

Senator Wayne L. Niederhauser proposes the following substitute bill:

SALES AND USE TAX AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act, the Transportation Code, and related provisions pertaining to local option sales and use taxes.

Highlighted Provisions:

This bill:

- ▶ requires property tax certified tax rate adjustments relating to the imposition of a sales and use tax under the Highways or Public Transit System Tax part;
- ▶ modifies the definition of "agreement sales and use tax";
- ▶ modifies provisions relating to the sales and use tax under the County Option

Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities part, including:

- repealing voter approval requirements;
- repealing a provision relating to the length of time the tax may be levied;
- repealing provisions relating to the reauthorization of the tax;
- modifying the purposes for which revenues collected from the tax may be expended;
- modifying the distribution of the tax revenues; and
- under certain circumstances, requiring a county legislative body to transfer



- 26 certain revenues collected from the tax to a city or town under an interlocal agreement;
- 27 ▶ modifies provisions relating to the sales and use tax under the Highways or Public
- 28 Transit System Tax part, including:
- 29 • providing that a county may impose the tax;
- 30 • repealing voter approval requirements;
- 31 • limiting the time period for imposing the tax; and
- 32 • modifying the purposes for which revenues collected from the tax may be
- 33 expended;
- 34 ▶ repeals the City or Town Option Funding for Botanical, Cultural, Recreational, and
- 35 Zoological Organizations or Facilities part;
- 36 ▶ authorizes a county of the second class to impose a local option sales and use tax to
- 37 fund certain airport, highway, or public transit projects or services;
- 38 ▶ addresses the procedures and requirements for imposing the local option sales and
- 39 use tax to fund certain airport, highway, or public transit projects or services,
- 40 including providing that the sales and use tax is an agreement sales and use tax;
- 41 ▶ modifies the sources of funding for the Local Transportation Corridor Preservation
- 42 Fund;
- 43 ▶ creates a special revenue fund known as the County of the Second Class State
- 44 Highway Projects Fund, including:
- 45 • addressing funding of the fund; and
- 46 • addressing the purposes for which fund monies may be expended; and
- 47 ▶ makes technical changes.

48 **Monies Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 This bill provides effective dates.

52 This bill provides revisor instructions.

53 This bill coordinates with S.B. 245, Funding Relating to Airports, Highways, and

54 Public Transit, to merge definitions.

55

56 This bill coordinates with H.B. 206, Tax Amendments, to make substantive and

57 technical amendments, including enacting Sections 59-12-1904, 59-12-1905, and 59-12-1906.

58 This bill coordinates with H.B. 77, Personal Property Tax Amendments, to make
59 substantive and technical amendments.

60 **Utah Code Sections Affected:**

61 AMENDS:

62 **59-2-924**, as last amended by Laws of Utah 2007, Chapters 107 and 329

63 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288

64 **59-12-703**, as last amended by Laws of Utah 2007, Chapter 288

65 **59-12-704**, as last amended by Laws of Utah 2003, Chapter 296

66 **59-12-1001**, as last amended by Laws of Utah 2007, Chapters 288 and 329

67 **59-12-1002**, as last amended by Laws of Utah 2006, Chapter 253

68 **72-2-117.5**, as last amended by Laws of Utah 2007, Chapters 181 and 201

69 ENACTS:

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 **72-2-121.2**, Utah Code Annotated 1953

74 REPEALS:

75 **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317

76 **59-12-1402**, as last amended by Laws of Utah 2007, Chapter 288

77 **59-12-1403**, as enacted by Laws of Utah 2001, Chapter 192



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

80 Section 1. Section **59-2-924** is amended to read:

81 **59-2-924. Report of valuation of property to county auditor and commission --**

82 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**
83 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**

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

86 (i) a statement containing the aggregate valuation of all taxable property in each taxing

87 entity; and

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

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

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

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

94 (iii) the certified tax rate; and

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

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

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

101 (A) collections from redemptions;

102 (B) interest;

103 (C) penalties; and

104 (D) revenue received by a taxing entity from personal property that is:

105 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

106 (II) semiconductor manufacturing equipment.

107 (iii) (A) Except as otherwise provided in this section, the certified tax rate shall be
108 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the
109 taxing entity by the amount calculated under Subsection (2)(a)(iii)(B).

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

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

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

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

115 (II) after making the calculation required by Subsection (2)(a)(iii)(B)(I), calculate an
116 amount determined by increasing or decreasing the amount calculated under Subsection

117 (2)(a)(iii)(B)(I) by the average of the percentage net change in the value of taxable property for

118 the equalization period for the three calendar years immediately preceding the current calendar
119 year;

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

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

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

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

128 (Aa) within the taxing entity; and

129 (Bb) for the current calendar year.

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

132 (I) except as provided in Subsection (2)(a)(iii)(C)(II), includes the total taxable value of
133 the real and personal property contained on the tax rolls of the taxing entity; and

134 (II) does not include the total taxable value of personal property contained on the tax
135 rolls of the taxing entity that is:

136 (Aa) assessed by a county assessor in accordance with Part 3, County Assessment; and

137 (Bb) semiconductor manufacturing equipment.

138 (D) For purposes of Subsection (2)(a)(iii)(B)(II), for calendar years beginning on or
139 after January 1, 2007, the value of taxable property does not include the value of personal
140 property that is:

141 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,
142 County Assessment; and

143 (II) semiconductor manufacturing equipment.

144 (E) For purposes of Subsection (2)(a)(iii)(B)(III)(Bb), for calendar years beginning on
145 or after January 1, 2007, the percentage of property taxes collected does not include property
146 taxes collected from personal property that is:

147 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,
148 County Assessment; and

149 (II) semiconductor manufacturing equipment.

150 (F) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
151 the commission may prescribe rules for calculating redevelopment adjustments for a calendar
152 year.

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

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

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

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

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

164 (I) in a county of the first, second, or third class, the levy imposed for municipal-type
165 services under Sections 17-34-1 and 17-36-9; and

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

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

172 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
173 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

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

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

179 (B) The ad valorem property tax revenue generated by the judgment levy shall not be

180 considered in establishing the taxing entity's aggregate certified tax rate.

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

183 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the
184 assessment roll does not include:

185 (A) new growth as defined in Subsection (2)(b)(iii); or

186 (B) the total taxable value of personal property contained on the tax rolls of the taxing
187 entity that is:

188 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

189 (II) semiconductor manufacturing equipment.

190 (iii) "New growth" means:

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

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

194 (iv) For purposes of Subsection (2)(b)(iii), the taxable value of the taxing entity does
195 not include the taxable value of personal property that is:

196 (A) contained on the tax rolls of the taxing entity if that property is assessed by a
197 county assessor in accordance with Part 3, County Assessment; and

198 (B) semiconductor manufacturing equipment.

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

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

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

205 (I) the Legislature;

206 (II) a court;

207 (III) the commission in an administrative rule; or

208 (IV) the commission in an administrative order.

209 (c) (i) Beginning January 1, 1997, if a taxing entity receives increased revenues from
210 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,

211 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
212 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
213 rate to offset the increased revenues.

214 (ii) A taxing entity shall decrease its certified tax rate to offset increased revenues from
215 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
216 59-2-405.2, or 59-2-405.3 if:

217 (A) the city or town within which the taxing entity is located:

218 (I) on December 31, 2008, does not impose a tax in accordance with Section
219 59-12-1001; and

220 (II) on or after January 1, 2009, but on or before April 1, 2009, imposes a tax in
221 accordance with Section 59-12-1001; and

222 (B) the taxing entity receives increased revenues from uniform fees on tangible
223 personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as
224 a result of the city or town imposing a sales and use tax under Section 59-12-1001.

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

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

230 (B) increased by the amount necessary to offset the county's reduction in revenue from
231 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
232 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
233 (2)(d)(i)(A).

234 ~~[(ii) The commission shall determine estimates of sales and use tax distributions for~~
235 ~~purposes of Subsection (2)(d)(i).]~~

236 (ii) Subject to Subsections (2)(d)(iii) and (iv), if a city or town that, on December 31,
237 2008, does not impose a tax in accordance with Section 59-12-1001, imposes a sales and use
238 tax in accordance with Section 59-12-1001 on or after January 1, 2009, but on or before April
239 1, 2009, the city's or town's certified tax rate shall be:

240 (A) decreased on a one-time basis by the amount of the estimated sales and use tax
241 revenue under Section 59-12-1001 to be distributed to the city or town for the first year that the

242 city or town imposes the tax; and

243 (B) increased by the amount necessary to offset the city's or town's reduction in
244 revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405,
245 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
246 Subsection (2)(d)(ii)(A).

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

249 (iv) A certified tax rate increase or decrease required by Subsection (2)(d)(ii) shall be
250 made for the calendar year beginning on the January 1 of the year in which the sales and use
251 tax is imposed that requires the certified tax rate to be increased or decreased in accordance
252 with Subsection (2)(d)(ii).

253 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort
254 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be
255 decreased on a one-time basis by the amount necessary to offset the first 12 months of
256 estimated revenue from the additional resort communities sales and use tax imposed under
257 Section 59-12-402.

258 (f) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
259 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
260 unincorporated area of the county shall be decreased by the amount necessary to reduce
261 revenues in that fiscal year by an amount equal to the difference between the amount the county
262 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
263 countywide and the amount the county spent during fiscal year 2000 for those services,
264 excluding amounts spent from a municipal services fund for those services.

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

270 (ii) (A) A city or town located within a county of the first class to which Subsection
271 (2)(f)(i) applies may increase its certified tax rate by the amount necessary to generate within
272 the city or town the same amount of revenues as the county would collect from that city or

273 town if the decrease under Subsection (2)(f)(i) did not occur.

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

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

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

282 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
283 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in
284 revenues under Subsection (2)(g)(i)(A).

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

289 (II) Beginning with municipal fiscal year 2003, a city or town located within a county
290 to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate within the
291 city or town the same amount of revenue as the county would have collected during county
292 fiscal year 2002 from within the city or town except for Subsection (2)(g)(i)(B).

293 (B) (I) Except as provided in Subsection (2)(g)(ii)(B)(II), an increase in the city or
294 town's certified tax rate under Subsection (2)(g)(ii)(A), whether occurring in a single fiscal year
295 or spread over multiple fiscal years, is subject to the notice and hearing requirements of
296 Sections 59-2-918 and 59-2-919.

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

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

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

306 (h) (i) This Subsection (2)(h) applies to each county that:

307 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part
308 13, Utah Special Service District Act, to provide jail service, as provided in Subsection
309 17A-2-1304(1)(a)(x); and

310 (B) levies a property tax on behalf of the special service district under Section
311 17A-2-1322.

