis, including:
 - 652 (A) slash and brush from forests and woodlands;
 - 653 (B) animal waste;
 - 654 (C) methane produced:
 - 655 (I) at landfills; or
 - 656 (II) as a byproduct of the treatment of wastewater residuals;
 - 657 (D) aquatic plants; and
 - 658 (E) agricultural products.

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

- 660 (i) black liquor;
- 661 (ii) treated woods; or
- 662 (iii) biomass from municipal solid waste other than methane produced:
 - 663 (A) at landfills; or
 - 664 (B) as a byproduct of the treatment of wastewater residuals.

665 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
666 property if:

667 (i) one or more of the items of tangible personal property is food and food ingredients;

668 and

669 (ii) the items of tangible personal property are:

- 670 (A) distinct and identifiable; and
- 671 (B) sold for one price that is not itemized.

672 (b) "Bundled transaction" does not include the sale of tangible personal property if the
673 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
674 tangible personal property included in the transaction.

675 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
676 and identifiable does not include:

- 677 (i) packaging that:
 - 678 (A) accompanies the sale of the tangible personal property; and

679 (B) is incidental or immaterial to the sale of the tangible personal property;
680 (ii) tangible personal property provided free of charge with the purchase of another
681 item of tangible personal property; or

682 (iii) an item of tangible personal property included in the definition of "purchase
683 price."

684 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
685 provided free of charge with the purchase of another item of tangible personal property if the
686 sales price of the purchased item of tangible personal property does not vary depending on the
687 inclusion of the tangible personal property provided free of charge.

688 (13) "Certified automated system" means software certified by the governing board of
689 the agreement in accordance with Section 59-12-102.1 that:

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

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

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

696 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

697 (14) "Certified service provider" means an agent certified:

698 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
699 and

700 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
701 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
702 own purchases.

703 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
704 suitable for general use.

705 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
706 commission shall make rules:

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

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

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

711 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
712 fuels that does not constitute industrial use under Subsection (39) or residential use under
713 Subsection (76).

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

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

719 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
720 Utah Administrative Rulemaking Act, the commission may make rules defining what
721 constitutes a person's place of employment.

722 (19) "Component part" includes:

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

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

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

728 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

740 (24) (a) "Delivery charge" means a charge:

- 741 (i) by a seller of:
- 742 (A) tangible personal property; or
- 743 (B) services; and
- 744 (ii) for preparation and delivery of the tangible personal property or services described
- 745 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 746 (b) "Delivery charge" includes a charge for the following:
- 747 (i) transportation;
- 748 (ii) shipping;
- 749 (iii) postage;
- 750 (iv) handling;
- 751 (v) crating; or
- 752 (vi) packing.
- 753 (25) "Dietary supplement" means a product, other than tobacco, that:
- 754 (a) is intended to supplement the diet;
- 755 (b) contains one or more of the following dietary ingredients:
- 756 (i) a vitamin;
- 757 (ii) a mineral;
- 758 (iii) an herb or other botanical;
- 759 (iv) an amino acid;
- 760 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 761 dietary intake; or
- 762 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 763 described in Subsections (25)(b)(i) through (v);
- 764 (c) (i) except as provided in Subsection (25)(c)(ii), is intended for ingestion in:
- 765 (A) tablet form;
- 766 (B) capsule form;
- 767 (C) powder form;
- 768 (D) softgel form;
- 769 (E) gelcap form; or
- 770 (F) liquid form; or
- 771 (ii) notwithstanding Subsection (25)(c)(i), if the product is not intended for ingestion in

772 a form described in Subsections (25)(c)(i)(A) through (F), is not represented:

773 (A) as conventional food; and

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

775 (I) a meal; or

776 (II) the diet; and

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

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

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

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

782 (i) to:

783 (A) a mass audience; or

784 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

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

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

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

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

792 (i) recognized in:

793 (A) the official United States Pharmacopoeia;

794 (B) the official Homeopathic Pharmacopoeia of the United States;

795 (C) the official National Formulary; or

796 (D) a supplement to a publication listed in Subsections (27)(a)(i)(A) through (C);

797 (ii) intended for use in the:

798 (A) diagnosis of disease;

799 (B) cure of disease;

800 (C) mitigation of disease;

801 (D) treatment of disease; or

802 (E) prevention of disease; or

- 803 (iii) intended to affect:
- 804 (A) the structure of the body; or
- 805 (B) any function of the body.
- 806 (b) "Drug" does not include:
- 807 (i) food and food ingredients;
- 808 (ii) a dietary supplement;
- 809 (iii) an alcoholic beverage; or
- 810 (iv) a prosthetic device.
- 811 (28) (a) Except as provided in Subsection (28)(c), "durable medical equipment" means
- 812 equipment that:
- 813 (i) can withstand repeated use;
- 814 (ii) is primarily and customarily used to serve a medical purpose;
- 815 (iii) generally is not useful to a person in the absence of illness or injury; and
- 816 (iv) is not worn in or on the body.
- 817 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 818 equipment described in Subsection (28)(a).
- 819 (c) Notwithstanding Subsection (28)(a), "durable medical equipment" does not include
- 820 mobility enhancing equipment.
- 821 (29) "Electronic" means:
- 822 (a) relating to technology; and
- 823 (b) having:
- 824 (i) electrical capabilities;
- 825 (ii) digital capabilities;
- 826 (iii) magnetic capabilities;
- 827 (iv) wireless capabilities;
- 828 (v) optical capabilities;
- 829 (vi) electromagnetic capabilities; or
- 830 (vii) capabilities similar to Subsections (29)(b)(i) through (vi).
- 831 (30) "Employee" is as defined in Section 59-10-401.
- 832 (31) "Fixed guideway" means a public transit facility that uses and occupies:
- 833 (a) rail for the use of public transit; or

- 834 (b) a separate right-of-way for the use of public transit.
- 835 (32) (a) "Food and food ingredients" means substances:
- 836 (i) regardless of whether the substances are in:
- 837 (A) liquid form;
- 838 (B) concentrated form;
- 839 (C) solid form;
- 840 (D) frozen form;
- 841 (E) dried form; or
- 842 (F) dehydrated form; and
- 843 (ii) that are:
- 844 (A) sold for:
- 845 (I) ingestion by humans; or
- 846 (II) chewing by humans; and
- 847 (B) consumed for the substance's:
- 848 (I) taste; or
- 849 (II) nutritional value.
- 850 (b) "Food and food ingredients" includes an item described in Subsection (63)(b)(iii).
- 851 (c) "Food and food ingredients" does not include:
- 852 (i) an alcoholic beverage;
- 853 (ii) tobacco; or
- 854 (iii) prepared food.
- 855 (33) (a) "Fundraising sales" means sales:
- 856 (i) (A) made by a school; or
- 857 (B) made by a school student;
- 858 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 859 materials, or provide transportation; and
- 860 (iii) that are part of an officially sanctioned school activity.
- 861 (b) For purposes of Subsection (33)(a)(iii), "officially sanctioned school activity"
- 862 means a school activity:
- 863 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 864 district governing the authorization and supervision of fundraising activities;

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

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

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

871 (35) "Governing board of the agreement" means the governing board of the agreement
872 that is:

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

875 (36) (a) "Hearing aid" means:

876 (i) an instrument or device having an electronic component that is designed to:

- 877 (A) (I) improve impaired human hearing; or
- 878 (II) correct impaired human hearing; and

- 879 (B) (I) be worn in the human ear; or
- 880 (II) affixed behind the human ear;

881 (ii) an instrument or device that is surgically implanted into the cochlea; or

882 (iii) a telephone amplifying device.

883 (b) "Hearing aid" does not include:

884 (i) except as provided in Subsection (36)(a)(i)(B) or (36)(a)(ii), an instrument or device
885 having an electronic component that is designed to be worn on the body;

886 (ii) except as provided in Subsection (36)(a)(iii), an assistive listening device or system
887 designed to be used by one individual, including:

888 (A) a personal amplifying system;

889 (B) a personal FM system;

890 (C) a television listening system; or

891 (D) a device or system similar to a device or system described in Subsections

892 (36)(b)(ii)(A) through (C); or

893 (iii) an assistive listening device or system designed to be used by more than one
894 individual, including:

895 (A) a device or system installed in:

- 896 (I) an auditorium;
- 897 (II) a church;
- 898 (III) a conference room;
- 899 (IV) a synagogue; or
- 900 (V) a theater; or
- 901 (B) a device or system similar to a device or system described in Subsections
- 902 (36)(b)(iii)(A)(I) through (V).
- 903 (37) (a) "Hearing aid accessory" means a hearing aid:
- 904 (i) component;
- 905 (ii) attachment; or
- 906 (iii) accessory.
- 907 (b) "Hearing aid accessory" includes:
- 908 (i) a hearing aid neck loop;
- 909 (ii) a hearing aid cord;
- 910 (iii) a hearing aid ear mold;
- 911 (iv) hearing aid tubing;
- 912 (v) a hearing aid ear hook; or
- 913 (vi) a hearing aid remote control.
- 914 (c) "Hearing aid accessory" does not include:
- 915 (i) a component, attachment, or accessory designed to be used only with an:
- 916 (A) instrument or device described in Subsection (36)(b)(i); or
- 917 (B) assistive listening device or system described in Subsection (36)(b)(ii) or (iii); or
- 918 (ii) a hearing aid battery.
- 919 (38) "Hydroelectric energy" means water used as the sole source of energy to produce
- 920 electricity.
- 921 (39) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 922 other fuels:
- 923 (a) in mining or extraction of minerals;
- 924 (b) in agricultural operations to produce an agricultural product up to the time of
- 925 harvest or placing the agricultural product into a storage facility, including:
- 926 (i) commercial greenhouses;

- 927 (ii) irrigation pumps;
- 928 (iii) farm machinery;
- 929 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
930 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 931 (v) other farming activities;
- 932 (c) in manufacturing tangible personal property at an establishment described in SIC
933 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
934 Executive Office of the President, Office of Management and Budget;
- 935 (d) by a scrap recycler if:
 - 936 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
937 one or more of the following items into prepared grades of processed materials for use in new
938 products:
 - 939 (A) iron;
 - 940 (B) steel;
 - 941 (C) nonferrous metal;
 - 942 (D) paper;
 - 943 (E) glass;
 - 944 (F) plastic;
 - 945 (G) textile; or
 - 946 (H) rubber; and
 - 947 (ii) the new products under Subsection (39)(d)(i) would otherwise be made with
948 nonrecycled materials; or
 - 949 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
950 cogeneration facility as defined in Section 54-2-1.
- 951 (40) (a) Except as provided in Subsection (40)(b), "installation charge" means a charge
952 for installing tangible personal property.
- 953 (b) Notwithstanding Subsection (40)(a), "installation charge" does not include a charge
954 for repairs or renovations of tangible personal property.
- 955 (41) (a) "Lease" or "rental" means a transfer of possession or control of tangible
956 personal property for:
 - 957 (i) (A) a fixed term; or

- 958 (B) an indeterminate term; and
959 (ii) consideration.
- 960 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
961 amount of consideration may be increased or decreased by reference to the amount realized
962 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
963 Code.
- 964 (c) "Lease" or "rental" does not include:
- 965 (i) a transfer of possession or control of property under a security agreement or
966 deferred payment plan that requires the transfer of title upon completion of the required
967 payments;
- 968 (ii) a transfer of possession or control of property under an agreement that requires the
969 transfer of title:
- 970 (A) upon completion of required payments; and
971 (B) if the payment of an option price does not exceed the greater of:
- 972 (I) \$100; or
973 (II) 1% of the total required payments; or
974 (iii) providing tangible personal property along with an operator for a fixed period of
975 time or an indeterminate period of time if the operator is necessary for equipment to perform as
976 designed.
- 977 (d) For purposes of Subsection (41)(c)(iii), an operator is necessary for equipment to
978 perform as designed if the operator's duties exceed the:
- 979 (i) set-up of tangible personal property;
980 (ii) maintenance of tangible personal property; or
981 (iii) inspection of tangible personal property.
- 982 (42) "Load and leave" means delivery to a purchaser by use of a tangible storage media
983 if the tangible storage media is not physically transferred to the purchaser.
- 984 (43) "Local taxing jurisdiction" means a:
- 985 (a) county that is authorized to impose an agreement sales and use tax;
986 (b) city that is authorized to impose an agreement sales and use tax; or
987 (c) town that is authorized to impose an agreement sales and use tax.
- 988 (44) "Manufactured home" is as defined in Section 58-56-3.