312 (ii) (A) The certified tax rate of each county to which this Subsection (2)(h) applies
313 shall be decreased by the amount necessary to reduce county revenues by the same amount of
314 revenues that will be generated by the property tax imposed on behalf of the special service
315 district.

316 (B) Each decrease under Subsection (2)(h)(ii)(A) shall occur contemporaneously with
317 the levy on behalf of the special service district under Section 17A-2-1322.

318 (i) (i) As used in this Subsection (2)(i):

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

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

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

324 (I) calculating, for each participating county and each participating municipality, the
325 property tax revenue necessary to cover all of the costs associated with providing fire
326 protection, paramedic, and emergency services:

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

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

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

332 (Aa) for participating counties, in the unincorporated area of all participating counties;
333 and

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

335 (D) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service
336 Area Act, in the creation of which an election was not required under Subsection
337 17B-1-214(3)(c).

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

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

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

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

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

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

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

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

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

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

363 (j) For the calendar year beginning on January 1, 2007, the calculation of a taxing
364 entity's certified tax rate shall be adjusted by the amount necessary to offset any change in the
365 certified tax rate that may result from excluding the following from the certified tax rate under

366 Subsection (2)(a) enacted by the Legislature during the 2007 General Session:

367 (i) personal property tax revenue:

368 (A) received by a taxing entity;

369 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

370 (C) for personal property that is semiconductor manufacturing equipment; or

371 (ii) the taxable value of personal property:

372 (A) contained on the tax rolls of a taxing entity;

373 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and

374 (C) that is semiconductor manufacturing equipment.

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

376 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county

377 auditor of:

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

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

380 (c) The county auditor shall notify all property owners of any intent to exceed the

381 certified tax rate in accordance with Subsection 59-2-919(2).

382 (4) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be

383 reduced for any year to the extent necessary to provide a community development and renewal

384 agency established under Title 17C, Limited Purpose Local Government Entities - Community

385 Development and Renewal Agencies, with approximately the same amount of money the

386 agency would have received without a reduction in the county's certified tax rate if:

387 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or

388 (2)(d)(i);

389 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the

390 previous year; and

391 (iii) the decrease results in a reduction of the amount to be paid to the agency under

392 Section 17C-1-403 or 17C-1-404.

393 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any

394 year to the extent necessary to provide a community development and renewal agency with

395 approximately the same amount of money as the agency would have received without an

396 increase in the certified tax rate that year if:

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

399 (ii) The certified tax rate of a city, school district, local district, or special service
400 district increases independent of the adjustment to the taxable value of the base year.

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

408 Section 2. Section **59-12-102** is amended to read:

409 **59-12-102. Definitions.**

410 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

423 (d) Subsection 59-12-103(2)(d)(i);

424 (e) Subsection 59-12-103(2)(e)(ii)(A);

425 (f) Subsection 59-12-103(2)(e)(iii)(A);

426 (g) Section 59-12-204;

427 (h) Section 59-12-401;

- 428 (i) Section 59-12-402;
- 429 (j) Section 59-12-501;
- 430 (k) Section 59-12-502;
- 431 (l) Section 59-12-703;
- 432 (m) Section 59-12-802;
- 433 (n) Section 59-12-804;
- 434 (o) Section 59-12-1001;
- 435 (p) Section 59-12-1102;
- 436 (q) Section 59-12-1302;
- 437 (r) Section 59-12-1402;
- 438 (s) Section 59-12-1503; [~~or~~]
- 439 (t) Section 59-12-1703[-];
- 440 (u) Section 59-12-1802; or
- 441 (v) Section 59-12-1903.
- 442 (5) "Aircraft" is as defined in Section 72-10-102.
- 443 (6) "Alcoholic beverage" means a beverage that:
- 444 (a) is suitable for human consumption; and
- 445 (b) contains .5% or more alcohol by volume.
- 446 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 447 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 448 device that is started and stopped by an individual:
- 449 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 450 device, skill device, or ride device; and
- 451 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 452 or ride device.
- 453 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 454 washing of tangible personal property if the cleaning or washing labor is primarily performed
- 455 by an individual:
- 456 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 457 property; and
- 458 (b) at the direction of the seller of the cleaning or washing of the tangible personal

459 property.

460 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

473 (B) animal waste;

474 (C) methane produced:

475 (I) at landfills; or

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

477 (D) aquatic plants; and

478 (E) agricultural products.

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

480 (i) black liquor;

481 (ii) treated woods; or

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

483 (A) at landfills; or

484 (B) as a byproduct of the treatment of wastewater residuals.

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

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

488 and

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

- 490 (A) distinct and identifiable; and
- 491 (B) sold for one price that is not itemized.
- 492 (b) "Bundled transaction" does not include the sale of tangible personal property if the
- 493 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
- 494 tangible personal property included in the transaction.
- 495 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
- 496 and identifiable does not include:
 - 497 (i) packaging that:
 - 498 (A) accompanies the sale of the tangible personal property; and
 - 499 (B) is incidental or immaterial to the sale of the tangible personal property;
 - 500 (ii) tangible personal property provided free of charge with the purchase of another
 - 501 item of tangible personal property; or
 - 502 (iii) an item of tangible personal property included in the definition of "purchase
 - 503 price."
 - 504 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
 - 505 provided free of charge with the purchase of another item of tangible personal property if the
 - 506 sales price of the purchased item of tangible personal property does not vary depending on the
 - 507 inclusion of the tangible personal property provided free of charge.
 - 508 (13) "Certified automated system" means software certified by the governing board of
 - 509 the agreement in accordance with Section 59-12-102.1 that:
 - 510 (a) calculates the agreement sales and use tax imposed within a local taxing
 - 511 jurisdiction:
 - 512 (i) on a transaction; and
 - 513 (ii) in the states that are members of the agreement;
 - 514 (b) determines the amount of agreement sales and use tax to remit to a state that is a
 - 515 member of the agreement; and
 - 516 (c) maintains a record of the transaction described in Subsection (13)(a)(i).
 - 517 (14) "Certified service provider" means an agent certified:
 - 518 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
 - 519 and
 - 520 (b) to perform all of a seller's sales and use tax functions for an agreement sales and

521 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
522 own purchases.

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

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

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

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

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

531 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
532 fuels that does not constitute industrial use under Subsection (42) or residential use under
533 Subsection (80).

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

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

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

542 (19) "Component part" includes:

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

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

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

548 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

561 (i) by a seller of:

562 (A) tangible personal property; or

563 (B) services; and

564 (ii) for preparation and delivery of the tangible personal property or services described
565 in Subsection (24)(a)(i) to a location designated by the purchaser.

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

567 (i) transportation;

568 (ii) shipping;

569 (iii) postage;

570 (iv) handling;

571 (v) crating; or

572 (vi) packing.

573 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:

574 (i) a bridge;

575 (ii) a crown if that crown covers at least 75% of a tooth structure;

576 (iii) a denture;

577 (iv) an implant;

578 (v) an orthodontic device designed to:

579 (A) retain the position or spacing of teeth; and

580 (B) replace a missing tooth;

581 (vi) a partial denture; or

582 (vii) a device similar to Subsections (25)(a)(i) through (vi).

583 (b) "Dental prosthesis" does not include an appliance or device, other than a device
584 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
585 apply force to the teeth and their supporting structures to:

586 (i) produce changes in their relationship to each other; and

587 (ii) control their growth and development.

588 (26) "Dietary supplement" means a product, other than tobacco, that:

589 (a) is intended to supplement the diet;

590 (b) contains one or more of the following dietary ingredients:

591 (i) a vitamin;

592 (ii) a mineral;

593 (iii) an herb or other botanical;

594 (iv) an amino acid;

595 (v) a dietary substance for use by humans to supplement the diet by increasing the total
596 dietary intake; or

597 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
598 described in Subsections (26)(b)(i) through (v);

599 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:

600 (A) tablet form;

601 (B) capsule form;

602 (C) powder form;

603 (D) softgel form;

604 (E) gelcap form; or

605 (F) liquid form; or

606 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
607 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:

608 (A) as conventional food; and

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

610 (I) a meal; or

611 (II) the diet; and

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

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

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

615 (27) (a) "Direct mail" means printed material delivered or distributed by United States
616 mail or other delivery service:

617 (i) to:

618 (A) a mass audience; or

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

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

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

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

625 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
626 or supplies that:

627 (i) cannot withstand repeated use; and

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

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

630 (B) a health care provider as defined in Section 78-14-3;

631 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or

632 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

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

634 (i) a drug;

635 (ii) durable medical equipment;

636 (iii) a hearing aid;

637 (iv) a hearing aid accessory;

638 (v) mobility enhancing equipment; or

639 (vi) tangible personal property used to correct impaired vision, including:

640 (A) eyeglasses; or

641 (B) contact lenses.

642 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
643 commission may by rule define what constitutes medical equipment or supplies.

644 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a

645 compound, substance, or preparation that is:

646 (i) recognized in:

647 (A) the official United States Pharmacopoeia;

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

649 (C) the official National Formulary; or

650 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);

651 (ii) intended for use in the:

652 (A) diagnosis of disease;

653 (B) cure of disease;

654 (C) mitigation of disease;

655 (D) treatment of disease; or

656 (E) prevention of disease; or

657 (iii) intended to affect:

658 (A) the structure of the body; or

659 (B) any function of the body.

660 (b) "Drug" does not include:

661 (i) food and food ingredients;

662 (ii) a dietary supplement;

663 (iii) an alcoholic beverage; or

664 (iv) a prosthetic device.

665 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
666 equipment that:

667 (i) can withstand repeated use;

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

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

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

671 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
672 equipment described in Subsection (30)(a).

673 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
674 mobility enhancing equipment.

675 (31) "Electronic" means:

- 676 (a) relating to technology; and
- 677 (b) having:
 - 678 (i) electrical capabilities;
 - 679 (ii) digital capabilities;
 - 680 (iii) magnetic capabilities;
 - 681 (iv) wireless capabilities;
 - 682 (v) optical capabilities;
 - 683 (vi) electromagnetic capabilities; or
 - 684 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
- 685 (32) "Employee" is as defined in Section 59-10-401.
- 686 (33) "Fixed guideway" means a public transit facility that uses and occupies:
 - 687 (a) rail for the use of public transit; or
 - 688 (b) a separate right-of-way for the use of public transit.
- 689 (34) (a) "Food and food ingredients" means substances:
 - 690 (i) regardless of whether the substances are in:
 - 691 (A) liquid form;
 - 692 (B) concentrated form;
 - 693 (C) solid form;
 - 694 (D) frozen form;
 - 695 (E) dried form; or
 - 696 (F) dehydrated form; and
 - 697 (ii) that are:
 - 698 (A) sold for:
 - 699 (I) ingestion by humans; or
 - 700 (II) chewing by humans; and
 - 701 (B) consumed for the substance's:
 - 702 (I) taste; or
 - 703 (II) nutritional value.
 - 704 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
 - 705 (c) "Food and food ingredients" does not include:
 - 706 (i) an alcoholic beverage;

707 (ii) tobacco; or
708 (iii) prepared food.
709 (35) (a) "Fundraising sales" means sales:
710 (i) (A) made by a school; or
711 (B) made by a school student;
712 (ii) that are for the purpose of raising funds for the school to purchase equipment,
713 materials, or provide transportation; and
714 (iii) that are part of an officially sanctioned school activity.
715 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"
716 means a school activity:
717 (i) that is conducted in accordance with a formal policy adopted by the school or school
718 district governing the authorization and supervision of fundraising activities;
719 (ii) that does not directly or indirectly compensate an individual teacher or other
720 educational personnel by direct payment, commissions, or payment in kind; and
721 (iii) the net or gross revenues from which are deposited in a dedicated account
722 controlled by the school or school district.
723 (36) "Geothermal energy" means energy contained in heat that continuously flows
724 outward from the earth that is used as the sole source of energy to produce electricity.
725 (37) "Governing board of the agreement" means the governing board of the agreement
726 that is:
727 (a) authorized to administer the agreement; and
728 (b) established in accordance with the agreement.
729 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
730 (i) the executive branch of the state, including all departments, institutions, boards,
731 divisions, bureaus, offices, commissions, and committees;
732 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
733 Office of the Court Administrator, and similar administrative units in the judicial branch;
734 (iii) the legislative branch of the state, including the House of Representatives, the
735 Senate, the Legislative Printing Office, the Office of Legislative Research and General
736 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
737 Analyst;

- 738 (iv) the National Guard;
- 739 (v) an independent entity as defined in Section 63E-1-102; or
- 740 (vi) a political subdivision as defined in Section 17B-1-102.
- 741 (b) "Governmental entity" does not include the state systems of public and higher
- 742 education, including:
 - 743 (i) a college campus of the Utah College of Applied Technology;
 - 744 (ii) a school;
 - 745 (iii) the State Board of Education;
 - 746 (iv) the State Board of Regents; or
 - 747 (v) a state institution of higher education as defined in Section 53B-3-102.
- 748 (39) (a) "Hearing aid" means:
 - 749 (i) an instrument or device having an electronic component that is designed to:
 - 750 (A) (I) improve impaired human hearing; or
 - 751 (II) correct impaired human hearing; and
 - 752 (B) (I) be worn in the human ear; or
 - 753 (II) affixed behind the human ear;
 - 754 (ii) an instrument or device that is surgically implanted into the cochlea; or
 - 755 (iii) a telephone amplifying device.
- 756 (b) "Hearing aid" does not include:
 - 757 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
 - 758 having an electronic component that is designed to be worn on the body;
 - 759 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
 - 760 designed to be used by one individual, including:
 - 761 (A) a personal amplifying system;
 - 762 (B) a personal FM system;
 - 763 (C) a television listening system; or
 - 764 (D) a device or system similar to a device or system described in Subsections
 - 765 (39)(b)(ii)(A) through (C); or
 - 766 (iii) an assistive listening device or system designed to be used by more than one
 - 767 individual, including:
 - 768 (A) a device or system installed in:

- 769 (I) an auditorium;
- 770 (II) a church;
- 771 (III) a conference room;
- 772 (IV) a synagogue; or
- 773 (V) a theater; or
- 774 (B) a device or system similar to a device or system described in Subsections
- 775 (39)(b)(iii)(A)(I) through (V).
- 776 (40) (a) "Hearing aid accessory" means a hearing aid:
- 777 (i) component;
- 778 (ii) attachment; or
- 779 (iii) accessory.
- 780 (b) "Hearing aid accessory" includes:
- 781 (i) a hearing aid neck loop;
- 782 (ii) a hearing aid cord;
- 783 (iii) a hearing aid ear mold;
- 784 (iv) hearing aid tubing;
- 785 (v) a hearing aid ear hook; or
- 786 (vi) a hearing aid remote control.
- 787 (c) "Hearing aid accessory" does not include:
- 788 (i) a component, attachment, or accessory designed to be used only with an:
- 789 (A) instrument or device described in Subsection (39)(b)(i); or
- 790 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
- 791 (ii) a hearing aid battery.
- 792 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
- 793 electricity.
- 794 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 795 other fuels:
- 796 (a) in mining or extraction of minerals;
- 797 (b) in agricultural operations to produce an agricultural product up to the time of
- 798 harvest or placing the agricultural product into a storage facility, including:
- 799 (i) commercial greenhouses;

- 800 (ii) irrigation pumps;
- 801 (iii) farm machinery;
- 802 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 803 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 804 (v) other farming activities;
- 805 (c) in manufacturing tangible personal property at an establishment described in SIC
- 806 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 807 Executive Office of the President, Office of Management and Budget;
- 808 (d) by a scrap recycler if:
- 809 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 810 one or more of the following items into prepared grades of processed materials for use in new
- 811 products:
- 812 (A) iron;
- 813 (B) steel;
- 814 (C) nonferrous metal;
- 815 (D) paper;
- 816 (E) glass;
- 817 (F) plastic;
- 818 (G) textile; or
- 819 (H) rubber; and
- 820 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
- 821 nonrecycled materials; or
- 822 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 823 cogeneration facility as defined in Section 54-2-1.
- 824 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
- 825 for installing tangible personal property.
- 826 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
- 827 for repairs or renovations of tangible personal property.
- 828 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 829 personal property for:
- 830 (i) (A) a fixed term; or

- 831 (B) an indeterminate term; and
832 (ii) consideration.
- 833 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
834 amount of consideration may be increased or decreased by reference to the amount realized
835 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
836 Code.
- 837 (c) "Lease" or "rental" does not include:
- 838 (i) a transfer of possession or control of property under a security agreement or
839 deferred payment plan that requires the transfer of title upon completion of the required
840 payments;
- 841 (ii) a transfer of possession or control of property under an agreement that requires the
842 transfer of title:
- 843 (A) upon completion of required payments; and
844 (B) if the payment of an option price does not exceed the greater of:
- 845 (I) \$100; or
846 (II) 1% of the total required payments; or
- 847 (iii) providing tangible personal property along with an operator for a fixed period of
848 time or an indeterminate period of time if the operator is necessary for equipment to perform as
849 designed.
- 850 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to
851 perform as designed if the operator's duties exceed the:
- 852 (i) set-up of tangible personal property;
853 (ii) maintenance of tangible personal property; or
854 (iii) inspection of tangible personal property.
- 855 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
856 if the tangible storage media is not physically transferred to the purchaser.
- 857 (46) "Local taxing jurisdiction" means a:
- 858 (a) county that is authorized to impose an agreement sales and use tax;
859 (b) city that is authorized to impose an agreement sales and use tax; or
860 (c) town that is authorized to impose an agreement sales and use tax.
- 861 (47) "Manufactured home" is as defined in Section 58-56-3.

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

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

866 (b) a scrap recycler if:

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

870 (A) iron;

871 (B) steel;

872 (C) nonferrous metal;

873 (D) paper;

874 (E) glass;

875 (F) plastic;

876 (G) textile; or

877 (H) rubber; and

878 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
879 nonrecycled materials; or

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

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

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

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

885 (ii) a foster child or foster stepchild;

886 (b) grandchild or stepgrandchild;

887 (c) grandparent or stepgrandparent;

888 (d) nephew or stepnephew;

889 (e) niece or stepniece;

890 (f) parent or stepparent;

891 (g) sibling or stepsibling;

892 (h) spouse;

893 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);
894 or

895 (j) person similar to a person described in Subsections (49)(a) through (i) as
896 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
897 Administrative Rulemaking Act.

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

899 (51) "Mobile telecommunications service" is as defined in the Mobile
900 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

901 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"
902 means equipment that is:

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

905 (ii) appropriate for use in a:

906 (A) home; or

907 (B) motor vehicle; and

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

909 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
910 the equipment described in Subsection (52)(a).

911 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not
912 include:

913 (i) a motor vehicle;

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

916 (iii) durable medical equipment; or

917 (iv) a prosthetic device.

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

922 (54) "Model 2 seller" means a seller that:

923 (a) except as provided in Subsection (54)(b), has selected a certified automated system

- 924 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 925 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
- 926 sales tax:
- 927 (i) collected by the seller; and
- 928 (ii) to the appropriate local taxing jurisdiction.
- 929 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:
- 930 (i) sales in at least five states that are members of the agreement;
- 931 (ii) total annual sales revenues of at least \$500,000,000;
- 932 (iii) a proprietary system that calculates the amount of tax:
- 933 (A) for an agreement sales and use tax; and
- 934 (B) due to each local taxing jurisdiction; and
- 935 (iv) entered into a performance agreement with the governing board of the agreement.
- 936 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
- 937 sellers using the same proprietary system.
- 938 (56) "Modular home" means a modular unit as defined in Section 58-56-3.
- 939 (57) "Motor vehicle" is as defined in Section 41-1a-102.
- 940 (58) "Oil shale" means a group of fine black to dark brown shales containing
- 941 bituminous material that yields petroleum upon distillation.
- 942 (59) (a) "Other fuels" means products that burn independently to produce heat or
- 943 energy.
- 944 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 945 personal property.
- 946 (60) "Pawnbroker" is as defined in Section 13-32a-102.
- 947 (61) "Pawn transaction" is as defined in Section 13-32a-102.
- 948 (62) (a) "Permanently attached to real property" means that for tangible personal
- 949 property attached to real property:
- 950 (i) the attachment of the tangible personal property to the real property:
- 951 (A) is essential to the use of the tangible personal property; and
- 952 (B) suggests that the tangible personal property will remain attached to the real
- 953 property in the same place over the useful life of the tangible personal property; or
- 954 (ii) if the tangible personal property is detached from the real property, the detachment

955 would:

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

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

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

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

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

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

963 (ii) a temporary detachment of tangible personal property from real property for a
964 repair or renovation if the repair or renovation is performed where the tangible personal
965 property and real property are located; or

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

970 (A) property attached to oil, gas, or water pipelines, other than the property listed in
971 Subsection (62)(c)(iii);

972 (B) a hot water heater;

973 (C) a water softener system; or

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

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

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

979 (A) convenience;

980 (B) stability; or

981 (C) for an obvious temporary purpose;

982 (ii) the detachment of tangible personal property from real property other than the
983 detachment described in Subsection (62)(b)(ii); or

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

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

988 (A) a refrigerator;

989 (B) a washer;

990 (C) a dryer;

991 (D) a stove;

992 (E) a television;

993 (F) a computer;

994 (G) a telephone; or

995 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as
996 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
997 Administrative Rulemaking Act.