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

990 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
991 Industrial Classification Manual of the federal Executive Office of the President, Office of
992 Management and Budget;

993 (b) a scrap recycler if:

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

997 (A) iron;

998 (B) steel;

999 (C) nonferrous metal;

1000 (D) paper;

1001 (E) glass;

1002 (F) plastic;

1003 (G) textile; or

1004 (H) rubber; and

1005 (ii) the new products under Subsection (45)(b)(i) would otherwise be made with
1006 nonrecycled materials; or

1007 (c) a cogeneration facility as defined in Section 54-2-1.

1008 (46) "Member of the immediate family of the producer" means a person who is related
1009 to a producer described in Subsection 59-12-104(20)(a) as a:

1010 (a) child or stepchild, regardless of whether the child or stepchild is:

1011 (i) an adopted child or adopted stepchild; or

1012 (ii) a foster child or foster stepchild;

1013 (b) grandchild or stepgrandchild;

1014 (c) grandparent or stepgrandparent;

1015 (d) nephew or stepnephew;

1016 (e) niece or stepniece;

1017 (f) parent or stepparent;

1018 (g) sibling or stepsibling;

1019 (h) spouse;

1020 (i) person who is the spouse of a person described in Subsections (46)(a) through (g);

1021 or

1022 (j) person similar to a person described in Subsections (46)(a) through (i) as
1023 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

1024 Administrative Rulemaking Act.

1025 (47) "Mobile home" is as defined in Section 58-56-3.

1026 (48) "Mobile telecommunications service" is as defined in the Mobile
1027 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1028 (49) (a) Except as provided in Subsection (49)(c), "mobility enhancing equipment"
1029 means equipment that is:

1030 (i) primarily and customarily used to provide or increase the ability to move from one
1031 place to another;

1032 (ii) appropriate for use in a:

1033 (A) home; or

1034 (B) motor vehicle; and

1035 (iii) not generally used by persons with normal mobility.

1036 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1037 the equipment described in Subsection (49)(a).

1038 (c) Notwithstanding Subsection (49)(a), "mobility enhancing equipment" does not
1039 include:

1040 (i) a motor vehicle;

1041 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1042 vehicle manufacturer;

1043 (iii) durable medical equipment; or

1044 (iv) a prosthetic device.

1045 (50) "Model 1 seller" means a seller that has selected a certified service provider as the
1046 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
1047 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1048 seller's own purchases.

1049 (51) "Model 2 seller" means a seller that:

1050 (a) except as provided in Subsection (51)(b), has selected a certified automated system

1051 to perform the seller's sales tax functions for agreement sales and use taxes; and
1052 (b) notwithstanding Subsection (51)(a), retains responsibility for remitting all of the
1053 sales tax:
1054 (i) collected by the seller; and
1055 (ii) to the appropriate local taxing jurisdiction.
1056 (52) (a) Subject to Subsection (52)(b), "model 3 seller" means a seller that has:
1057 (i) sales in at least five states that are members of the agreement;
1058 (ii) total annual sales revenues of at least \$500,000,000;
1059 (iii) a proprietary system that calculates the amount of tax:
1060 (A) for an agreement sales and use tax; and
1061 (B) due to each local taxing jurisdiction; and
1062 (iv) entered into a performance agreement with the governing board of the agreement.
1063 (b) For purposes of Subsection (52)(a), "model 3 seller" includes an affiliated group of
1064 sellers using the same proprietary system.
1065 (53) "Modular home" means a modular unit as defined in Section 58-56-3.
1066 (54) "Motor vehicle" is as defined in Section 41-1a-102.
1067 (55) "Oil shale" means a group of fine black to dark brown shales containing
1068 bituminous material that yields petroleum upon distillation.
1069 (56) (a) "Other fuels" means products that burn independently to produce heat or
1070 energy.
1071 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1072 personal property.
1073 (57) "Pawnbroker" is as defined in Section 13-32a-102.
1074 (58) "Pawn transaction" is as defined in Section 13-32a-102.
1075 (59) (a) "Permanently attached to real property" means that for tangible personal
1076 property attached to real property:
1077 (i) the attachment of the tangible personal property to the real property:
1078 (A) is essential to the use of the tangible personal property; and
1079 (B) suggests that the tangible personal property will remain attached to the real
1080 property in the same place over the useful life of the tangible personal property; or
1081 (ii) if the tangible personal property is detached from the real property, the detachment

1082 would:

1083 (A) cause substantial damage to the tangible personal property; or

1084 (B) require substantial alteration or repair of the real property to which the tangible
1085 personal property is attached.

1086 (b) "Permanently attached to real property" includes:

1087 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1088 (A) essential to the operation of the tangible personal property; and

1089 (B) attached only to facilitate the operation of the tangible personal property;

1090 (ii) a temporary detachment of tangible personal property from real property for a
1091 repair or renovation if the repair or renovation is performed where the tangible personal

1092 property and real property are located; or

1093 (iii) an attachment of the following tangible personal property to real property,
1094 regardless of whether the attachment to real property is only through a line that supplies water,
1095 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
1096 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1097 (A) property attached to oil, gas, or water pipelines, other than the property listed in
1098 Subsection (59)(c)(iii);

1099 (B) a hot water heater;

1100 (C) a water softener system; or

1101 (D) a water filtration system, other than a water filtration system manufactured as part
1102 of a refrigerator.

1103 (c) "Permanently attached to real property" does not include:

1104 (i) the attachment of portable or movable tangible personal property to real property if
1105 that portable or movable tangible personal property is attached to real property only for:

1106 (A) convenience;

1107 (B) stability; or

1108 (C) for an obvious temporary purpose;

1109 (ii) the detachment of tangible personal property from real property other than the
1110 detachment described in Subsection (59)(b)(ii); or

1111 (iii) an attachment of the following tangible personal property to real property if the
1112 attachment to real property is only through a line that supplies water, electricity, gas, telephone,

1113 cable, or supplies a similar item as determined by the commission by rule made in accordance
1114 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1115 (A) a refrigerator;

1116 (B) a washer;

1117 (C) a dryer;

1118 (D) a stove;

1119 (E) a television;

1120 (F) a computer;

1121 (G) a telephone; or

1122 (H) tangible personal property similar to Subsections (59)(c)(iii)(A) through (G) as
1123 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1124 Administrative Rulemaking Act.

1125 (60) "Person" includes any individual, firm, partnership, joint venture, association,
1126 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1127 municipality, district, or other local governmental entity of the state, or any group or
1128 combination acting as a unit.

1129 (61) "Place of primary use":

1130 (a) for telephone service other than mobile telecommunications service, means the
1131 street address representative of where the purchaser's use of the telephone service primarily
1132 occurs, which shall be:

1133 (i) the residential street address of the purchaser; or

1134 (ii) the primary business street address of the purchaser; or

1135 (b) for mobile telecommunications service, is as defined in the Mobile
1136 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1137 (62) "Postproduction" means an activity related to the finishing or duplication of a
1138 medium described in Subsection 59-12-104(56)(a).

1139 (63) (a) "Prepared food" means:

1140 (i) food:

1141 (A) sold in a heated state; or

1142 (B) heated by a seller;

1143 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

1144 item; or
1145 (iii) except as provided in Subsection (63)(c), food sold with an eating utensil provided
1146 by the seller, including a:
1147 (A) plate;
1148 (B) knife;
1149 (C) fork;
1150 (D) spoon;
1151 (E) glass;
1152 (F) cup;
1153 (G) napkin; or
1154 (H) straw.
1155 (b) "Prepared food" does not include:
1156 (i) food that a seller only:
1157 (A) cuts;
1158 (B) repackages; or
1159 (C) pasteurizes; or
1160 (ii) (A) the following:
1161 (I) raw egg;
1162 (II) raw fish;
1163 (III) raw meat;
1164 (IV) raw poultry; or
1165 (V) a food containing an item described in Subsections (63)(b)(ii)(A)(I) through (IV);
1166 and
1167 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1168 Food and Drug Administration's Food Code that a consumer cook the items described in
1169 Subsection (63)(b)(ii)(A) to prevent food borne illness; or
1170 (iii) the following if sold without eating utensils provided by the seller:
1171 (A) food and food ingredients sold by a seller if the seller's proper primary
1172 classification under the 2002 North American Industry Classification System of the federal
1173 Executive Office of the President, Office of Management and Budget, is manufacturing in
1174 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

- 1175 Manufacturing;
- 1176 (B) food and food ingredients sold in an unheated state:
- 1177 (I) by weight or volume; and
- 1178 (II) as a single item; or
- 1179 (C) a bakery item, including:
- 1180 (I) a bagel;
- 1181 (II) a bar;
- 1182 (III) a biscuit;
- 1183 (IV) bread;
- 1184 (V) a bun;
- 1185 (VI) a cake;
- 1186 (VII) a cookie;
- 1187 (VIII) a croissant;
- 1188 (IX) a danish;
- 1189 (X) a donut;
- 1190 (XI) a muffin;
- 1191 (XII) a pastry;
- 1192 (XIII) a pie;
- 1193 (XIV) a roll;
- 1194 (XV) a tart;
- 1195 (XVI) a torte; or
- 1196 (XVII) a tortilla.
- 1197 (c) Notwithstanding Subsection (63)(a)(iii), an eating utensil provided by the seller
- 1198 does not include the following used to transport the food:
- 1199 (i) a container; or
- 1200 (ii) packaging.
- 1201 (64) "Prescription" means an order, formula, or recipe that is issued:
- 1202 (a) (i) orally;
- 1203 (ii) in writing;
- 1204 (iii) electronically; or
- 1205 (iv) by any other manner of transmission; and

- 1206 (b) by a licensed practitioner authorized by the laws of a state.
- 1207 (65) (a) Except as provided in Subsection (65)(b)(ii) or (iii), "prewritten computer
- 1208 software" means computer software that is not designed and developed:
- 1209 (i) by the author or other creator of the computer software; and
- 1210 (ii) to the specifications of a specific purchaser.
- 1211 (b) "Prewritten computer software" includes:
- 1212 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1213 software is not designed and developed:
- 1214 (A) by the author or other creator of the computer software; and
- 1215 (B) to the specifications of a specific purchaser;
- 1216 (ii) notwithstanding Subsection (65)(a), computer software designed and developed by
- 1217 the author or other creator of the computer software to the specifications of a specific purchaser
- 1218 if the computer software is sold to a person other than the purchaser; or
- 1219 (iii) notwithstanding Subsection (65)(a) and except as provided in Subsection (65)(c),
- 1220 prewritten computer software or a prewritten portion of prewritten computer software:
- 1221 (A) that is modified or enhanced to any degree; and
- 1222 (B) if the modification or enhancement described in Subsection (65)(b)(iii)(A) is
- 1223 designed and developed to the specifications of a specific purchaser.
- 1224 (c) Notwithstanding Subsection (65)(b)(iii), "prewritten computer software" does not
- 1225 include a modification or enhancement described in Subsection (65)(b)(iii) if the charges for
- 1226 the modification or enhancement are:
- 1227 (i) reasonable; and
- 1228 (ii) separately stated on the invoice or other statement of price provided to the
- 1229 purchaser.
- 1230 (66) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 1231 (i) artificially replace a missing portion of the body;
- 1232 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1233 (iii) support a weak or deformed portion of the body.
- 1234 (b) "Prosthetic device" includes:
- 1235 (i) parts used in the repairs or renovation of a prosthetic device; or
- 1236 (ii) replacement parts for a prosthetic device.