998 (63) "Person" includes any individual, firm, partnership, joint venture, association,
999 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1000 municipality, district, or other local governmental entity of the state, or any group or
1001 combination acting as a unit.

1002 (64) "Place of primary use":

1003 (a) for telephone service other than mobile telecommunications service, means the
1004 street address representative of where the purchaser's use of the telephone service primarily
1005 occurs, which shall be:

1006 (i) the residential street address of the purchaser; or

1007 (ii) the primary business street address of the purchaser; or

1008 (b) for mobile telecommunications service, is as defined in the Mobile
1009 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1010 (65) "Postproduction" means an activity related to the finishing or duplication of a
1011 medium described in Subsection 59-12-104(56)(a).

1012 (66) (a) "Prepared food" means:

1013 (i) food:

1014 (A) sold in a heated state; or

1015 (B) heated by a seller;

1016 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

1017 item; or
1018 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
1019 by the seller, including a:
1020 (A) plate;
1021 (B) knife;
1022 (C) fork;
1023 (D) spoon;
1024 (E) glass;
1025 (F) cup;
1026 (G) napkin; or
1027 (H) straw.
1028 (b) "Prepared food" does not include:
1029 (i) food that a seller only:
1030 (A) cuts;
1031 (B) repackages; or
1032 (C) pasteurizes; or
1033 (ii) (A) the following:
1034 (I) raw egg;
1035 (II) raw fish;
1036 (III) raw meat;
1037 (IV) raw poultry; or
1038 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
1039 and
1040 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1041 Food and Drug Administration's Food Code that a consumer cook the items described in
1042 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
1043 (iii) the following if sold without eating utensils provided by the seller:
1044 (A) food and food ingredients sold by a seller if the seller's proper primary
1045 classification under the 2002 North American Industry Classification System of the federal
1046 Executive Office of the President, Office of Management and Budget, is manufacturing in
1047 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

- 1048 Manufacturing;
- 1049 (B) food and food ingredients sold in an unheated state:
- 1050 (I) by weight or volume; and
- 1051 (II) as a single item; or
- 1052 (C) a bakery item, including:
- 1053 (I) a bagel;
- 1054 (II) a bar;
- 1055 (III) a biscuit;
- 1056 (IV) bread;
- 1057 (V) a bun;
- 1058 (VI) a cake;
- 1059 (VII) a cookie;
- 1060 (VIII) a croissant;
- 1061 (IX) a danish;
- 1062 (X) a donut;
- 1063 (XI) a muffin;
- 1064 (XII) a pastry;
- 1065 (XIII) a pie;
- 1066 (XIV) a roll;
- 1067 (XV) a tart;
- 1068 (XVI) a torte; or
- 1069 (XVII) a tortilla.
- 1070 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
- 1071 does not include the following used to transport the food:
- 1072 (i) a container; or
- 1073 (ii) packaging.
- 1074 (67) "Prescription" means an order, formula, or recipe that is issued:
- 1075 (a) (i) orally;
- 1076 (ii) in writing;
- 1077 (iii) electronically; or
- 1078 (iv) by any other manner of transmission; and

- 1079 (b) by a licensed practitioner authorized by the laws of a state.
- 1080 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
1081 software" means computer software that is not designed and developed:
1082 (i) by the author or other creator of the computer software; and
1083 (ii) to the specifications of a specific purchaser.
- 1084 (b) "Prewritten computer software" includes:
1085 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1086 software is not designed and developed:
1087 (A) by the author or other creator of the computer software; and
1088 (B) to the specifications of a specific purchaser;
1089 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
1090 the author or other creator of the computer software to the specifications of a specific purchaser
1091 if the computer software is sold to a person other than the purchaser; or
1092 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
1093 prewritten computer software or a prewritten portion of prewritten computer software:
1094 (A) that is modified or enhanced to any degree; and
1095 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
1096 designed and developed to the specifications of a specific purchaser.
- 1097 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
1098 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
1099 the modification or enhancement are:
1100 (i) reasonable; and
1101 (ii) separately stated on the invoice or other statement of price provided to the
1102 purchaser.
- 1103 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:
1104 (i) artificially replace a missing portion of the body;
1105 (ii) prevent or correct a physical deformity or physical malfunction; or
1106 (iii) support a weak or deformed portion of the body.
- 1107 (b) "Prosthetic device" includes:
1108 (i) parts used in the repairs or renovation of a prosthetic device;
1109 (ii) replacement parts for a prosthetic device; or

- 1110 (iii) a dental prosthesis.
- 1111 (c) "Prosthetic device" does not include:
- 1112 (i) corrective eyeglasses;
- 1113 (ii) contact lenses; or
- 1114 (iii) hearing aids.
- 1115 (70) (a) "Protective equipment" means an item:
- 1116 (i) for human wear; and
- 1117 (ii) that is:
- 1118 (A) designed as protection:
- 1119 (I) to the wearer against injury or disease; or
- 1120 (II) against damage or injury of other persons or property; and
- 1121 (B) not suitable for general use.
- 1122 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1123 commission shall make rules:
- 1124 (i) listing the items that constitute "protective equipment"; and
- 1125 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1126 under the agreement.
- 1127 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1128 printed matter, other than a photocopy:
- 1129 (i) regardless of:
- 1130 (A) characteristics;
- 1131 (B) copyright;
- 1132 (C) form;
- 1133 (D) format;
- 1134 (E) method of reproduction; or
- 1135 (F) source; and
- 1136 (ii) made available in printed or electronic format.
- 1137 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1138 commission may by rule define the term "photocopy."
- 1139 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1140 (i) valued in money; and

- 1141 (ii) for which tangible personal property or services are:
- 1142 (A) sold;
- 1143 (B) leased; or
- 1144 (C) rented.
- 1145 (b) "Purchase price" and "sales price" include:
- 1146 (i) the seller's cost of the tangible personal property or services sold;
- 1147 (ii) expenses of the seller, including:
- 1148 (A) the cost of materials used;
- 1149 (B) a labor cost;
- 1150 (C) a service cost;
- 1151 (D) interest;
- 1152 (E) a loss;
- 1153 (F) the cost of transportation to the seller; or
- 1154 (G) a tax imposed on the seller; or
- 1155 (iii) a charge by the seller for any service necessary to complete the sale.
- 1156 (c) "Purchase price" and "sales price" do not include:
- 1157 (i) a discount:
- 1158 (A) in a form including:
- 1159 (I) cash;
- 1160 (II) term; or
- 1161 (III) coupon;
- 1162 (B) that is allowed by a seller;
- 1163 (C) taken by a purchaser on a sale; and
- 1164 (D) that is not reimbursed by a third party; or
- 1165 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1166 provided to the purchaser:
- 1167 (A) the amount of a trade-in;
- 1168 (B) the following from credit extended on the sale of tangible personal property or
- 1169 services:
- 1170 (I) interest charges;
- 1171 (II) financing charges; or

- 1172 (III) carrying charges;
- 1173 (C) a tax or fee legally imposed directly on the consumer;
- 1174 (D) a delivery charge; or
- 1175 (E) an installation charge.
- 1176 (73) "Purchaser" means a person to whom:
 - 1177 (a) a sale of tangible personal property is made; or
 - 1178 (b) a service is furnished.
- 1179 (74) "Regularly rented" means:
 - 1180 (a) rented to a guest for value three or more times during a calendar year; or
 - 1181 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 1182 value.
- 1183 (75) "Renewable energy" means:
 - 1184 (a) biomass energy;
 - 1185 (b) hydroelectric energy;
 - 1186 (c) geothermal energy;
 - 1187 (d) solar energy; or
 - 1188 (e) wind energy.
- 1189 (76) (a) "Renewable energy production facility" means a facility that:
 - 1190 (i) uses renewable energy to produce electricity; and
 - 1191 (ii) has a production capacity of 20 kilowatts or greater.
- 1192 (b) A facility is a renewable energy production facility regardless of whether the
- 1193 facility is:
 - 1194 (i) connected to an electric grid; or
 - 1195 (ii) located on the premises of an electricity consumer.
- 1196 (77) "Rental" is as defined in Subsection (44).
- 1197 (78) "Repairs or renovations of tangible personal property" means:
 - 1198 (a) a repair or renovation of tangible personal property that is not permanently attached
 - 1199 to real property; or
 - 1200 (b) attaching tangible personal property to other tangible personal property if the other
 - 1201 tangible personal property to which the tangible personal property is attached is not
 - 1202 permanently attached to real property.

1203 (79) "Research and development" means the process of inquiry or experimentation
1204 aimed at the discovery of facts, devices, technologies, or applications and the process of
1205 preparing those devices, technologies, or applications for marketing.

1206 (80) "Residential use" means the use in or around a home, apartment building, sleeping
1207 quarters, and similar facilities or accommodations.

1208 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1209 than:

1210 (a) resale;

1211 (b) sublease; or

1212 (c) subrent.

1213 (82) (a) "Retailer" means any person engaged in a regularly organized business in
1214 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1215 who is selling to the user or consumer and not for resale.

1216 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1217 engaged in the business of selling to users or consumers within the state.

1218 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1219 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1220 Subsection 59-12-103(1), for consideration.

1221 (b) "Sale" includes:

1222 (i) installment and credit sales;

1223 (ii) any closed transaction constituting a sale;

1224 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1225 chapter;

1226 (iv) any transaction if the possession of property is transferred but the seller retains the
1227 title as security for the payment of the price; and

1228 (v) any transaction under which right to possession, operation, or use of any article of
1229 tangible personal property is granted under a lease or contract and the transfer of possession
1230 would be taxable if an outright sale were made.

1231 (84) "Sale at retail" is as defined in Subsection (81).

1232 (85) "Sale-leaseback transaction" means a transaction by which title to tangible
1233 personal property that is subject to a tax under this chapter is transferred:

- 1234 (a) by a purchaser-lessee;
- 1235 (b) to a lessor;
- 1236 (c) for consideration; and
- 1237 (d) if:
- 1238 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1239 of the tangible personal property;
- 1240 (ii) the sale of the tangible personal property to the lessor is intended as a form of
- 1241 financing:
- 1242 (A) for the property; and
- 1243 (B) to the purchaser-lessee; and
- 1244 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1245 is required to:
- 1246 (A) capitalize the property for financial reporting purposes; and
- 1247 (B) account for the lease payments as payments made under a financing arrangement.
- 1248 (86) "Sales price" is as defined in Subsection (72).
- 1249 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1250 amounts charged by a school:
- 1251 (i) sales that are directly related to the school's educational functions or activities
- 1252 including:
- 1253 (A) the sale of:
- 1254 (I) textbooks;
- 1255 (II) textbook fees;
- 1256 (III) laboratory fees;
- 1257 (IV) laboratory supplies; or
- 1258 (V) safety equipment;
- 1259 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1260 that:
- 1261 (I) a student is specifically required to wear as a condition of participation in a
- 1262 school-related event or school-related activity; and
- 1263 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1264 place of ordinary clothing;

1265 (C) sales of the following if the net or gross revenues generated by the sales are
1266 deposited into a school district fund or school fund dedicated to school meals:
1267 (I) food and food ingredients; or
1268 (II) prepared food; or
1269 (D) transportation charges for official school activities; or
1270 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1271 event or school-related activity.

1272 (b) "Sales relating to schools" does not include:
1273 (i) bookstore sales of items that are not educational materials or supplies;
1274 (ii) except as provided in Subsection (87)(a)(i)(B):
1275 (A) clothing;
1276 (B) clothing accessories or equipment;
1277 (C) protective equipment; or
1278 (D) sports or recreational equipment; or
1279 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1280 event or school-related activity if the amounts paid or charged are passed through to a person:

1281 (A) other than a:
1282 (I) school;
1283 (II) nonprofit organization authorized by a school board or a governing body of a
1284 private school to organize and direct a competitive secondary school activity; or
1285 (III) nonprofit association authorized by a school board or a governing body of a
1286 private school to organize and direct a competitive secondary school activity; and

1287 (B) that is required to collect sales and use taxes under this chapter.

1288 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1289 commission may make rules defining the term "passed through."

1290 (88) For purposes of this section and Section 59-12-104, "school":

1291 (a) means:
1292 (i) an elementary school or a secondary school that:
1293 (A) is a:
1294 (I) public school; or
1295 (II) private school; and

- 1296 (B) provides instruction for one or more grades kindergarten through 12; or
- 1297 (ii) a public school district; and
- 1298 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1299 (89) "Seller" means a person that makes a sale, lease, or rental of:
- 1300 (a) tangible personal property; or
- 1301 (b) a service.
- 1302 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1303 means tangible personal property:
- 1304 (i) used primarily in the process of:
- 1305 (A) (I) manufacturing a semiconductor;
- 1306 (II) fabricating a semiconductor; or
- 1307 (III) research or development of a:
- 1308 (Aa) semiconductor; or
- 1309 (Bb) semiconductor manufacturing process; or
- 1310 (B) maintaining an environment suitable for a semiconductor; or
- 1311 (ii) consumed primarily in the process of:
- 1312 (A) (I) manufacturing a semiconductor;
- 1313 (II) fabricating a semiconductor; or
- 1314 (III) research or development of a:
- 1315 (Aa) semiconductor; or
- 1316 (Bb) semiconductor manufacturing process; or
- 1317 (B) maintaining an environment suitable for a semiconductor.
- 1318 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1319 includes:
- 1320 (i) parts used in the repairs or renovations of tangible personal property described in
- 1321 Subsection (90)(a); or
- 1322 (ii) a chemical, catalyst, or other material used to:
- 1323 (A) produce or induce in a semiconductor a:
- 1324 (I) chemical change; or
- 1325 (II) physical change;
- 1326 (B) remove impurities from a semiconductor; or

- 1327 (C) improve the marketable condition of a semiconductor.
- 1328 (91) "Senior citizen center" means a facility having the primary purpose of providing
1329 services to the aged as defined in Section 62A-3-101.
- 1330 (92) "Simplified electronic return" means the electronic return:
1331 (a) described in Section 318(C) of the agreement; and
1332 (b) approved by the governing board of the agreement.
- 1333 (93) "Solar energy" means the sun used as the sole source of energy for producing
1334 electricity.
- 1335 (94) (a) "Sports or recreational equipment" means an item:
1336 (i) designed for human use; and
1337 (ii) that is:
1338 (A) worn in conjunction with:
1339 (I) an athletic activity; or
1340 (II) a recreational activity; and
1341 (B) not suitable for general use.
- 1342 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1343 commission shall make rules:
1344 (i) listing the items that constitute "sports or recreational equipment"; and
1345 (ii) that are consistent with the list of items that constitute "sports or recreational
1346 equipment" under the agreement.
- 1347 (95) "State" means the state of Utah, its departments, and agencies.
- 1348 (96) "Storage" means any keeping or retention of tangible personal property or any
1349 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1350 sale in the regular course of business.
- 1351 (97) (a) "Tangible personal property" means personal property that:
1352 (i) may be:
1353 (A) seen;
1354 (B) weighed;
1355 (C) measured;
1356 (D) felt; or
1357 (E) touched; or

1358 (ii) is in any manner perceptible to the senses.

1359 (b) "Tangible personal property" includes:

1360 (i) electricity;

1361 (ii) water;

1362 (iii) gas;

1363 (iv) steam; or

1364 (v) prewritten computer software.

1365 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1366 and require further processing other than mechanical blending before becoming finished
1367 petroleum products.

1368 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1369 software" means an item listed in Subsection (99)(b) if that item is purchased or leased
1370 primarily to enable or facilitate one or more of the following to function:

1371 (i) telecommunications switching or routing equipment, machinery, or software; or

1372 (ii) telecommunications transmission equipment, machinery, or software.

1373 (b) The following apply to Subsection (99)(a):

1374 (i) a pole;

1375 (ii) software;

1376 (iii) a supplementary power supply;

1377 (iv) temperature or environmental equipment or machinery;

1378 (v) test equipment;

1379 (vi) a tower; or

1380 (vii) equipment, machinery, or software that functions similarly to an item listed in
1381 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in
1382 accordance with Subsection (99)(c).

1383 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1384 commission may by rule define what constitutes equipment, machinery, or software that
1385 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1386 (100) "Telecommunications equipment, machinery, or software required for 911
1387 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1388 Sec. 20.18.

1389 (101) "Telecommunications maintenance or repair equipment, machinery, or software"
1390 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1391 one or more of the following, regardless of whether the equipment, machinery, or software is
1392 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1393 following:

- 1394 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1395 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1396 (c) telecommunications transmission equipment, machinery, or software.

1397 (102) (a) "Telecommunications switching or routing equipment, machinery, or
1398 software" means an item listed in Subsection (102)(b) if that item is purchased or leased
1399 primarily for switching or routing:

- 1400 (i) voice communications;
- 1401 (ii) data communications; or
- 1402 (iii) telephone service.

1403 (b) The following apply to Subsection (102)(a):

- 1404 (i) a bridge;
- 1405 (ii) a computer;
- 1406 (iii) a cross connect;
- 1407 (iv) a modem;
- 1408 (v) a multiplexer;
- 1409 (vi) plug in circuitry;
- 1410 (vii) a router;
- 1411 (viii) software;
- 1412 (ix) a switch; or
- 1413 (x) equipment, machinery, or software that functions similarly to an item listed in
1414 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in
1415 accordance with Subsection (102)(c).

1416 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1417 commission may by rule define what constitutes equipment, machinery, or software that
1418 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).

1419 (103) (a) "Telecommunications transmission equipment, machinery, or software"

1420 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for
1421 sending, receiving, or transporting:

1422 (i) voice communications;

1423 (ii) data communications; or

1424 (iii) telephone service.

1425 (b) The following apply to Subsection (103)(a):

1426 (i) an amplifier;

1427 (ii) a cable;

1428 (iii) a closure;

1429 (iv) a conduit;

1430 (v) a controller;

1431 (vi) a duplexer;

1432 (vii) a filter;

1433 (viii) an input device;

1434 (ix) an input/output device;

1435 (x) an insulator;

1436 (xi) microwave machinery or equipment;

1437 (xii) an oscillator;

1438 (xiii) an output device;

1439 (xiv) a pedestal;

1440 (xv) a power converter;

1441 (xvi) a power supply;

1442 (xvii) a radio channel;

1443 (xviii) a radio receiver;

1444 (xix) a radio transmitter;

1445 (xx) a repeater;

1446 (xxi) software;

1447 (xxii) a terminal;

1448 (xxiii) a timing unit;

1449 (xxiv) a transformer;

1450 (xxv) a wire; or

1451 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1452 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
1453 accordance with Subsection (103)(c).

1454 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1455 commission may by rule define what constitutes equipment, machinery, or software that
1456 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).

1457 (104) (a) "Telephone service" means a two-way transmission:

1458 (i) by:

1459 (A) wire;

1460 (B) radio;

1461 (C) lightwave; or

1462 (D) other electromagnetic means; and

1463 (ii) of one or more of the following:

1464 (A) a sign;

1465 (B) a signal;

1466 (C) writing;

1467 (D) an image;

1468 (E) sound;

1469 (F) a message;

1470 (G) data; or

1471 (H) other information of any nature.

1472 (b) "Telephone service" includes:

1473 (i) mobile telecommunications service;

1474 (ii) private communications service; or

1475 (iii) automated digital telephone answering service.

1476 (c) "Telephone service" does not include a service or a transaction that a state or a
1477 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
1478 Tax Freedom Act, Pub. L. No. 105-277.

1479 (105) Notwithstanding where a call is billed or paid, "telephone service address"
1480 means:

1481 (a) if the location described in this Subsection (105)(a) is known, the location of the

1482 telephone service equipment:

1483 (i) to which a call is charged; and

1484 (ii) from which the call originates or terminates;

1485 (b) if the location described in Subsection (105)(a) is not known but the location
1486 described in this Subsection (105)(b) is known, the location of the origination point of the
1487 signal of the telephone service first identified by:

1488 (i) the telecommunications system of the seller; or

1489 (ii) if the system used to transport the signal is not that of the seller, information
1490 received by the seller from its service provider; or

1491 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location
1492 of a purchaser's primary place of use.

1493 (106) (a) "Telephone service provider" means a person that:

1494 (i) owns, controls, operates, or manages a telephone service; and

1495 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or
1496 resale to any person of the telephone service.

1497 (b) A person described in Subsection (106)(a) is a telephone service provider whether
1498 or not the Public Service Commission of Utah regulates:

1499 (i) that person; or

1500 (ii) the telephone service that the person owns, controls, operates, or manages.