- 1237 (c) "Prosthetic device" does not include:
- 1238 (i) corrective eyeglasses;
- 1239 (ii) contact lenses;
- 1240 (iii) hearing aids; or
- 1241 (iv) dental prostheses.
- 1242 (67) (a) "Protective equipment" means an item:
- 1243 (i) for human wear; and
- 1244 (ii) that is:
- 1245 (A) designed as protection:
- 1246 (I) to the wearer against injury or disease; or
- 1247 (II) against damage or injury of other persons or property; and
- 1248 (B) not suitable for general use.
- 1249 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1250 commission shall make rules:
- 1251 (i) listing the items that constitute "protective equipment"; and
- 1252 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1253 under the agreement.
- 1254 (68) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1255 (i) valued in money; and
- 1256 (ii) for which tangible personal property or services are:
- 1257 (A) sold;
- 1258 (B) leased; or
- 1259 (C) rented.
- 1260 (b) "Purchase price" and "sales price" include:
- 1261 (i) the seller's cost of the tangible personal property or services sold;
- 1262 (ii) expenses of the seller, including:
- 1263 (A) the cost of materials used;
- 1264 (B) a labor cost;
- 1265 (C) a service cost;
- 1266 (D) interest;
- 1267 (E) a loss;

- 1268 (F) the cost of transportation to the seller; or
- 1269 (G) a tax imposed on the seller; or
- 1270 (iii) a charge by the seller for any service necessary to complete the sale.
- 1271 (c) "Purchase price" and "sales price" do not include:
- 1272 (i) a discount:
- 1273 (A) in a form including:
- 1274 (I) cash;
- 1275 (II) term; or
- 1276 (III) coupon;
- 1277 (B) that is allowed by a seller;
- 1278 (C) taken by a purchaser on a sale; and
- 1279 (D) that is not reimbursed by a third party; or
- 1280 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1281 provided to the purchaser:
- 1282 (A) the amount of a trade-in;
- 1283 (B) the following from credit extended on the sale of tangible personal property or
- 1284 services:
- 1285 (I) interest charges;
- 1286 (II) financing charges; or
- 1287 (III) carrying charges;
- 1288 (C) a tax or fee legally imposed directly on the consumer;
- 1289 (D) a delivery charge; or
- 1290 (E) an installation charge.
- 1291 (69) "Purchaser" means a person to whom:
- 1292 (a) a sale of tangible personal property is made; or
- 1293 (b) a service is furnished.
- 1294 (70) "Regularly rented" means:
- 1295 (a) rented to a guest for value three or more times during a calendar year; or
- 1296 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1297 value.
- 1298 (71) "Renewable energy" means:

- 1299 (a) biomass energy;
- 1300 (b) hydroelectric energy;
- 1301 (c) geothermal energy;
- 1302 (d) solar energy; or
- 1303 (e) wind energy.
- 1304 (72) (a) "Renewable energy production facility" means a facility that:
- 1305 (i) uses renewable energy to produce electricity; and
- 1306 (ii) has a production capacity of 20 kilowatts or greater.
- 1307 (b) A facility is a renewable energy production facility regardless of whether the
- 1308 facility is:
- 1309 (i) connected to an electric grid; or
- 1310 (ii) located on the premises of an electricity consumer.
- 1311 (73) "Rental" is as defined in Subsection (41).
- 1312 (74) "Repairs or renovations of tangible personal property" means:
- 1313 (a) a repair or renovation of tangible personal property that is not permanently attached
- 1314 to real property; or
- 1315 (b) attaching tangible personal property to other tangible personal property if the other
- 1316 tangible personal property to which the tangible personal property is attached is not
- 1317 permanently attached to real property.
- 1318 (75) "Research and development" means the process of inquiry or experimentation
- 1319 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1320 preparing those devices, technologies, or applications for marketing.
- 1321 (76) "Residential use" means the use in or around a home, apartment building, sleeping
- 1322 quarters, and similar facilities or accommodations.
- 1323 (77) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1324 than:
- 1325 (a) resale;
- 1326 (b) sublease; or
- 1327 (c) subrent.
- 1328 (78) (a) "Retailer" means any person engaged in a regularly organized business in
- 1329 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and

1330 who is selling to the user or consumer and not for resale.

1331 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1332 engaged in the business of selling to users or consumers within the state.

1333 (79) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1334 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1335 Subsection 59-12-103(1), for consideration.

1336 (b) "Sale" includes:

1337 (i) installment and credit sales;

1338 (ii) any closed transaction constituting a sale;

1339 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1340 chapter;

1341 (iv) any transaction if the possession of property is transferred but the seller retains the
1342 title as security for the payment of the price; and

1343 (v) any transaction under which right to possession, operation, or use of any article of
1344 tangible personal property is granted under a lease or contract and the transfer of possession
1345 would be taxable if an outright sale were made.

1346 (80) "Sale at retail" is as defined in Subsection (77).

1347 (81) "Sale-leaseback transaction" means a transaction by which title to tangible
1348 personal property that is subject to a tax under this chapter is transferred:

1349 (a) by a purchaser-lessee;

1350 (b) to a lessor;

1351 (c) for consideration; and

1352 (d) if:

1353 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1354 of the tangible personal property;

1355 (ii) the sale of the tangible personal property to the lessor is intended as a form of
1356 financing:

1357 (A) for the property; and

1358 (B) to the purchaser-lessee; and

1359 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1360 is required to:

- 1361 (A) capitalize the property for financial reporting purposes; and
- 1362 (B) account for the lease payments as payments made under a financing arrangement.
- 1363 (82) "Sales price" is as defined in Subsection (68).
- 1364 (83) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1365 amounts charged by a school:
 - 1366 (i) sales that are directly related to the school's educational functions or activities
 - 1367 including:
 - 1368 (A) the sale of:
 - 1369 (I) textbooks;
 - 1370 (II) textbook fees;
 - 1371 (III) laboratory fees;
 - 1372 (IV) laboratory supplies; or
 - 1373 (V) safety equipment;
 - 1374 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
 - 1375 that:
 - 1376 (I) a student is specifically required to wear as a condition of participation in a
 - 1377 school-related event or school-related activity; and
 - 1378 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 - 1379 place of ordinary clothing;
 - 1380 (C) sales of the following if the net or gross revenues generated by the sales are
 - 1381 deposited into a school district fund or school fund dedicated to school meals:
 - 1382 (I) food and food ingredients; or
 - 1383 (II) prepared food; or
 - 1384 (D) transportation charges for official school activities; or
 - 1385 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 - 1386 event or school-related activity.
 - 1387 (b) "Sales relating to schools" does not include:
 - 1388 (i) bookstore sales of items that are not educational materials or supplies;
 - 1389 (ii) except as provided in Subsection (83)(a)(i)(B):
 - 1390 (A) clothing;
 - 1391 (B) clothing accessories or equipment;

- 1392 (C) protective equipment; or
- 1393 (D) sports or recreational equipment; or
- 1394 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1395 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1396 (A) other than a:
- 1397 (I) school;
- 1398 (II) nonprofit organization authorized by a school board or a governing body of a
- 1399 private school to organize and direct a competitive secondary school activity; or
- 1400 (III) nonprofit association authorized by a school board or a governing body of a
- 1401 private school to organize and direct a competitive secondary school activity; and
- 1402 (B) that is required to collect sales and use taxes under this chapter.
- 1403 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1404 commission may make rules defining the term "passed through."
- 1405 (84) For purposes of this section and Section 59-12-104, "school" means:
- 1406 (a) an elementary school or a secondary school that:
- 1407 (i) is a:
- 1408 (A) public school; or
- 1409 (B) private school; and
- 1410 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1411 (b) a public school district.
- 1412 (85) "Seller" means a person that makes a sale, lease, or rental of:
- 1413 (a) tangible personal property; or
- 1414 (b) a service.
- 1415 (86) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1416 means tangible personal property:
- 1417 (i) used primarily in the process of:
- 1418 (A) (I) manufacturing a semiconductor;
- 1419 (II) fabricating a semiconductor; or
- 1420 (III) research or development of a:
- 1421 (Aa) semiconductor; or
- 1422 (Bb) semiconductor manufacturing process; or

- 1423 (B) maintaining an environment suitable for a semiconductor; or
- 1424 (ii) consumed primarily in the process of:
- 1425 (A) (I) manufacturing a semiconductor;
- 1426 (II) fabricating a semiconductor; or
- 1427 (III) research or development of a:
- 1428 (Aa) semiconductor; or
- 1429 (Bb) semiconductor manufacturing process; or
- 1430 (B) maintaining an environment suitable for a semiconductor.
- 1431 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1432 includes:
- 1433 (i) parts used in the repairs or renovations of tangible personal property described in
- 1434 Subsection (86)(a); or
- 1435 (ii) a chemical, catalyst, or other material used to:
- 1436 (A) produce or induce in a semiconductor a:
- 1437 (I) chemical change; or
- 1438 (II) physical change;
- 1439 (B) remove impurities from a semiconductor; or
- 1440 (C) improve the marketable condition of a semiconductor.
- 1441 (87) "Senior citizen center" means a facility having the primary purpose of providing
- 1442 services to the aged as defined in Section 62A-3-101.
- 1443 (88) "Simplified electronic return" means the electronic return:
- 1444 (a) described in Section 318(C) of the agreement; and
- 1445 (b) approved by the governing board of the agreement.
- 1446 (89) "Solar energy" means the sun used as the sole source of energy for producing
- 1447 electricity.
- 1448 (90) (a) "Sports or recreational equipment" means an item:
- 1449 (i) designed for human use; and
- 1450 (ii) that is:
- 1451 (A) worn in conjunction with:
- 1452 (I) an athletic activity; or
- 1453 (II) a recreational activity; and

1454 (B) not suitable for general use.

1455 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1456 commission shall make rules:

1457 (i) listing the items that constitute "sports or recreational equipment"; and

1458 (ii) that are consistent with the list of items that constitute "sports or recreational
1459 equipment" under the agreement.

1460 (91) "State" means the state of Utah, its departments, and agencies.

1461 (92) "Storage" means any keeping or retention of tangible personal property or any
1462 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1463 sale in the regular course of business.

1464 (93) (a) "Tangible personal property" means personal property that:

1465 (i) may be:

1466 (A) seen;

1467 (B) weighed;

1468 (C) measured;

1469 (D) felt; or

1470 (E) touched; or

1471 (ii) is in any manner perceptible to the senses.

1472 (b) "Tangible personal property" includes:

1473 (i) electricity;

1474 (ii) water;

1475 (iii) gas;

1476 (iv) steam; or

1477 (v) prewritten computer software.

1478 (94) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1479 and require further processing other than mechanical blending before becoming finished
1480 petroleum products.

1481 (95) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1482 software" means an item listed in Subsection (95)(b) if that item is purchased or leased
1483 primarily to enable or facilitate one or more of the following to function:

1484 (i) telecommunications switching or routing equipment, machinery, or software; or

1485 (ii) telecommunications transmission equipment, machinery, or software.

1486 (b) The following apply to Subsection (95)(a):

1487 (i) a pole;

1488 (ii) software;

1489 (iii) a supplementary power supply;

1490 (iv) temperature or environmental equipment or machinery;

1491 (v) test equipment;

1492 (vi) a tower; or

1493 (vii) equipment, machinery, or software that functions similarly to an item listed in

1494 Subsections (95)(b)(i) through (vi) as determined by the commission by rule made in

1495 accordance with Subsection (95)(c).

1496 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1497 commission may by rule define what constitutes equipment, machinery, or software that

1498 functions similarly to an item listed in Subsections (95)(b)(i) through (vi).

1499 (96) "Telecommunications equipment, machinery, or software required for 911

1500 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1501 Sec. 20.18.

1502 (97) "Telecommunications maintenance or repair equipment, machinery, or software"

1503 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1504 one or more of the following, regardless of whether the equipment, machinery, or software is

1505 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1506 following:

1507 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1508 (b) telecommunications switching or routing equipment, machinery, or software; or

1509 (c) telecommunications transmission equipment, machinery, or software.

1510 (98) (a) "Telecommunications switching or routing equipment, machinery, or software"

1511 means an item listed in Subsection (98)(b) if that item is purchased or leased primarily for

1512 switching or routing:

1513 (i) voice communications;

1514 (ii) data communications; or

1515 (iii) telephone service.

- 1516 (b) The following apply to Subsection (98)(a):
- 1517 (i) a bridge;
- 1518 (ii) a computer;
- 1519 (iii) a cross connect;
- 1520 (iv) a modem;
- 1521 (v) a multiplexer;
- 1522 (vi) plug in circuitry;
- 1523 (vii) a router;
- 1524 (viii) software;
- 1525 (ix) a switch; or
- 1526 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1527 Subsections (98)(b)(i) through (ix) as determined by the commission by rule made in
- 1528 accordance with Subsection (98)(c).

1529 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1530 commission may by rule define what constitutes equipment, machinery, or software that
1531 functions similarly to an item listed in Subsections (98)(b)(i) through (ix).

1532 (99) (a) "Telecommunications transmission equipment, machinery, or software" means
1533 an item listed in Subsection (99)(b) if that item is purchased or leased primarily for sending,
1534 receiving, or transporting:

- 1535 (i) voice communications;
- 1536 (ii) data communications; or
- 1537 (iii) telephone service.