1501 (107) "Tobacco" means:

1502 (a) a cigarette;

1503 (b) a cigar;

1504 (c) chewing tobacco;

1505 (d) pipe tobacco; or

1506 (e) any other item that contains tobacco.

1507 (108) "Unassisted amusement device" means an amusement device, skill device, or
1508 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1509 the amusement device, skill device, or ride device.

1510 (109) (a) "Use" means the exercise of any right or power over tangible personal
1511 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1512 property, item, or service.

1513 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1514 the regular course of business and held for resale.

1515 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are
1516 required to be titled, registered, or titled and registered:

- 1517 (i) an aircraft as defined in Section 72-10-102;
- 1518 (ii) a vehicle as defined in Section 41-1a-102;
- 1519 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1520 (iv) a vessel as defined in Section 41-1a-102.

1521 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1522 (i) a vehicle described in Subsection (110)(a); or
- 1523 (ii) (A) a locomotive;
- 1524 (B) a freight car;
- 1525 (C) railroad work equipment; or
- 1526 (D) other railroad rolling stock.

1527 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1528 exchanging a vehicle as defined in Subsection (110).

1529 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a
1530 facility that generates electricity:

1531 (i) using as the primary source of energy waste materials that would be placed in a
1532 landfill or refuse pit if it were not used to generate electricity, including:

- 1533 (A) tires;
- 1534 (B) waste coal; or
- 1535 (C) oil shale; and
- 1536 (ii) in amounts greater than actually required for the operation of the facility.

1537 (b) "Waste energy facility" does not include a facility that incinerates:

- 1538 (i) municipal solid waste;
- 1539 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1540 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1541 (113) "Watercraft" means a vessel as defined in Section 73-18-2.

1542 (114) "Wind energy" means wind used as the sole source of energy to produce
1543 electricity.

1544 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1545 location by the United States Postal Service.

1546 Section 3. Section **59-12-703** is amended to read:

1547 **59-12-703. Imposition of tax -- Base -- Rate -- Uses of tax monies -- Enactment or**
1548 **repeal of tax -- Effective date -- Notice requirements.**

1549 (1) (a) (i) A county legislative body may [~~submit an opinion question to the residents of~~
1550 ~~that county, by majority vote of all members of the legislative body, so that each resident of the~~
1551 ~~county, except residents in municipalities that have already imposed a sales and use tax under~~
1552 ~~Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological~~
1553 ~~Organizations or Facilities, has an opportunity to express the resident's opinion on the~~
1554 ~~imposition of a local] by a majority vote of the members of the county legislative body impose
1555 a sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
1556 within the county [~~to fund recreational and zoological facilities, botanical, cultural, and~~
1557 ~~zoological organizations, and rural radio stations, in that county], including the cities and towns
1558 located in the county.~~~~

1559 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
1560 tax under this section on:

1561 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1562 are exempt from taxation under Section 59-12-104;

1563 [~~(B) sales and uses within municipalities that have already imposed a sales and use tax~~
1564 ~~under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and~~
1565 ~~Zoological Organizations or Facilities;]~~

1566 [~~(C)~~] (B) amounts paid or charged by a seller that collects a tax under Subsection
1567 59-12-107(1)(b); and

1568 [~~(D)~~] (C) except as provided in Subsection (1)(c), amounts paid or charged for food
1569 and food ingredients.

1570 (b) For purposes of this Subsection (1), the location of a transaction shall be
1571 determined in accordance with Section 59-12-207.

1572 (c) A county legislative body imposing a tax under this section shall impose the tax on
1573 amounts paid or charged for food and food ingredients if:

1574 (i) the food and food ingredients are sold as part of a bundled transaction attributable to

1575 food and food ingredients and tangible personal property other than food and food ingredients;
1576 and

1577 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
1578 accordance with Subsection 59-12-107(1)(b).

1579 ~~[(d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
1580 Government Bonding Act.]~~

1581 ~~[(2) (a) If the county legislative body determines that a majority of the county's
1582 registered voters voting on the imposition of the tax have voted in favor of the imposition of
1583 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
1584 majority vote of all members of the legislative body on the transactions:]~~

1585 ~~[(i) described in Subsection (1); and]~~

1586 ~~[(ii) within the county, including the cities and towns located in the county, except
1587 those cities and towns that have already imposed a sales and use tax under Part 14, City or
1588 Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
1589 Facilities:]~~

1590 ~~[(b) A county legislative body may revise county ordinances to reflect statutory
1591 changes to the distribution formula or eligible recipients of revenues generated from a tax
1592 imposed under Subsection (2)(a):]~~

1593 ~~[(i) after the county legislative body submits an opinion question to residents of the
1594 county in accordance with Subsection (1) giving them the opportunity to express their opinion
1595 on the proposed revisions to county ordinances; and]~~

1596 ~~[(ii) if the county legislative body determines that a majority of those voting on the
1597 opinion question have voted in favor of the revisions:]~~

1598 ~~[(3)]~~ (2) ~~[The monies generated from any]~~ Subject to Section 59-12-704, the revenues
1599 collected from a tax imposed under [Subsection (2)] this section shall be [used for funding]
1600 expended as follows:

1601 (a) a county legislative body of a county of the first class shall expend revenues
1602 collected from a tax imposed under this section to fund:

1603 ~~[(a)]~~ (i) recreational facilities and zoological facilities located within the county or a
1604 city or town located in the county~~[-except a city or town that has already imposed a sales and
1605 use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and~~

1606 Zoological Organizations or Facilities]; and

1607 ~~[(b)]~~ (ii) ongoing operating expenses of:

1608 ~~[(i)]~~ (A) recreational facilities described in Subsection ~~[(3)]~~ (2)(a)(i);

1609 ~~[(ii)]~~ (B) botanical, cultural, and zoological organizations within the county; and

1610 ~~[(iii)]~~ (C) rural radio stations within the county~~[-]; or~~

1611 (b) a county of the second, third, fourth, fifth, or sixth class shall:

1612 (i) deposit the revenues collected from a tax imposed under this section into the

1613 county's general fund; and

1614 (ii) expend the revenues collected from a tax imposed under this section for the same

1615 purposes for which the county expends the county's general fund revenues.

1616 ~~[(4)]~~ (3) (a) [A] Except as provided in Subsection (3)(b), a tax authorized under this

1617 part shall be~~[-(i) except as provided in Subsection (4)(b);]~~ administered, collected, and

1618 enforced in accordance with:

1619 ~~[(A)]~~ (i) the same procedures used to administer, collect, and enforce the tax under:

1620 ~~[(F)]~~ (A) Part 1, Tax Collection; or

1621 ~~[(H)]~~ (B) Part 2, Local Sales and Use Tax Act; and

1622 ~~[(B)]~~ (ii) Chapter 1, General Taxation Policies~~[-and]~~.

1623 ~~[(ii) levied for a period of ten years and may be reauthorized at the end of the ten-year~~

1624 ~~period in accordance with this section.]~~

1625 ~~(b) [Notwithstanding Subsection (4)(a)(i), a]~~ A tax under this part is not subject to

1626 Subsections 59-12-205(2) through (7).

1627 ~~[(5)]~~ (4) (a) For purposes of this Subsection ~~[(5)]~~ (4):

1628 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,

1629 Annexation to County.

1630 (ii) "Annexing area" means an area that is annexed into a county.

1631 (b) (i) Except as provided in Subsection ~~[(5)]~~ (4)(c) or (d), if, on or after July 1, 2004, a

1632 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

1633 (A) on the first day of a calendar quarter; and

1634 (B) after a 90-day period beginning on the date the commission receives notice meeting

1635 the requirements of Subsection ~~[(5)]~~ (4)(b)(ii) from the county.

1636 (ii) The notice described in Subsection ~~[(5)]~~ (4)(b)(i)(B) shall state:

- 1637 (A) that the county will enact or repeal a tax under this part;
- 1638 (B) the statutory authority for the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A);
- 1639 (C) the effective date of the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A); and
- 1640 (D) if the county enacts the tax described in Subsection [~~(5)~~] (4)(b)(ii)(A), the rate of
- 1641 the tax.
- 1642 (c) (i) Notwithstanding Subsection [~~(5)~~] (4)(b)(i), for a transaction described in
- 1643 Subsection [~~(5)~~] (4)(c)(iii), the enactment of a tax shall take effect on the first day of the first
- 1644 billing period:
- 1645 (A) that begins after the effective date of the enactment of the tax; and
- 1646 (B) if the billing period for the transaction begins before the effective date of the
- 1647 enactment of the tax under this section.
- 1648 (ii) Notwithstanding Subsection [~~(5)~~] (4)(b)(i), for a transaction described in
- 1649 Subsection [~~(5)~~] (4)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing
- 1650 period:
- 1651 (A) that began before the effective date of the repeal of the tax; and
- 1652 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1653 of the tax imposed under this section.
- 1654 (iii) Subsections [~~(5)~~] (4)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1655 (A) Subsection 59-12-103(1)(b);
- 1656 (B) Subsection 59-12-103(1)(c);
- 1657 (C) Subsection 59-12-103(1)(d);
- 1658 (D) Subsection 59-12-103(1)(e);
- 1659 (E) Subsection 59-12-103(1)(f);
- 1660 (F) Subsection 59-12-103(1)(g);
- 1661 (G) Subsection 59-12-103(1)(h);
- 1662 (H) Subsection 59-12-103(1)(i);
- 1663 (I) Subsection 59-12-103(1)(j); or
- 1664 (J) Subsection 59-12-103(1)(k).
- 1665 (d) (i) Notwithstanding Subsection [~~(5)~~] (4)(b)(i), if a tax due under this chapter on a
- 1666 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1667 enactment or repeal of a tax described in Subsection [~~(5)~~] (4)(b)(i) takes effect:

- 1668 (A) on the first day of a calendar quarter; and
- 1669 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1670 Subsection [~~(5)~~] (4)(b)(i).
- 1671 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1672 the commission may by rule define the term "catalogue sale."
- 1673 (e) (i) Except as provided in Subsection [~~(5)~~] (4)(f) or (g), if, for an annexation that
- 1674 occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax
- 1675 under this part for an annexing area, the enactment or repeal shall take effect:
- 1676 (A) on the first day of a calendar quarter; and
- 1677 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1678 the requirements of Subsection [~~(5)~~] (4)(e)(ii) from the county that annexes the annexing area.
- 1679 (ii) The notice described in Subsection [~~(5)~~] (4)(e)(i)(B) shall state:
- 1680 (A) that the annexation described in Subsection [~~(5)~~] (4)(e)(i) will result in an
- 1681 enactment or repeal of a tax under this part for the annexing area;
- 1682 (B) the statutory authority for the tax described in Subsection [~~(5)~~] (4)(e)(ii)(A);
- 1683 (C) the effective date of the tax described in Subsection [~~(5)~~] (4)(e)(ii)(A); and
- 1684 (D) the rate of the tax described in Subsection [~~(5)~~] (4)(e)(ii)(A).
- 1685 (f) (i) Notwithstanding Subsection [~~(5)~~] (4)(e)(i), for a transaction described in
- 1686 Subsection [~~(5)~~] (4)(f)(iii), the enactment of a tax shall take effect on the first day of the first
- 1687 billing period:
- 1688 (A) that begins after the effective date of the enactment of the tax; and
- 1689 (B) if the billing period for the transaction begins before the effective date of the
- 1690 enactment of the tax under this section.
- 1691 (ii) Notwithstanding Subsection [~~(5)~~] (4)(e)(i), for a transaction described in
- 1692 Subsection [~~(5)~~] (4)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing
- 1693 period:
- 1694 (A) that began before the effective date of the repeal of the tax; and
- 1695 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1696 of the tax imposed under this section.
- 1697 (iii) Subsections [~~(5)~~] (4)(f)(i) and (ii) apply to transactions subject to a tax under:
- 1698 (A) Subsection 59-12-103(1)(b);

- 1699 (B) Subsection 59-12-103(1)(c);
- 1700 (C) Subsection 59-12-103(1)(d);
- 1701 (D) Subsection 59-12-103(1)(e);
- 1702 (E) Subsection 59-12-103(1)(f);
- 1703 (F) Subsection 59-12-103(1)(g);
- 1704 (G) Subsection 59-12-103(1)(h);
- 1705 (H) Subsection 59-12-103(1)(i);
- 1706 (I) Subsection 59-12-103(1)(j); or
- 1707 (J) Subsection 59-12-103(1)(k).

1708 (g) (i) Notwithstanding Subsection [~~(5)~~] (4)(e)(i), if a tax due under this chapter on a
 1709 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
 1710 enactment or repeal of a tax described in Subsection [~~(5)~~] (4)(e)(i) takes effect:

1711 (A) on the first day of a calendar quarter; and

1712 (B) beginning 60 days after the effective date of the enactment or repeal under
 1713 Subsection [~~(5)~~] (4)(e)(i).

1714 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 1715 the commission may by rule define the term "catalogue sale."

1716 Section 4. Section **59-12-704** is amended to read:

1717 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
 1718 **operating expenses.**

1719 (1) Except as provided in Subsections (3)(b) and (5), and subject to [~~the requirements~~
 1720 ~~of this section~~] Subsection (7), [~~any~~] revenues collected by a county of the first class under this
 1721 part shall be distributed annually by the county legislative body [~~to support recreational and~~
 1722 ~~zoological facilities and botanical, cultural, and zoological organizations~~] for a purpose
 1723 described in Subsection 59-12-703(3)(a) within that [~~first class~~] county of the first class as
 1724 follows:

1725 (a) 30% of the revenue collected by the county under this section shall be distributed
 1726 by the county legislative body to support recreational facilities located within the county;

1727 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),
 1728 12-1/8% of the revenue collected by the county under this section shall be distributed by the
 1729 county legislative body to support no more than three zoological facilities and organizations

1730 located within the county, with 94.5% of that revenue being distributed to zoological facilities
1731 and organizations with average annual operating expenses of \$2,000,000 or more and 5.5% of
1732 that revenue being distributed to zoological facilities and organizations with average annual
1733 operating expenses of less than \$2,000,000;

1734 (ii) except as provided in Subsection (1)(b)(iii), the county legislative body shall
1735 distribute the monies described in Subsection (1)(b)(i) among the zoological facilities and
1736 organizations in proportion to their average annual operating expenses as determined under
1737 Subsection (3); and

1738 (iii) if a zoological facility or organization is created or relocated within the county
1739 after June 1, 2003, the county legislative body shall distribute the monies described in
1740 Subsection (1)(b)(i) as it determines appropriate;

1741 (c) (i) 48-7/8% of the revenue collected by the county under this section shall be
1742 distributed to no more than 23 botanical and cultural organizations with average annual
1743 operating expenses of more than \$250,000 as determined under Subsection (3);

1744 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the
1745 monies described in Subsection (1)(c)(i) among the organizations and in proportion to their
1746 average annual operating expenses as determined under Subsection (3); and

1747 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may
1748 not exceed 35% of the organization's operating budget; and

1749 (d) (i) 9% of the revenue collected by the county under this section shall be distributed
1750 to botanical and cultural organizations that do not receive revenue under Subsection (1)(c)(i);
1751 and

1752 (ii) the county legislative body shall determine how the monies shall be distributed
1753 among the organizations described in Subsection (1)(d)(i).

1754 (2) (a) The county legislative body of each county of the first class that imposes a tax
1755 under this part shall create an advisory board to advise the county legislative body on
1756 disbursement of funds to botanical and cultural organizations under Subsection (1)(c)(i).

1757 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members
1758 appointed by the county legislative body.

1759 (ii) In a county of the first class, two of the seven members of the advisory board under
1760 Subsection (2)(a) shall be appointed from the Utah Arts Council.

1761 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive monies
1762 collected by the county under this part, a botanical, cultural, and zoological organization
1763 located within a county of the first class shall, every three years:

1764 (i) calculate their average annual operating expenses based upon audited operating
1765 expenses for three preceding fiscal years; and

1766 (ii) submit to the appropriate county legislative body:

1767 (A) a verified audit of annual operating expenses for each of those three preceding
1768 fiscal years; and

1769 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

1770 (b) ~~[Notwithstanding Subsection (3)(a), the]~~ The county legislative body described in
1771 Subsection (3)(a)(ii) may waive the operating expenses reporting requirements under
1772 Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

1773 (4) When calculating average annual operating expenses as described in Subsection
1774 (3), each botanical, cultural, and zoological organization shall use the same three-year fiscal
1775 period as determined by the county legislative body.

1776 (5) (a) By July 1 of each year, the county legislative body of a first class county may
1777 index the threshold amount in Subsections (1)(c) and (d).

1778 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

1779 ~~[(6) (a) Beginning on July 1, 2001, in a county except for a county of the first class, the~~
1780 ~~county legislative body shall by ordinance provide for the distribution of the entire amount of~~
1781 ~~the revenues generated by the tax imposed by this section as provided in this Subsection (6).]~~

1782 ~~[(b) Pursuant to an interlocal agreement established in accordance with Title 11,~~
1783 ~~Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute~~
1784 ~~to a city, town, or political subdivision within the county revenues generated by a tax under this~~
1785 ~~part.]~~

1786 ~~[(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or~~
1787 ~~more organizations or facilities defined in Section 59-12-702 regardless of whether the~~
1788 ~~revenues are distributed:]~~

1789 ~~[(i) directly by the county described in Subsection (6)(a) to be used for an organization~~
1790 ~~or facility defined in Section 59-12-702; or]~~

1791 ~~[(ii) in accordance with an interlocal agreement described in Subsection (6)(b).]~~

1792 (6) (a) A county legislative body that imposes a tax under this part shall transfer
1793 revenues collected from the tax under this part as provided in Subsection (6)(b) to a city
1794 legislative body or town legislative body if, on July 1, 2008, the city or town imposes a city or
1795 town option sales and use tax:

1796 (i) for botanical, cultural, recreational, and zoological organizations or facilities; and
1797 (ii) that is repealed by this bill.

1798 (b) For purposes of Subsection (6)(a), a county legislative body shall transfer to a city
1799 legislative body or town legislative body:

1800 (i) if the city or town imposes the city or town option sales and use tax described in
1801 Subsection (6)(a) for the entire fiscal year 2007-08, the amount of revenues the city or town
1802 collects from the city or town option sales and use tax described in Subsection (6)(a) for fiscal
1803 year 2007-08; or

1804 (ii) if the city or town does not impose the city or town option sales and use tax
1805 described in Subsection (6)(a) for the entire fiscal year 2007-08, the amount of revenues the
1806 city or town would have collected from the city or town option sales and use tax described in
1807 Subsection (6)(a) had the city or town collected that city or town option sales and use tax for
1808 the entire fiscal year 2007-08.

1809 (c) Subject to Subsection (6)(d), a city legislative body or town legislative body that
1810 receives a transfer of revenues under this Subsection (6) shall by ordinance provide for the
1811 distribution of the entire amount of the revenues the city legislative body or town legislative
1812 body receives.

1813 (d) A city legislative body or town legislative body that receives a transfer of revenues
1814 under this section shall expend the revenues the city legislative body or town legislative body
1815 receives for one or more of the following:

1816 (i) a botanical organization;

1817 (ii) a cultural facility;

1818 (iii) a cultural organization;

1819 (iv) a recreational facility;

1820 (v) a rural radio station;

1821 (vi) a zoological facility; or

1822 (vii) a zoological organization.

1823 (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under
1824 this part for the cost of administering ~~[the provisions of]~~ this part.

1825 (8) The commission may retain an amount not to exceed ~~[1-1/2%]~~ 1.5% of the tax
1826 collected under this part for the cost of administering this part.

1827 Section 5. Section **59-12-1001** is amended to read:

1828 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
1829 **transit -- Base -- Rate -- Ordinance requirements -- Enactment or repeal of tax --**
1830 **Effective date -- Notice requirements.**

1831 (1) (a) ~~[A]~~ Beginning on January 1, 2009, a county, city, or town in which the
1832 transactions described in Subsection 59-12-103(1) are not subject to a sales and use tax under
1833 Section 59-12-501 may as provided in this part impose a sales and use tax of~~[(i) beginning on~~
1834 ~~January 1, 1998, and ending on December 31, 2007, .25% on the transactions described in~~
1835 ~~Subsection 59-12-103(1) located within the city or town; or (ii) beginning on January 1, 2008,]~~
1836 .30% on the transactions described in Subsection 59-12-103(1) located within the county, city,
1837 or town.

1838 (b) Notwithstanding Subsection (1)(a), if a county, city, or town does not have a tax
1839 under this part in effect on April 1, 2009, the county, city, or town may not impose a tax under
1840 this part.

1841 (c) Notwithstanding Subsection (1)(a), if a county imposes a tax under this part, the
1842 county may not impose a tax within the boundaries of a city or town that imposes a tax under
1843 this part.