1538 (b) The following apply to Subsection (99)(a):

- 1539 (i) an amplifier;
- 1540 (ii) a cable;
- 1541 (iii) a closure;
- 1542 (iv) a conduit;
- 1543 (v) a controller;
- 1544 (vi) a duplexer;
- 1545 (vii) a filter;
- 1546 (viii) an input device;

- 1547 (ix) an input/output device;
- 1548 (x) an insulator;
- 1549 (xi) microwave machinery or equipment;
- 1550 (xii) an oscillator;
- 1551 (xiii) an output device;
- 1552 (xiv) a pedestal;
- 1553 (xv) a power converter;
- 1554 (xvi) a power supply;
- 1555 (xvii) a radio channel;
- 1556 (xviii) a radio receiver;
- 1557 (xix) a radio transmitter;
- 1558 (xx) a repeater;
- 1559 (xxi) software;
- 1560 (xxii) a terminal;
- 1561 (xxiii) a timing unit;
- 1562 (xxiv) a transformer;
- 1563 (xxv) a wire; or
- 1564 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1565 Subsections (99)(b)(i) through (xxv) as determined by the commission by rule made in
- 1566 accordance with Subsection (99)(c).

1567 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1568 commission may by rule define what constitutes equipment, machinery, or software that

1569 functions similarly to an item listed in Subsections (99)(b)(i) through (xxv).

- 1570 (100) (a) "Telephone service" means a two-way transmission:
- 1571 (i) by:
- 1572 (A) wire;
- 1573 (B) radio;
- 1574 (C) lightwave; or
- 1575 (D) other electromagnetic means; and
- 1576 (ii) of one or more of the following:
- 1577 (A) a sign;

- 1578 (B) a signal;
- 1579 (C) writing;
- 1580 (D) an image;
- 1581 (E) sound;
- 1582 (F) a message;
- 1583 (G) data; or
- 1584 (H) other information of any nature.
- 1585 (b) "Telephone service" includes:
- 1586 (i) mobile telecommunications service;
- 1587 (ii) private communications service; or
- 1588 (iii) automated digital telephone answering service.
- 1589 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1590 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1591 Tax Freedom Act, Pub. L. No. 105-277.
- 1592 (101) Notwithstanding where a call is billed or paid, "telephone service address"
- 1593 means:
- 1594 (a) if the location described in this Subsection (101)(a) is known, the location of the
- 1595 telephone service equipment:
- 1596 (i) to which a call is charged; and
- 1597 (ii) from which the call originates or terminates;
- 1598 (b) if the location described in Subsection (101)(a) is not known but the location
- 1599 described in this Subsection (101)(b) is known, the location of the origination point of the
- 1600 signal of the telephone service first identified by:
- 1601 (i) the telecommunications system of the seller; or
- 1602 (ii) if the system used to transport the signal is not that of the seller, information
- 1603 received by the seller from its service provider; or
- 1604 (c) if the locations described in Subsection (101)(a) or (b) are not known, the location
- 1605 of a purchaser's primary place of use.
- 1606 (102) (a) "Telephone service provider" means a person that:
- 1607 (i) owns, controls, operates, or manages a telephone service; and
- 1608 (ii) engages in an activity described in Subsection (102)(a)(i) for the shared use with or

1609 resale to any person of the telephone service.

1610 (b) A person described in Subsection (102)(a) is a telephone service provider whether
1611 or not the Public Service Commission of Utah regulates:

1612 (i) that person; or

1613 (ii) the telephone service that the person owns, controls, operates, or manages.

1614 (103) "Tobacco" means:

1615 (a) a cigarette;

1616 (b) a cigar;

1617 (c) chewing tobacco;

1618 (d) pipe tobacco; or

1619 (e) any other item that contains tobacco.

1620 (104) "Unassisted amusement device" means an amusement device, skill device, or
1621 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1622 the amusement device, skill device, or ride device.

1623 (105) (a) "Use" means the exercise of any right or power over tangible personal
1624 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1625 property, item, or service.

1626 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1627 the regular course of business and held for resale.

1628 (106) (a) Subject to Subsection (106)(b), "vehicle" means the following that are
1629 required to be titled, registered, or titled and registered:

1630 (i) an aircraft as defined in Section 72-10-102;

1631 (ii) a vehicle as defined in Section 41-1a-102;

1632 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1633 (iv) a vessel as defined in Section 41-1a-102.

1634 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1635 (i) a vehicle described in Subsection (106)(a); or

1636 (ii) (A) a locomotive;

1637 (B) a freight car;

1638 (C) railroad work equipment; or

1639 (D) other railroad rolling stock.

1640 (107) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1641 exchanging a vehicle as defined in Subsection (106).

1642 (108) (a) Except as provided in Subsection (108)(b), "waste energy facility" means a
1643 facility that generates electricity:

1644 (i) using as the primary source of energy waste materials that would be placed in a
1645 landfill or refuse pit if it were not used to generate electricity, including:

1646 (A) tires;

1647 (B) waste coal; or

1648 (C) oil shale; and

1649 (ii) in amounts greater than actually required for the operation of the facility.

1650 (b) "Waste energy facility" does not include a facility that incinerates:

1651 (i) municipal solid waste;

1652 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1653 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1654 (109) "Watercraft" means a vessel as defined in Section 73-18-2.

1655 (110) "Wind energy" means wind used as the sole source of energy to produce
1656 electricity.

1657 (111) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1658 location by the United States Postal Service.

1659 Section 7. Section **59-12-103** is amended to read:

1660 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1661 **tax revenues.**

1662 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1663 charged for the following transactions:

1664 (a) retail sales of tangible personal property made within the state;

1665 (b) amounts paid:

1666 (i) (A) to a common carrier; or

1667 (B) whether the following are municipally or privately owned, to a:

1668 (I) telephone service provider; or

1669 (II) telegraph corporation as defined in Section 54-2-1; and

1670 (ii) for:

- 1671 (A) telephone service, other than mobile telecommunications service, that originates
- 1672 and terminates within the boundaries of this state;
- 1673 (B) mobile telecommunications service that originates and terminates within the
- 1674 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1675 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1676 (C) telegraph service;
- 1677 (c) sales of the following for commercial use:
- 1678 (i) gas;
- 1679 (ii) electricity;
- 1680 (iii) heat;
- 1681 (iv) coal;
- 1682 (v) fuel oil; or
- 1683 (vi) other fuels;
- 1684 (d) sales of the following for residential use:
- 1685 (i) gas;
- 1686 (ii) electricity;
- 1687 (iii) heat;
- 1688 (iv) coal;
- 1689 (v) fuel oil; or
- 1690 (vi) other fuels;
- 1691 (e) sales of prepared food;
- 1692 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1693 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1694 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1695 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1696 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1697 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1698 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1699 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1700 exhibition, cultural, or athletic activity;
- 1701 (g) amounts paid or charged for services for repairs or renovations of tangible personal

1702 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1703 (i) the tangible personal property; and

1704 (ii) parts used in the repairs or renovations of the tangible personal property described
1705 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
1706 of that tangible personal property;

1707 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1708 assisted cleaning or washing of tangible personal property;

1709 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1710 accommodations and services that are regularly rented for less than 30 consecutive days;

1711 (j) amounts paid or charged for laundry or dry cleaning services;

1712 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1713 this state the tangible personal property is:

1714 (i) stored;

1715 (ii) used; or

1716 (iii) otherwise consumed;

1717 (l) amounts paid or charged for tangible personal property if within this state the
1718 tangible personal property is:

1719 (i) stored;

1720 (ii) used; or

1721 (iii) consumed; and

1722 (m) amounts paid or charged for prepaid telephone calling cards.

1723 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is
1724 imposed on a transaction described in Subsection (1) equal to the sum of the following rates:

1725 (i) a state tax imposed on the transaction at a rate [~~of 4.75%, and~~] equal to the sum of
1726 the following rates:

1727 (A) 4.5%;

1728 (B) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1729 and Use Tax Act, if within the county, city, or town in which the transaction is consummated,
1730 as determined under Section 59-12-207, the state imposes the tax under Part 18, Additional
1731 State Sales and Use Tax Act; and

1732 (C) the tax rate the state imposes in accordance with Part 19, State Sales and Use Tax

1733 for Transportation Act; and

1734 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1735 transaction under this chapter other than this part.

1736 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection
1737 (1)(d) equal to the sum of:

1738 (A) a state tax imposed on the transaction at a rate of 2%; and

1739 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1740 transaction under this chapter other than this part; or

1741 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
1742 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
1743 equal to the sum of:

1744 (A) a state tax imposed on the transaction at a rate ~~[of]~~ equal to the sum of the
1745 following rates:

1746 (I) ~~[4.75%]~~ (Aa) 4.5% for a transaction other than a transaction described in
1747 Subsection (1)(d); or

1748 ~~[(H)]~~ (Bb) 2% for a transaction described in Subsection (1)(d); and

1749 (II) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1750 and Use Tax Act, if within the county, city, or town in which the transaction is consummated,
1751 as determined under Section 59-12-207, the state imposes the tax under Part 18, Additional
1752 State Sales and Use Tax Act; and

1753 (III) the tax rate the state imposes in accordance with Part 19, State Sales and Use Tax
1754 for Transportation Act; and

1755 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
1756 rates:

1757 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
1758 and towns in the state impose the tax under Section 59-12-204; ~~[and]~~

1759 (II) the tax rate authorized by Section 59-12-501 if within the county, city, or town in
1760 which the transaction is consummated, as determined under Section 59-12-207, that county,
1761 city, or town imposes the tax authorized by Section 59-12-501;

1762 (III) the tax rate authorized by Section 59-12-502 if within the county, city, or town in
1763 which the transaction is consummated, as determined under Section 59-12-207, that county,

1764 city, or town imposes the tax authorized by Section 59-12-502; and

1765 ~~[(H)]~~ (IV) the tax rate authorized by Section 59-12-1102, but only if all of the counties
1766 in the state impose the tax under Section 59-12-1102.

1767 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax
1768 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to
1769 the sum of:

1770 (A) a state tax imposed on the amounts paid or charged for food and food ingredients
1771 ~~[at a rate of]~~ equal to the sum of the following rates:

1772 (I) 2.75%; ~~[and]~~

1773 (II) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1774 and Use Tax Act, if within the county, city, or town in which the transaction is consummated,
1775 as determined under Section 59-12-207, the state imposes the tax under Part 18, Additional
1776 State Sales and Use Tax Act; and

1777 (III) the tax rate the state imposes in accordance with Part 19, State Sales and Use Tax
1778 for Transportation Act; and

1779 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1780 amounts paid or charged for food and food ingredients under this chapter other than this part.

1781 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
1782 rate imposed under the following shall take effect on the first day of a calendar quarter:

1783 (i) Subsection (2)(a)(i);

1784 (ii) Subsection (2)(b)(i)(A);

1785 (iii) Subsection (2)(b)(ii)(A); or

1786 (iv) Subsection (2)(b)(iii)(A).

1787 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1788 effect on the first day of the first billing period:

1789 (A) that begins after the effective date of the tax rate increase; and

1790 (B) if the billing period for the transaction begins before the effective date of a tax rate
1791 increase imposed under:

1792 (I) Subsection (2)(a)(i);

1793 (II) Subsection (2)(b)(i)(A); or

1794 (III) Subsection (2)(b)(ii)(A).

1795 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
1796 decrease shall take effect on the first day of the last billing period:

1797 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1798 and

1799 (B) if the billing period for the transaction begins before the effective date of the repeal
1800 of the tax or the tax rate decrease imposed under:

1801 (I) Subsection (2)(a)(i);

1802 (II) Subsection (2)(b)(i)(A); or

1803 (III) Subsection (2)(b)(ii)(A).

1804 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

1805 (A) Subsection (1)(b);

1806 (B) Subsection (1)(c);

1807 (C) Subsection (1)(d);

1808 (D) Subsection (1)(e);

1809 (E) Subsection (1)(f);

1810 (F) Subsection (1)(g);

1811 (G) Subsection (1)(h);

1812 (H) Subsection (1)(i);

1813 (I) Subsection (1)(j); or

1814 (J) Subsection (1)(k).

1815 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
1816 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
1817 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:

1818 (A) on the first day of a calendar quarter; and

1819 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
1820 under Subsection (2)(a)(i) or (2)(b)(ii)(A).

1821 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1822 the commission may by rule define the term "catalogue sale."

1823 (f) If the price of a bundled transaction is attributable to food and food ingredients and
1824 tangible personal property other than food and food ingredients, the tax imposed on the entire
1825 bundled transaction is the sum of the tax rates described in Subsection (2)(a).

1826 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes
1827 shall be deposited into the General Fund:

- 1828 (i) the tax imposed by Subsection (2)(a)(i);
- 1829 (ii) the tax imposed by Subsection (2)(b)(i)(A);
- 1830 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or
- 1831 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

1832 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)
1833 shall be distributed to a county, city, or town as provided in this chapter.

1834 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
1835 state shall receive the county's, city's, or town's proportionate share of the revenues generated
1836 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

1837 (ii) The commission shall determine a county's, city's, or town's proportionate share of
1838 the revenues under Subsection (3)(c)(i) by:

1839 (A) calculating an amount equal to the population of the unincorporated area of the
1840 county, city, or town divided by the total population of the state; and

1841 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
1842 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,
1843 cities, and towns.

1844 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
1845 purposes of this section shall be derived from the most recent official census or census estimate
1846 of the United States Census Bureau.

1847 (B) If a needed population estimate is not available from the United States Census
1848 Bureau, population figures shall be derived from the estimate from the Utah Population
1849 Estimates Committee created by executive order of the governor.

1850 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1851 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
1852 through (g):

- 1853 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
 - 1854 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
 - 1855 (B) for the fiscal year; or
- 1856 (ii) \$17,500,000.

1857 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1858 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1859 Department of Natural Resources to:

1860 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1861 protect sensitive plant and animal species; or

1862 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1863 act, to political subdivisions of the state to implement the measures described in Subsections
1864 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1865 (ii) Money transferred to the Department of Natural Resources under Subsection
1866 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1867 person to list or attempt to have listed a species as threatened or endangered under the
1868 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1869 (iii) At the end of each fiscal year:

1870 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1871 Conservation and Development Fund created in Section 73-10-24;

1872 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1873 Program Subaccount created in Section 73-10c-5; and

1874 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1875 Program Subaccount created in Section 73-10c-5.

1876 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1877 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1878 created in Section 4-18-6.

1879 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1880 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1881 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1882 water rights.

1883 (ii) At the end of each fiscal year:

1884 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1885 Conservation and Development Fund created in Section 73-10-24;

1886 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1887 Program Subaccount created in Section 73-10c-5; and

1888 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1889 Program Subaccount created in Section 73-10c-5.

1890 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1891 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1892 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1893 (ii) In addition to the uses allowed of the Water Resources Conservation and
1894 Development Fund under Section 73-10-24, the Water Resources Conservation and
1895 Development Fund may also be used to:

1896 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1897 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1898 quantifying surface and ground water resources and describing the hydrologic systems of an
1899 area in sufficient detail so as to enable local and state resource managers to plan for and
1900 accommodate growth in water use without jeopardizing the resource;

1901 (B) fund state required dam safety improvements; and

1902 (C) protect the state's interest in interstate water compact allocations, including the
1903 hiring of technical and legal staff.

1904 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1905 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1906 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1907 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1908 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1909 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1910 (i) provide for the installation and repair of collection, treatment, storage, and
1911 distribution facilities for any public water system, as defined in Section 19-4-102;

1912 (ii) develop underground sources of water, including springs and wells; and

1913 (iii) develop surface water sources.

1914 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1915 2006, the difference between the following amounts shall be expended as provided in this
1916 Subsection (5), if that difference is greater than \$1:

1917 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1918 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1919 (ii) \$17,500,000.

1920 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1921 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

1922 credits; and

1923 (B) expended by the Department of Natural Resources for watershed rehabilitation or

1924 restoration.

1925 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

1926 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund

1927 created in Section 73-10-24.

1928 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

1929 remaining difference described in Subsection (5)(a) shall be:

1930 (A) transferred each fiscal year to the Division of Water Resources as dedicated

1931 credits; and

1932 (B) expended by the Division of Water Resources for cloud-seeding projects

1933 authorized by Title 73, Chapter 15, Modification of Weather.

1934 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

1935 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

1936 created in Section 73-10-24.

1937 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the

1938 remaining difference described in Subsection (5)(a) shall be deposited into the Water

1939 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

1940 Division of Water Resources for:

1941 (i) preconstruction costs:

1942 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

1943 26, Bear River Development Act; and

1944 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

1945 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1946 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

1947 Chapter 26, Bear River Development Act;

1948 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

1949 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1950 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1951 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1952 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
1953 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

1954 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
1955 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
1956 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1957 incurred for employing additional technical staff for the administration of water rights.

1958 (g) At the end of each fiscal year, any unexpended dedicated credits described in
1959 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
1960 Fund created in Section 73-10-24.

1961 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1962 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)
1963 through (d):

1964 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1965 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1966 (B) for the fiscal year; or

1967 (ii) \$18,743,000.

1968 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
1969 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation
1970 Revolving Loan Fund created in Section 72-2-117.

1971 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
1972 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made
1973 by the Department of Transportation at the request of local governments.

1974 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1975 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
1976 Department of Transportation for the State Park Access Highways Improvement Program
1977 created in Section 72-3-207.

1978 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
1979 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as
1980 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C

1981 roads.

1982 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
1983 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
1984 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
1985 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
1986 transactions under Subsection (1).

1987 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
1988 have been paid off and the highway projects completed that are intended to be paid from
1989 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
1990 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
1991 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
1992 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1993 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1994 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
1995 year 2004-05, the commission shall each year on or before the September 30 immediately
1996 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
1997 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
1998 greater than \$0.

1999 (b) The difference described in Subsection (8)(a) is equal to the difference between:
2000 (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)
2001 the commission received from sellers collecting a tax in accordance with Subsection
2002 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in
2003 Subsection (8)(a); and

2004 (ii) \$7,279,673.

2005 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
2006 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
2007 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund
2008 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
2009 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),
2010 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales
2011 and use tax revenues generated annually by the sales and use tax on vehicles and

2012 vehicle-related products.

2013 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
2014 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
2015 highway projects completed that are intended to be paid from revenues deposited in the
2016 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
2017 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
2018 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
2019 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described
2020 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the
2021 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2022 on vehicles and vehicle-related products.

2023 Section 8. Section **59-12-205** is amended to read:

2024 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
2025 **tax revenues -- Determination of population.**

2026 (1) Each county, city, and town, in order to maintain in effect sales and use tax
2027 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
2028 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
2029 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
2030 they relate to sales and use taxes.

2031 (2) (a) Except as provided in Subsections (3) through (5)[:], revenues collected from
2032 the sales and use tax authorized by this part shall be distributed as provided in this Subsection
2033 (2).

2034 (b) Before any distributions are made in accordance with Subsections (2)(c) and (d):

2035 (i) a seller may retain the amount allowed by Section 59-12-108; and

2036 (ii) the commission shall retain the charge required by Section 59-12-206.

2037 (c) After the amounts described in Subsection (2)(b) are retained in accordance with
2038 Subsection (2)(b), the commission shall distribute each fiscal year beginning with fiscal year
2039 2007-08, \$33,000 to each town that imposed a town option sales and use tax:

2040 (i) on June 30, 2007; and

2041 (ii) that is repealed by this bill.

2042 (d) After the distributions required by Subsection (2)(c) are made, the commission

2043 shall distribute the remaining amount of revenues collected from the sales and use tax
2044 authorized by this part as follows:

2045 [~~(a)~~] (i) 50% of each dollar collected from the sales and use tax authorized by this part
2046 shall be paid to each county, city, and town on the basis of the percentage that the population of
2047 the county, city, or town bears to the total population of all counties, cities, and towns in the
2048 state; and

2049 [~~(b)~~] (ii) 50% of each dollar collected from the sales and use tax authorized by this part
2050 shall be paid to each county, city, and town on the basis of the location where the transaction is
2051 consummated as determined under Section 59-12-207.

2052 (3) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year
2053 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of
2054 the taxable sales within the boundaries of the county, city, or town.

2055 (b) The commission shall proportionally reduce monthly distributions to any county,
2056 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
2057 sales and use tax revenue collected within the boundaries of the county, city, or town.

2058 (4) (a) As used in this Subsection (4):

2059 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or
2060 more in tax revenue distributions in accordance with Subsection (3) for each of the following
2061 fiscal years:

2062 (A) fiscal year 2002-03;

2063 (B) fiscal year 2003-04; and

2064 (C) fiscal year 2004-05.

2065 (ii) "Minimum tax revenue distribution" means the total amount of tax revenue
2066 distributions an eligible county, city, or town receives from a tax imposed in accordance with
2067 this part for fiscal year 2004-05.

2068 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (4)(b)(ii),
2069 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county,
2070 city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this
2071 part equal to the greater of:

2072 (A) the payment required by Subsection (2); or

2073 (B) the minimum tax revenue distribution.

2074 (ii) If the tax revenue distribution required by Subsection (4)(b)(i) for an eligible
2075 county, city, or town is equal to the amount described in Subsection (4)(b)(i)(A) for three
2076 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following
2077 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax
2078 revenue distribution equal to the payment required by Subsection (2).

2079 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year
2080 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution
2081 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that
2082 eligible county, city, or town is less than or equal to the product of:

2083 (i) the minimum tax revenue distribution; and

2084 (ii) .90.

2085 (5) Notwithstanding Subsection (2), if a county, city, or town imposes a tax authorized
2086 by this part on any amounts paid or charged by a seller that collects a tax in accordance with
2087 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
2088 in Subsection 59-12-103(3)(c).

2089 (6) (a) Population figures for purposes of this section shall be based on the most recent
2090 official census or census estimate of the United States Census Bureau.

2091 (b) If a needed population estimate is not available from the United States Census
2092 Bureau, population figures shall be derived from the estimate from the Utah Population
2093 Estimates Committee created by executive order of the governor.

2094 (7) The population of a county for purposes of this section shall be determined solely
2095 from the unincorporated area of the county.

2096 Section 9. Section **59-12-501** is amended to read:

2097 **59-12-501. Local option sales and use tax for transportation -- Base -- Rate.**

2098 (1) (a) [~~(i) In addition to other sales and use taxes, any~~] A county, city, or town [~~within~~
2099 ~~a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District~~
2100 ~~Act,~~] may impose a sales and use tax of [~~up to~~] .25% on the transactions described in
2101 Subsection 59-12-103(1) located within the county, city, or town [~~, to fund a public~~
2102 ~~transportation system.~~];

2103 (i) for the construction and maintenance of highways under the jurisdiction of the
2104 county, city, or town imposing the tax;

2105 (ii) to fund a system for public transit as defined in Section 17A-2-1004;
 2106 (iii) to fund a fixed guideway as defined in Section 72-2-125; or
 2107 (iv) for a combination of the purposes described in Subsections (1)(a)(i) through (iii).

2108 ~~[(ii)] (b) Notwithstanding Subsection (1)(a)[(i)], a county, city, or town may not~~
 2109 ~~impose a tax under this section on[:(A)] the sales and uses described in Section 59-12-104 to~~
 2110 ~~the extent the sales and uses are exempt from taxation under Section 59-12-104[;and].~~
 2111 ~~[(B) any amounts paid or charged by a seller that collects a tax under Subsection~~
 2112 ~~59-12-107(1)(b).]~~

2113 ~~[(b)] (2) For purposes of [this] Subsection (1), the location of a transaction shall be~~
 2114 ~~determined in accordance with Section 59-12-207.~~

2115 ~~[(c) (i) A county, city, or town may impose a tax under this section only if the~~
 2116 ~~governing body of the county, city, or town, by resolution, submits the proposal to all the~~
 2117 ~~qualified voters within the county, city, or town for approval at a general or special election~~
 2118 ~~conducted in the manner provided by statute.]~~

2119 ~~[(ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an~~
 2120 ~~area to a public transit district or local district and approving for that annexed area the sales and~~
 2121 ~~use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for~~
 2122 ~~the area to be annexed to the public transit district or local district.]~~

2123 ~~[(2) (a) If only a portion of a county is included within a public transit district, the~~
 2124 ~~proposal may be submitted only to the qualified voters residing within the boundaries of the~~
 2125 ~~proposed or existing public transit district.]~~

2126 ~~[(b) Notice of any such election shall be given by the county, city, or town governing~~
 2127 ~~body 15 days in advance in the manner prescribed by statute.]~~

2128 ~~[(c) If a majority of the voters voting in such election approve the proposal, it shall~~
 2129 ~~become effective on the date provided by the county, city, or town governing body.]~~

2130 ~~[(3) This section may not be construed to require an election in jurisdictions where~~
 2131 ~~voters have previously approved a public transit sales or use tax.]~~

2132 Section 10. Section **59-12-502** is amended to read:

2133 **59-12-502. Additional local option sales and use tax for transportation -- Base --**
 2134 **Rate.**

2135 (1) (a) ~~[(i) In addition to other sales and use taxes, including the public transit district~~

2136 ~~tax authorized by Section 59-12-501, a] A~~ county, city, or town [~~within a transit district~~
 2137 ~~organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,]~~ may impose a
 2138 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located
 2139 within the county, city, or town[~~, to fund a fixed guideway and expanded public transportation~~
 2140 ~~system.];~~

2141 (i) for the construction and maintenance of highways under the jurisdiction of the
 2142 county, city, or town imposing the tax;

2143 (ii) to fund a system for public transit as defined in Section 17A-2-1004;

2144 (iii) to fund a fixed guideway as defined in Section 72-2-125; or

2145 (iv) for a combination of the purposes described in Subsections (1)(a)(i) through (iii).

2146 ~~[(†)]~~ (b) Notwithstanding Subsection (1)(a)[~~(†)]~~, a county, city, or town may not
 2147 impose a tax under this section on[~~:(A)]~~ the sales and uses described in Section 59-12-104 to
 2148 the extent the sales and uses are exempt from taxation under Section 59-12-104[~~; and~~].

2149 ~~[(B) any amounts paid or charged by a seller that collects a tax under Subsection~~
 2150 ~~59-12-107(1)(b).]~~

2151 ~~[(b)]~~ (2) For purposes of this Subsection (1), the location of a transaction shall be
 2152 determined in accordance with Section 59-12-207.

2153 ~~[(c) (i) A county, city, or town may impose the tax under this section only if the~~
 2154 ~~governing body of the county, city, or town submits, by resolution, the proposal to all the~~
 2155 ~~qualified voters within the county, city, or town for approval at a general or special election~~
 2156 ~~conducted in the manner provided by statute.]~~

2157 ~~[(ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,~~
 2158 ~~or town governing body 15 days in advance in the manner prescribed by statute.]~~

2159 ~~[(2) If the majority of the voters voting in this election approve the proposal, it shall~~
 2160 ~~become effective on the date provided by the county, city, or town governing body.]~~

2161 ~~[(3) (a) This section may not be construed to require an election in jurisdictions where~~
 2162 ~~voters have previously approved a public transit sales or use tax.]~~

2163 ~~[(b) This section shall be construed to require an election to impose the sales and use~~
 2164 ~~tax authorized by this section, including jurisdictions where the voters have previously~~
 2165 ~~approved the sales and use tax authorized by Section 59-12-501, but this section may not be~~
 2166 ~~construed to affect the sales and use tax authorized by Section 59-12-501.]~~

2167 ~~[(4) No public funds shall be spent to promote the required election.]~~

2168 ~~[(5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the~~
 2169 ~~revenues generated by the tax imposed under this section by any county of the first class:]~~

2170 ~~[(i) 75% shall be allocated to fund a fixed guideway and expanded public~~
 2171 ~~transportation system; and]~~

2172 ~~[(ii) except as provided in Subsection (5)(b), 25% shall be allocated to fund new~~
 2173 ~~construction, major renovations, and improvements to Interstate 15 and state highways within~~
 2174 ~~the county and to pay any debt service and bond issuance costs related to those projects:]~~

2175 ~~[(b) Notwithstanding the designated use of revenues in Subsection (1), beginning on~~
 2176 ~~July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not~~
 2177 ~~to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to~~
 2178 ~~reconfiguring railroad curves within that county to reduce rail congestion:]~~

2179 ~~[(6) A county of the first class may, through an interlocal agreement, authorize the~~
 2180 ~~deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public~~
 2181 ~~Transportation System Tax Highway Fund created in Section 72-2-121.]~~

2182 Section 11. Section **59-12-503** is amended to read:

2183 **59-12-503. Local option direct transfer.**

2184 A county [~~or municipality~~], city, or town may elect, in writing, to have the portion of
 2185 the monthly funds transfer that is collected [~~as a public transit sales and use~~] from a tax under
 2186 [~~Sections~~] Section 59-12-501 [~~and~~] or 59-12-502 to be transferred directly to a designated
 2187 public transit district, subject to the same charge [~~as described under~~] required by Section
 2188 59-12-206.

2189 Section 12. Section **59-12-504** is amended to read:

2190 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**

2191 **Administration, collection, and enforcement of tax.**

2192 (1) For purposes of this section:

2193 (a) "Annexation" means an annexation to:

2194 (i) a county under Title 17, Chapter 2, Annexation to County; or

2195 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

2196 (b) "Annexing area" means an area that is annexed into a county, city, or town.

2197 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after [~~July 1, 2004~~]

2198 October 1, 2007, a county, city, or town enacts or repeals a tax under this part, the enactment or
2199 repeal shall take effect:

2200 (i) on the first day of a calendar quarter; and

2201 (ii) after a 90-day period beginning on the date the commission receives notice meeting
2202 the requirements of Subsection (2)(b) from the county, city, or town.

2203 (b) The notice described in Subsection (2)(a)(ii) shall state:

2204 (i) that the county, city, or town will enact or repeal a tax under this part;

2205 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

2206 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

2207 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
2208 of the tax.

2209 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2210 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

2211 (A) that begins after the effective date of the enactment of the tax; and

2212 (B) if the billing period for the transaction begins before the effective date of the
2213 enactment of the tax under:

2214 (I) Section 59-12-501; or

2215 (II) Section 59-12-502.

2216 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
2217 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

2218 (A) that began before the effective date of the repeal of the tax; and

2219 (B) if the billing period for the transaction begins before the effective date of the repeal
2220 of the tax imposed under:

2221 (I) Section 59-12-501; or

2222 (II) Section 59-12-502.

2223 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

2224 (A) Subsection 59-12-103(1)(b);

2225 (B) Subsection 59-12-103(1)(c);

2226 (C) Subsection 59-12-103(1)(d);

2227 (D) Subsection 59-12-103(1)(e);

2228 (E) Subsection 59-12-103(1)(f);

- 2229 (F) Subsection 59-12-103(1)(g);
- 2230 (G) Subsection 59-12-103(1)(h);
- 2231 (H) Subsection 59-12-103(1)(i);
- 2232 (I) Subsection 59-12-103(1)(j); or
- 2233 (J) Subsection 59-12-103(1)(k).
- 2234 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 2235 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 2236 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 2237 (A) on the first day of a calendar quarter; and
- 2238 (B) beginning 60 days after the effective date of the enactment or repeal under
- 2239 Subsection (2)(a).
- 2240 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 2241 the commission may by rule define the term "catalogue sale."
- 2242 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 2243 on or after July 1, [~~2004~~] 2007, the annexation will result in the enactment or repeal of a tax
- 2244 under this part for an annexing area, the enactment or repeal shall take effect:
- 2245 (i) on the first day of a calendar quarter; and
- 2246 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 2247 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
- 2248 area.
- 2249 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 2250 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 2251 repeal of a tax under this part for the annexing area;
- 2252 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 2253 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 2254 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 2255 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 2256 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 2257 (A) that begins after the effective date of the enactment of the tax; and
- 2258 (B) if the billing period for the transaction begins before the effective date of the
- 2259 enactment of the tax under:

- 2260 (I) Section 59-12-501; or
- 2261 (II) Section 59-12-502.
- 2262 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 2263 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 2264 (A) that began before the effective date of the repeal of the tax; and
- 2265 (B) if the billing period for the transaction begins before the effective date of the repeal
- 2266 of the tax imposed under:
- 2267 (I) Section 59-12-501; or
- 2268 (II) Section 59-12-502.
- 2269 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 2270 (A) Subsection 59-12-103(1)(b);
- 2271 (B) Subsection 59-12-103(1)(c);
- 2272 (C) Subsection 59-12-103(1)(d);
- 2273 (D) Subsection 59-12-103(1)(e);
- 2274 (E) Subsection 59-12-103(1)(f);
- 2275 (F) Subsection 59-12-103(1)(g);
- 2276 (G) Subsection 59-12-103(1)(h);
- 2277 (H) Subsection 59-12-103(1)(i);
- 2278 (I) Subsection 59-12-103(1)(j); or
- 2279 (J) Subsection 59-12-103(1)(k).
- 2280 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
- 2281 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 2282 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
- 2283 (A) on the first day of a calendar quarter; and
- 2284 (B) beginning 60 days after the effective date of the enactment or repeal under
- 2285 Subsection (3)(a).
- 2286 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 2287 the commission may by rule define the term "catalogue sale."
- 2288 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
- 2289 administered, collected, and enforced in accordance with:
- 2290 (i) the same procedures used to administer, collect, and enforce the tax under:

2291 (A) Part 1, Tax Collection; or

2292 (B) Part 2, Local Sales and Use Tax Act; and

2293 (ii) Chapter 1, General Taxation Policies.

2294 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

2295 Subsections 59-12-205(2) through (7).

2296 Section 13. Section **59-12-902** is amended to read:

2297 **59-12-902. Sales tax refund for qualified emergency food agencies -- Use of**
 2298 **amounts received as refund -- Administration -- Rulemaking authority.**

2299 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a
 2300 sales tax refund as provided in this section on the pounds of food and food ingredients donated
 2301 to the qualified emergency food agency.

2302 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified
 2303 emergency food agency may claim a refund in an amount equal to the pounds of food and food
 2304 ingredients donated to the qualified emergency food agency multiplied by:

2305 (i) \$1.70; and

2306 (ii) the sum of:

2307 (A) 4.75%; and

2308 (B) the sum of the tax rates provided for in Subsection (2)(b).

2309 (b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):

2310 (i) the tax rate authorized by Section 59-12-204; and

2311 [~~(ii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all~~
 2312 ~~of the counties, cities, and towns in the state impose the tax:]~~

2313 [~~(A) under Section 59-12-501; or]~~

2314 [~~(B) under Section 59-12-1001;]~~

2315 [~~(iii) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities,~~
 2316 ~~and towns in the state impose the tax under Section 59-12-502;]~~

2317 [~~(iv) the tax rate authorized by Section 59-12-703, but only if all of the counties in the~~
 2318 ~~state impose the tax under Section 59-12-703; and]~~

2319 [~~(v)~~] (ii) the tax rate authorized by Section 59-12-1102, but only if all of the counties in
 2320 the state impose the tax under Section 59-12-1102.

2321 (c) Beginning on January 1, 1999, the commission shall annually adjust on or before

2322 the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a percentage
2323 equal to the percentage difference between the food at home category of the Consumer Price
2324 Index for:

2325 (i) the preceding calendar year; and

2326 (ii) calendar year 1997.

2327 (3) To claim a sales tax refund under this section, a qualified emergency food agency
2328 shall file an application with the commission.

2329 (4) A qualified emergency food agency may use amounts received as a sales tax refund
2330 under this section only for a purpose related to:

2331 (a) warehousing and distributing food and food ingredients to other agencies and
2332 organizations providing food and food ingredients to low-income persons; or

2333 (b) providing food and food ingredients directly to low-income persons.

2334 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2335 commission may make rules providing procedures for implementing the sales tax refund under
2336 this section, including:

2337 (a) standards for determining and verifying the amount of the sales tax refund; and

2338 (b) procedures for a qualified emergency food agency to apply for a sales tax refund,
2339 including the frequency with which a qualified emergency food agency may apply for a sales
2340 tax refund.

2341 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2342 Division of Housing and Community Development may establish rules providing for the
2343 certification of emergency food agencies to claim a refund under this part.

2344 Section 14. Section **59-12-1801** is enacted to read:

2345 **Part 18. Additional State Sales and Use Tax Act**

2346 **59-12-1801. Title.**

2347 This part is known as the "Additional State Sales and Use Tax Act."

2348 Section 15. Section **59-12-1802** is enacted to read:

2349 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**
2350 **General Fund.**

2351 (1) (a) If a county, city, or town does not impose a tax under the following sections, a
2352 tax shall be imposed within the county, city, or town under this section by the state on the

2353 transactions described in Subsection 59-12-103(1) beginning on July 1, 2007, and ending on
2354 the day on which the county, city, or town imposes a tax under the following sections:

2355 (i) Section 59-12-501; and

2356 (ii) Section 59-12-502.

2357 (b) For purposes of Subsection (1)(a), the rate of the tax the state shall impose is equal
2358 to the difference between:

2359 (i) .5%; and

2360 (ii) the sum of the tax rates imposed by the county, city, or town described in

2361 Subsection (1)(a) under:

2362 (A) Section 59-12-501; and

2363 (B) Section 59-12-502.

2364 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
2365 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from
2366 taxation under Section 59-12-104.

2367 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
2368 accordance with Section 59-12-207.

2369 (4) Revenues collected from the sales and use tax imposed by this section, after
2370 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
2371 into the General Fund.

2372 Section 16. Section **59-12-1803** is enacted to read:

2373 **59-12-1803. Enactment or repeal of tax -- Effective date -- Administration,**
2374 **collection, and enforcement of tax.**

2375 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
2376 imposed under this part shall take effect on the first day of a calendar quarter.

2377 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax shall
2378 take effect on the first day of the first billing period that begins after the effective date of the
2379 enactment of the tax if the billing period for the transaction begins before the effective date of
2380 the enactment of the tax under this part.

2381 (b) For a transaction described in Subsection (2)(c), the repeal of a tax shall take effect
2382 on the first day of the last billing period that began before the effective date of the repeal of the
2383 tax if the billing period for the transaction begins before the effective date of the repeal of the

2384 tax imposed under this part.

2385 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

2386 (i) Subsection 59-12-103(1)(b);

2387 (ii) Subsection 59-12-103(1)(c);

2388 (iii) Subsection 59-12-103(1)(d);

2389 (iv) Subsection 59-12-103(1)(e);

2390 (v) Subsection 59-12-103(1)(f);

2391 (vi) Subsection 59-12-103(1)(g);

2392 (vii) Subsection 59-12-103(1)(h);

2393 (viii) Subsection 59-12-103(1)(i);

2394 (ix) Subsection 59-12-103(1)(j); or

2395 (x) Subsection 59-12-103(1)(k).

2396 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
2397 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
2398 takes effect:

2399 (i) on the first day of a calendar quarter; and

2400 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax
2401 under this part.

2402 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2403 commission may by rule define the term "catalogue sale."

2404 (4) A tax imposed by this part shall be administered, collected, and enforced in
2405 accordance with:

2406 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
2407 Tax Collection; and

2408 (b) Chapter 1, General Taxation Policies.

2409 Section 17. Section **59-12-1901** is enacted to read:

2410 **Part 19. State Sales and Use Tax for Transportation Act**
2411 **59-12-1901. Title.**

2412 This part is known as the "State Sales and Use Tax for Transportation Act."

2413 Section 18. Section **59-12-1902** is enacted to read:

2414 **59-12-1902. State sales and use tax for transportation -- Base -- Rate --**

2415 **Expenditure of revenues.**

2416 (1) Beginning on July 1, 2007, a state tax of .25% is imposed on the transactions
2417 described in Subsection 59-12-103(1) as provided in this section.

2418 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
2419 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from
2420 taxation under Section 59-12-104.

2421 (3) For purposes of this section, the location of a transaction shall be determined in
2422 accordance with Section 59-12-207.

2423 (4) (a) Revenues collected from the sales and use tax imposed by this section shall be
2424 distributed and expended as provided in this Subsection (4).

2425 (b) Before any distributions are made in accordance with Subsection (4)(c), a seller
2426 may retain the amount allowed by Section 59-12-108.

2427 (c) After the amounts described in Subsection (4)(b) are retained in accordance with
2428 Subsection (4)(b), the remaining revenues collected from the sales and use tax imposed by this
2429 section shall be distributed and expended as follows:

2430 (i) 25% of the revenues collected from the sales and use tax imposed by this section
2431 within the boundaries of a county of the first class shall be:

2432 (A) deposited into the Public Transportation System Tax Highway Fund created by
2433 Section 72-2-121; and

2434 (B) expended as provided in Section 72-2-121;

2435 (ii) 25% of the revenues collected from the sales and use tax imposed by this section
2436 within the boundaries of a county of the first or second class shall be:

2437 (A) deposited into the Transportation Corridor Preservation Fund for Counties of the
2438 First or Second Class created by Section 72-2-125; and

2439 (B) expended as provided in Section 72-2-125; and

2440 (iii) the amount of revenues collected from the sales and use tax imposed by this
2441 section that remain after the distributions required by Subsections (4)(c)(i) and (ii) are made
2442 shall be:

2443 (A) deposited into the Transportation Investment Fund of 2005 created by Section
2444 72-2-124; and

2445 (B) expended as provided in Section 72-2-124.

2446 Section 19. Section **59-12-1903** is enacted to read:

2447 **59-12-1903. Enactment or repeal of tax -- Effective date -- Administration,**
2448 **collection, and enforcement of tax.**

2449 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
2450 imposed under this part shall take effect on the first day of a calendar quarter.

2451 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax shall
2452 take effect on the first day of the first billing period that begins after the effective date of the
2453 enactment of the tax if the billing period for the transaction begins before the effective date of
2454 the enactment of the tax under this part.

2455 (b) For a transaction described in Subsection (2)(c), the repeal of a tax shall take effect
2456 on the first day of the last billing period that began before the effective date of the repeal of the
2457 tax if the billing period for the transaction begins before the effective date of the repeal of the
2458 tax imposed under this part.

2459 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

2460 (i) Subsection 59-12-103(1)(b);

2461 (ii) Subsection 59-12-103(1)(c);

2462 (iii) Subsection 59-12-103(1)(d);

2463 (iv) Subsection 59-12-103(1)(e);

2464 (v) Subsection 59-12-103(1)(f);

2465 (vi) Subsection 59-12-103(1)(g);

2466 (vii) Subsection 59-12-103(1)(h);

2467 (viii) Subsection 59-12-103(1)(i);

2468 (ix) Subsection 59-12-103(1)(j); or

2469 (x) Subsection 59-12-103(1)(k).

2470 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
2471 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
2472 takes effect:

2473 (i) on the first day of a calendar quarter; and

2474 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax
2475 under this part.

2476 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

2477 commission may by rule define the term "catalogue sale."

2478 (4) A tax imposed by this part shall be administered, collected, and enforced in
2479 accordance with:

2480 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
2481 Tax Collection; and

2482 (b) Chapter 1, General Taxation Policies.

2483 Section 20. Section **63-55b-172** is amended to read:

2484 **63-55b-172. Repeal dates -- Title 72.**

2485 (1) Section 72-3-113 is repealed January 1, 2020.

2486 (2) Section 72-2-121.1 is repealed July 1, 2007.

2487 Section 21. Section **72-2-117.5** is amended to read:

2488 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2489 (1) As used in this section:

2490 (a) "Council of governments" means a decision-making body in each county composed
2491 of the county governing body and the mayors of each municipality in the county.

2492 (b) "Metropolitan planning organization" has the same meaning as defined in Section
2493 72-1-208.5.

2494 (2) There is created the Local Transportation Corridor Preservation Fund within the
2495 Transportation Fund.

2496 (3) The fund shall be funded from the following sources:

2497 (a) a local option transportation corridor preservation fee imposed under Section
2498 41-1a-1222;

2499 (b) appropriations made to the fund by the Legislature;

2500 (c) contributions from other public and private sources for deposit into the fund;

2501 (d) interest earnings on cash balances;

2502 (e) all monies collected from rents and sales of real property acquired with fund
2503 monies; and

2504 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
2505 as authorized by Title 63B, Bonds[~~;~~and].

2506 [~~(g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)~~
2507 ~~and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund.]~~

2508 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund
2509 are nonlapsing.

2510 (b) The State Tax Commission shall provide the department with sufficient data for the
2511 department to allocate the revenues[~~:(i)~~] provided under Subsection (3)(a) to each county
2512 imposing a local option transportation corridor preservation fee under Section 41-1a-1222[;
2513 and].

2514 [~~(ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
2515 option sales and use tax for transportation.~~]

2516 (c) The monies allocated under Subsection (4)(b):
2517 (i) shall be used for the purposes provided in this section for each county; and
2518 (ii) are allocated to each county as provided in this section:

2519 (A) with the condition that the state will not be charged for any asset purchased with
2520 the monies allocated under Subsection (4)(b); and

2521 (B) are considered a local matching contribution for the purposes described under
2522 Section 72-2-123 if used on a state highway.

2523 (d) Administrative costs of the department to implement this section shall be paid from
2524 the fund.

2525 (5) (a) The department shall authorize the expenditure of fund monies to allow a
2526 highway authority to acquire real property or any interests in real property for state, county, and
2527 municipal transportation corridors subject to:

2528 (i) monies available in the fund to each county under Subsection (4)(b); and
2529 (ii) the provisions of this section.

2530 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
2531 section.

2532 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired
2533 under this section but limited to a total of 5% of the purchase price of the property.

2534 (B) Any additional maintenance cost shall be paid from funds other than under this
2535 section.

2536 (C) Revenue generated by any property acquired under this section is excluded from
2537 the limitations under this Subsection (5)(c)(i).

2538 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired

2539 under this section.

2540 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway
2541 authority for countywide transportation planning if:

2542 (i) the county is not included in a metropolitan planning organization;

2543 (ii) the transportation planning is part of the county's continuing, cooperative, and
2544 comprehensive process for transportation planning, corridor preservation, right-of-way
2545 acquisition, and project programming;

2546 (iii) no more than four years allocation every 20 years to each county is used for
2547 transportation planning under this Subsection (5)(d); and

2548 (iv) the county otherwise qualifies to use the fund monies as provided under this
2549 section.

2550 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county
2551 highway authority for transportation corridor planning that is part of the corridor elements of an
2552 ongoing work program of transportation projects.

2553 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
2554 direction of:

2555 (A) the metropolitan planning organization if the county is within the boundaries of a
2556 metropolitan planning organization; or

2557 (B) the department if the county is not within the boundaries of a metropolitan
2558 planning organization.

2559 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
2560 preserve transportation corridors, promote long-term statewide transportation planning, save on
2561 acquisition costs, and promote the best interests of the state in a manner which minimizes
2562 impact on prime agricultural land.

2563 (ii) The Local Transportation Corridor Preservation Fund may not be used for a
2564 transportation corridor that is primarily a recreational trail as defined under Section
2565 63-11a-101.

2566 (b) (i) The department shall develop and implement a program to educate highway
2567 authorities on the objectives, application process, use, and responsibilities of the Local
2568 Transportation Corridor Preservation Fund as provided under this section to promote the most
2569 efficient and effective use of fund monies including priority use on designated high priority

2570 corridor preservation projects.

2571 (ii) The department shall develop a model transportation corridor property acquisition
2572 policy or ordinance that meets federal requirements for the benefit of a highway authority to
2573 acquire real property or any interests in real property under this section.

2574 (c) The department shall authorize the expenditure of fund monies after determining
2575 that the expenditure is being made in accordance with this section from applications that are:

2576 (i) made by a highway authority; and

2577 (ii) endorsed by the council of governments.

2578 (7) (a) (i) A council of governments may establish a council of governments
2579 endorsement process which includes prioritization and application procedures for use of the
2580 monies allocated to each county under this section.

2581 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
2582 endorsement of the preservation project by the:

2583 (A) metropolitan planning organization if the county is within the boundaries of a
2584 metropolitan planning organization; or

2585 (B) the department if the county is not within the boundaries of a metropolitan
2586 planning organization.

2587 (b) All fund monies shall be prioritized by each highway authority and council of
2588 governments based on considerations, including:

2589 (i) areas with rapidly expanding population;

2590 (ii) the willingness of local governments to complete studies and impact statements
2591 that meet department standards;

2592 (iii) the preservation of corridors by the use of local planning and zoning processes;

2593 (iv) the availability of other public and private matching funds for a project;

2594 (v) the cost-effectiveness of the preservation projects;

2595 (vi) long and short-term maintenance costs for property acquired; and

2596 (vii) whether the transportation corridor is included as part of:

2597 (A) the county and municipal master plan; and

2598 (B) (I) the statewide long range plan; or

2599 (II) the regional transportation plan of the area metropolitan planning organization if
2600 one exists for the area.

2601 (8) (a) Unless otherwise provided by written agreement with another highway
 2602 authority, the highway authority that holds the deed to the property is responsible for
 2603 maintenance of the property.

2604 (b) The transfer of ownership for property acquired under this section from one
 2605 highway authority to another shall include a recorded deed for the property and a written
 2606 agreement between the highway authorities.

2607 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
 2608 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
 2609 funds under this section.

2610 (b) The highway authority shall pledge the necessary part of the revenues of the Local
 2611 Transportation Corridor Preservation Fund to the payment of principal and interest on the
 2612 bonds or other obligations.

2613 (10) (a) A highway authority may not apply for monies under this section unless the
 2614 highway authority has:

2615 (i) a transportation corridor property acquisition policy or ordinance in effect that
 2616 meets federal requirements for the acquisition of real property or any interests in real property
 2617 under this section; and

2618 (ii) an access management policy or ordinance in effect that meets the requirements
 2619 under Subsection 72-2-117(9).

2620 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
 2621 written agreement with the department for the acquisition of real property or any interests in
 2622 real property under this section.

2623 Section 22. Section **72-2-121** is amended to read:

2624 **72-2-121. Public Transportation System Tax Highway Fund.**

2625 (1) There is created a special revenue fund entitled the Public Transportation System
 2626 Tax Highway Fund.

2627 (2) The fund consists of:

2628 (a) monies generated from ~~[the following revenue sources: (a)]~~ any voluntary
 2629 contributions received for new construction, major renovations, and improvements to Interstate
 2630 15 and state highways within a county of the first class; and

2631 ~~[(b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)(ii)]~~

2632 deposited in or transferred to the fund through an interlocal agreement; and]
 2633 ~~[(c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)~~
 2634 ~~and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund.]~~

2635 (b) amounts deposited in accordance with Section 59-12-1902.

2636 (3) (a) The fund shall earn interest.

2637 (b) All interest earned on fund monies shall be deposited into the fund.

2638 (4) The executive director may use fund monies, as prioritized by the Transportation
 2639 Commission[~~:(a) for the portion of the monies generated from the revenue sources described~~
 2640 ~~in Subsections (2)(a) and (b)], only for new construction, major renovations, and improvements~~
 2641 to Interstate 15 and state highways within a county of the first class and to pay any debt service
 2642 and bond issuance costs related to those projects[~~; and].~~

2643 ~~[(b) for the portion of the monies generated from the revenue sources described in~~
 2644 ~~Subsection (2)(c), only for state highway corridor preservation for new state highway projects~~
 2645 ~~within a county of the first class, to pay any debt service and bond issuance costs related to~~
 2646 ~~those projects, and shall not supplant monies already designated for state projects.]~~

2647 (5) The additional administrative costs of the department to administer this fund shall
 2648 be paid from the monies in the fund.

2649 Section 23. Section **72-2-121.1** is amended to read:

2650 **72-2-121.1. State Highway Projects Within Counties Fund -- Accounting for**
 2651 **revenues -- Interest -- Expenditure of revenues.**

2652 (1) There is created a special revenue fund known as the State Highway Projects
 2653 Within Counties Fund.

2654 (2) The State Highway Projects Within Counties Fund shall be funded by revenues
 2655 generated by a tax imposed by a county under Title 59, Chapter 12, Part 15, County Option
 2656 Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act, if those
 2657 revenues are allocated:

2658 (a) for a purpose described in Subsection 59-12-1503(2)(a)(iii); and

2659 (b) in accordance with Section 59-12-1503.

2660 (3) The department shall make a separate accounting for:

2661 (a) the revenues described in Subsection (2); and

2662 (b) each county for which revenues are deposited into the State Highway Projects

2663 Within Counties Fund.

2664 (4) (a) The State Highway Projects Within Counties Fund shall earn interest.

2665 (b) The department shall allocate the interest earned on the State Highway Projects

2666 Within Counties Fund:

2667 (i) proportionately;

2668 (ii) to each county's balance in the State Highway Projects Within Counties Fund; and

2669 (iii) on the basis of each county's balance in the State Highway Projects Within

2670 Counties Fund.

2671 (5) The department shall expend the revenues and interest deposited into the State

2672 Highway Projects Within Counties Fund to pay:

2673 (a) for a project:

2674 (i) described in Subsection 59-12-1503(2)(a)(iii)(A); and

2675 (ii) for which the requirements of Subsection 59-12-1503(5) are met;

2676 (b) debt service on a project described in Subsection (5)(a); or

2677 (c) bond issuance costs relating to a project described in Subsection (5)(a).

2678 (6) Any revenues and interest remaining in the State Highway Projects Within

2679 Counties Fund on June 30, 2007 shall be distributed as follows:

2680 (a) the interest earned on the State Highway Projects Within Counties Fund shall be

2681 distributed to each county proportionately on the basis of the county's balance in the State

2682 Highway Projects Within Counties Fund; and

2683 (b) the revenues deposited into the State Highway Projects Within Counties Fund shall

2684 be distributed to each county for which revenues are deposited into the State Highway Projects

2685 Counties Fund equal to the county's balance in the State Highway Projects Within Counties

2686 Fund on June 30, 2007.

2687 Section 24. Section **72-2-124** is amended to read:

2688 **72-2-124. Transportation Investment Fund of 2005.**

2689 (1) There is created a special revenue fund entitled the Transportation Investment Fund
2690 of 2005.

2691 (2) The fund consists of monies generated from the following sources:

2692 (a) any voluntary contributions received for the maintenance, construction,

2693 reconstruction, or renovation of state and federal highways; [~~and~~]

2694 (b) amounts deposited in accordance with Section 59-12-1902; and

2695 [~~(b)~~] (c) appropriations made to the fund by the Legislature.

2696 (3) When the highway general obligation bonds have been paid off and the highway

2697 projects completed that are intended to be paid from revenues deposited in the Centennial

2698 Highway Fund Restricted Account as determined by the Executive Appropriations Committee

2699 under Subsection 72-2-118(6)(d), the fund shall also consist of monies generated from the

2700 following sources:

2701 (a) registration fees designated under Subsection 41-1a-1201(6)(a);

2702 (b) the clean special fuel tax certificate surcharge under Subsection 59-13-304(3); and

2703 (c) the sales and use tax amounts provided for in Section 59-12-103.

2704 (4) (a) The fund shall earn interest.

2705 (b) All interest earned on fund monies shall be deposited into the fund.

2706 (5) (a) Except as provided in Subsections (5)(b) and (c), the executive director may use

2707 fund monies only to pay the costs of maintenance, construction, reconstruction, or renovation

2708 to state and federal highways prioritized by the Transportation Commission through the

2709 prioritization process for new transportation capacity projects adopted under Section 72-1-304.

2710 (b) The executive director may use fund monies deposited into the fund in fiscal year

2711 2006 only to pay the costs of maintenance, construction, reconstruction, or renovation to state

2712 and federal highways prioritized by the Transportation Commission.

2713 (c) The executive director may use fund monies to exchange for an equal or greater

2714 amount of federal transportation funds to be used as provided in Subsection (5)(a).

2715 Section 25. Section **72-2-125** is enacted to read:

2716 **72-2-125. Transportation Corridor Preservation Fund for Counties of the First or**

2717 **Second Class -- Source of revenues -- Interest -- Expenditure of revenues.**

2718 (1) As used in this section:

2719 (a) "Fixed guideway" means a public transit facility that uses and occupies:

2720 (i) rail for the use of public transit; or

2721 (ii) a separate right-of-way for the use of public transit.

2722 (b) "Fund" means the Transportation Corridor Preservation Fund for Counties of the

2723 First or Second Class.

2724 (c) "Metropolitan planning organization" is as defined in Section 72-1-208.5.

- 2725 (d) "Regionally significant transportation facility" means:
2726 (i) a principal arterial highway as defined in Section 72-4-102.5;
2727 (ii) a minor arterial highway as defined in Section 72-4-102.5;
2728 (iii) a fixed guideway that:
2729 (A) extends across two or more cities or unincorporated areas; or
2730 (B) is an extension to an existing fixed guideway; or
2731 (iv) an airport of regional significance, as defined by the Transportation Commission
2732 by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
2733 (2) There is created a restricted special revenue fund known as the Transportation
2734 Corridor Preservation Fund for Counties of the First or Second Class.
2735 (3) (a) The fund shall be funded by the portion of the state sales and use tax described
2736 in Subsection 59-12-1902(4)(c)(ii).
2737 (b) (i) The fund shall earn interest.
2738 (ii) Any interest earned on fund monies shall be deposited into the fund.
2739 (4) The executive director shall expend the monies deposited into the fund for:
2740 (a) corridor preservation for a project or service:
2741 (i) subject to Subsection (5), relating to a regionally significant transportation facility
2742 for the portion of the project or service that is performed within a county of the first or second
2743 class;
2744 (ii) for new capacity or congestion mitigation if the project or service is performed
2745 within a county of the first or second class; and
2746 (iii) (A) if the project or service is a principal arterial highway or a minor arterial
2747 highway in a county of the first or second class, that is part of:
2748 (I) the county and municipal master plan; and
2749 (II) (Aa) the statewide long-range plan; or
2750 (Bb) the regional transportation plan of the area metropolitan planning organization if a
2751 metropolitan planning organization exists for the area; or
2752 (B) if the project or service is for a fixed guideway or an airport, that is part of the
2753 regional transportation plan of the area metropolitan planning organization if a metropolitan
2754 planning organization exists for the area;
2755 (b) debt service related to corridor preservation for a project or service described in

2756 Subsection (4)(a); or

2757 (c) bond issuance costs related to corridor preservation for a project or service

2758 described in Subsection (4)(a).

2759 (5) Before monies deposited into the fund may be expended for a regionally significant

2760 transportation facility project or service described in Subsection (4)(a)(i), the regionally

2761 significant transportation facility or project shall have a funded year priority designation on a

2762 Statewide Transportation Improvement Program and Transportation Improvement Program if

2763 the project or service described in Subsection (4)(a)(i) is:

2764 (a) a principal arterial highway as defined in Section 72-4-102.5;

2765 (b) a minor arterial highway as defined in Section 72-4-102.5; or

2766 (c) a major collector highway;

2767 (i) as defined in Section 72-4-102.5; and

2768 (ii) in a rural area.

2769 **Section 26. Repealer.**

2770 This bill repeals:

2771 **Section 59-12-701, Purpose statement.**

2772 **Section 59-12-702, Definitions.**

2773 **Section 59-12-703, Opinion question election -- Base -- Rate -- Imposition of tax --**

2774 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2775 **Section 59-12-704, Distribution of revenues -- Advisory board creation --**

2776 **Determining operating expenses.**

2777 **Section 59-12-705, Free or reduced admission day available to all state residents.**

2778 **Section 59-12-1001, Authority to impose tax for highways or to fund a system for**

2779 **public transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements**

2780 **-- Election requirements -- Notice of election requirements -- Exceptions to voter**

2781 **approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**

2782 **requirements.**

2783 **Section 59-12-1002, Collection of taxes by commission -- Administration,**

2784 **collection, and enforcement of tax -- Charge for service.**

2785 **Section 59-12-1301, Title.**

2786 **Section 59-12-1302, Authority to impose -- Base -- Rate -- Enactment or repeal of**

2787 **tax -- Tax rate change -- Effective date -- Notice requirements.**

2788 Section **59-12-1401, Purpose statement -- Definitions -- Scope of part.**

2789 Section **59-12-1402, Opinion question election -- Base -- Rate -- Imposition of tax --**

2790 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2791 Section **59-12-1403, Distribution of revenues -- Administrative costs.**

2792 Section **59-12-1501, Title.**

2793 Section **59-12-1502, Definitions.**

2794 Section **59-12-1503, Opinion question election -- Base -- Rate -- Imposition of tax --**

2795 **Use of tax revenues -- Administration, collection, and enforcement of tax by commission**

2796 **-- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

2797 Section **59-12-1701, Title.**

2798 Section **59-12-1702, Definitions.**

2799 Section **59-12-1703, Opinion question election -- Base -- Rate -- Imposition of tax --**

2800 **Use of tax revenues -- Administration, collection, and enforcement of tax by commission**

2801 **-- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

2802 Section **59-12-1704, Written project prioritization process for new transportation**

2803 **capacity projects.**

2804 Section **59-12-1705, Project selection using the written prioritization process --**

2805 **Report.**

2806 Section 27. **Effective date.**

2807 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2007.

2808 (2) The amendments in this bill to Section 72-2-121.1 take effect on April 30, 2007.

2809 Section 28. **Revisor instructions.**

2810 It is the intent of the Legislature that, in preparing the Utah Code database for

2811 publication, the Office of Legislative Research and General Counsel shall replace the reference

2812 in Subsection 59-12-205(2)(c)(ii) from "by this bill" to the bill's designated chapter and section

2813 number in the Laws of Utah.

Legislative Review Note
as of 2-1-07 11:35 AM

Office of Legislative Research and General Counsel

H.B. 378 - Sales and Use Tax Amendments

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill could reduce the General Fund by \$88,700,000 in FY 2008 and by \$92,455,000 in FY 2009. There is an increase in restricted revenues provided in the bill of \$112,797,000 in FY 2008 and \$117,534,000 which will be used to distribute to restricted and local entities. The Tax Commission will require an appropriation of \$546,300 in FY 2008 to implement the provisions of the bill with an ongoing appropriation of \$10,000 beginning in FY 2009.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$546,300	\$10,000	\$0	(\$88,700,000)	(\$92,455,000)
Restricted Funds	\$0	\$0	\$0	\$0	\$112,797,000	\$117,534,000
Total	\$0	\$546,300	\$10,000	\$0	\$24,097,000	\$25,079,000

Individual, Business and/or Local Impact

Enactment of this bill could reduce local revenues by \$24,773,000 in FY 2008 and by \$25,814,000.