1844 ~~[(b)]~~ (d) Notwithstanding Subsection (1)(a), a county, city, or town may not impose a
1845 tax under this section on:

1846 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1847 are exempt from taxation under Section 59-12-104;

1848 (ii) amounts paid or charged by a seller that collects a tax under Subsection
1849 59-12-107(1)(b); and

1850 (iii) except as provided in Subsection (1)~~[(d)]~~ (f), amounts paid or charged for food and
1851 food ingredients.

1852 ~~[(e)]~~ (e) For purposes of this Subsection (1), the location of a transaction shall be
1853 determined in accordance with Section 59-12-207.

1854 ~~[(d)]~~ (f) A county, city, or town imposing a tax under this section shall impose the tax
1855 on amounts paid or charged for food and food ingredients if:

1856 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
1857 food and food ingredients and tangible personal property other than food and food ingredients;
1858 and

1859 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
1860 accordance with Subsection 59-12-107(1)(b).

1861 (2) ~~[(a)]~~ A county, city, or town imposing a tax under this part may ~~[use the revenues~~
1862 ~~generated by the tax]~~ expend the revenues collected from the tax as follows:

1863 ~~[(i) for the construction and maintenance of highways under the jurisdiction of the city~~
1864 ~~or town imposing the tax;]~~

1865 ~~[(ii) subject to Subsection (2)(b), to fund a system for public transit; or]~~

1866 ~~[(iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).]~~

1867 ~~[(b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection~~
1868 ~~(2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.]~~

1869 ~~[(ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed~~
1870 ~~guideway system.]~~

1871 (a) the first priority is to fund a project or service relating to a state highway for the
1872 portion of the project or service that is performed within the county, city, or town;

1873 (b) the second priority is to fund a project or service relating to a principal arterial
1874 highway as defined in Section 72-4-102.5 for the portion of the project or service that is
1875 performed within the county, city, or town;

1876 (c) the third priority is to fund a project or service relating to a minor arterial highway
1877 as defined in Section 72-4-102.5 for the portion of the project or service that is performed
1878 within the county, city, or town;

1879 (d) the fourth priority is to fund a project or service relating to a major collector
1880 highway as defined in Section 72-4-102.5 for the portion of the project or service that is
1881 performed within the county, city, or town;

1882 (e) the fifth priority is to fund a project or service relating to a minor collector road as
1883 defined in Section 72-4-102.5 for the portion of the project or service that is performed within
1884 the county, city, or town;

1885 (f) the sixth priority is to fund the construction and maintenance of a highway under the
1886 jurisdiction of the county, city, or town;

1887 (g) the seventh priority is to fund a system for public transit as defined in Section
1888 59-12-1502;

1889 (h) the eighth priority is to fund a fixed guideway as defined in Section 59-12-1702; or

1890 (i) for a combination of Subsections (2)(a) through (h).

1891 (3) To impose a tax under this part, the ~~[governing body of the]~~ county, city, or town
1892 legislative body shall~~[(a) pass]~~ adopt an ordinance ~~[approving]~~ imposing the tax~~[-and].~~

1893 ~~[(b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as~~
1894 ~~provided in Subsection (4).]~~

1895 ~~[(4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:]~~

1896 ~~[(a) hold an election during:]~~

1897 ~~[(i) a regular general election; or]~~

1898 ~~[(ii) a municipal general election; and]~~

1899 ~~[(b) publish notice of the election:]~~

1900 ~~[(i) 15 days or more before the day on which the election is held; and]~~

1901 ~~[(ii) in a newspaper of general circulation in the city or town.]~~

1902 ~~[(5)]~~ (4) An ordinance approving a tax under this part shall provide an effective date
1903 for the tax as provided in Subsection ~~[(6)]~~ (5).

1904 ~~[(6)]~~ (5) (a) For purposes of this Subsection ~~[(6)]~~ (5):

1905 (i) "Annexation" means an annexation to:

1906 (A) a county under Title 17, Chapter 2, Annexation to County; or

1907 (B) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1908 (ii) "Annexing area" means an area that is annexed into a county, city, or town.

1909 (b) (i) Except as provided in Subsection ~~[(6)]~~ (5)(c) or (d), if, on or after ~~[April 1,~~

1910 ~~2008]~~ July 1, 2009, a county, city, or town enacts or repeals a tax under this part, the enactment
1911 or repeal shall take effect:

1912 (A) on the first day of a calendar quarter; and

1913 (B) after a 90-day period beginning on the date the commission receives notice meeting
1914 the requirements of Subsection ~~[(6)]~~ (5)(b)(ii) from the city or town.

1915 (ii) The notice described in Subsection ~~[(6)]~~ (5)(b)(i)(B) shall state:

- 1916 (A) that the county, city, or town will enact or repeal a tax under this part;
- 1917 (B) the statutory authority for the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A);
- 1918 (C) the effective date of the tax described in Subsection [~~(6)~~] (5)(b)(ii)(A); and
- 1919 (D) if the county, city, or town enacts the tax described in Subsection [~~(6)~~]
- 1920 (5)(b)(ii)(A), the rate of the tax.
- 1921 (c) (i) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), for a transaction described in
- 1922 Subsection [~~(6)~~] (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first
- 1923 billing period:
- 1924 (A) that begins after the effective date of the enactment of the tax; and
- 1925 (B) if the billing period for the transaction begins before the effective date of the
- 1926 enactment of the tax under Subsection (1).
- 1927 (ii) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), for a transaction described in
- 1928 Subsection [~~(6)~~] (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing
- 1929 period:
- 1930 (A) that began before the effective date of the repeal of the tax; and
- 1931 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1932 of the tax imposed under Subsection (1).
- 1933 (iii) Subsections [~~(6)~~] (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1934 (A) Subsection 59-12-103(1)(b);
- 1935 (B) Subsection 59-12-103(1)(c);
- 1936 (C) Subsection 59-12-103(1)(d);
- 1937 (D) Subsection 59-12-103(1)(e);
- 1938 (E) Subsection 59-12-103(1)(f);
- 1939 (F) Subsection 59-12-103(1)(g);
- 1940 (G) Subsection 59-12-103(1)(h);
- 1941 (H) Subsection 59-12-103(1)(i);
- 1942 (I) Subsection 59-12-103(1)(j); or
- 1943 (J) Subsection 59-12-103(1)(k).
- 1944 (d) (i) Notwithstanding Subsection [~~(6)~~] (5)(b)(i), if a tax due under this chapter on a
- 1945 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1946 enactment or repeal of a tax described in Subsection [~~(6)~~] (5)(b)(i) takes effect:

- 1947 (A) on the first day of a calendar quarter; and
- 1948 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1949 Subsection [(6)] (5)(b)(i).
- 1950 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1951 the commission may by rule define the term "catalogue sale."
- 1952 (e) (i) Except as provided in Subsection [(6)] (5)(f) or (g), if, for an annexation that
- 1953 occurs on or after [~~July 1, 2004~~] July 1, 2009, the annexation will result in the enactment or
- 1954 repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
- 1955 (A) on the first day of a calendar quarter; and
- 1956 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1957 the requirements of Subsection [(6)] (5)(e)(ii) from the county, city, or town that annexes the
- 1958 annexing area.
- 1959 (ii) The notice described in Subsection [(6)] (5)(e)(i)(B) shall state:
- 1960 (A) that the annexation described in Subsection [(6)] (5)(e)(i) will result in an
- 1961 enactment or repeal of a tax under this part for the annexing area;
- 1962 (B) the statutory authority for the tax described in Subsection [(6)] (5)(e)(ii)(A);
- 1963 (C) the effective date of the tax described in Subsection [(6)] (5)(e)(ii)(A); and
- 1964 (D) the rate of the tax described in Subsection [(6)] (5)(e)(ii)(A).
- 1965 (f) (i) Notwithstanding Subsection [(6)] (5)(e)(i), for a transaction described in
- 1966 Subsection [(6)] (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first
- 1967 billing period:
- 1968 (A) that begins after the effective date of the enactment of the tax; and
- 1969 (B) if the billing period for the transaction begins before the effective date of the
- 1970 enactment of the tax under Subsection (1).
- 1971 (ii) Notwithstanding Subsection [(6)] (5)(e)(i), for a transaction described in
- 1972 Subsection [(6)] (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing
- 1973 period:
- 1974 (A) that began before the effective date of the repeal of the tax; and
- 1975 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1976 of the tax imposed under Subsection (1).
- 1977 (iii) Subsections [(6)] (5)(f)(i) and (ii) apply to transactions subject to a tax under:

- 1978 (A) Subsection 59-12-103(1)(b);
- 1979 (B) Subsection 59-12-103(1)(c);
- 1980 (C) Subsection 59-12-103(1)(d);
- 1981 (D) Subsection 59-12-103(1)(e);
- 1982 (E) Subsection 59-12-103(1)(f);
- 1983 (F) Subsection 59-12-103(1)(g);
- 1984 (G) Subsection 59-12-103(1)(h);
- 1985 (H) Subsection 59-12-103(1)(i);
- 1986 (I) Subsection 59-12-103(1)(j); or
- 1987 (J) Subsection 59-12-103(1)(k).
- 1988 (g) (i) Notwithstanding Subsection [~~(6)~~] (5)(e)(i), if a tax due under this chapter on a
- 1989 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1990 enactment or repeal of a tax described in Subsection [~~(6)~~] (5)(e)(i) takes effect:
- 1991 (A) on the first day of a calendar quarter; and
- 1992 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1993 Subsection [~~(6)~~] (5)(e)(i).
- 1994 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1995 the commission may by rule define the term "catalogue sale."
- 1996 [~~(7)(a) Except as provided in Subsection (7)(b), a city or town is not subject to the~~
- 1997 ~~voter approval requirements of Subsection (3)(b) if:~~
- 1998 ~~[(i) on or before January 1, 1996, the city or town imposed a license fee or tax on~~
- 1999 ~~businesses based on gross receipts pursuant to Section 10-1-203; or]~~
- 2000 ~~[(ii) the city or town:]~~
- 2001 ~~[(A) on or before June 30, 2002, obtained voter approval in accordance with~~
- 2002 ~~Subsection (3)(b) to impose a tax under this part for a purpose described in Subsection~~
- 2003 ~~(2)(a)(i); and]~~
- 2004 ~~[(B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a~~
- 2005 ~~purpose described in Subsection (2)(a).]~~
- 2006 ~~[(b) Notwithstanding Subsection (7)(a), the exception from the voter approval~~
- 2007 ~~requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January~~
- 2008 ~~1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts~~

2009 pursuant to Section 10-1-203.]

2010 [~~(8) A city or town is not subject to the voter approval requirements of Subsection~~

2011 ~~(3)(b) if:]~~

2012 [~~(a) on December 31, 2007, the city or town imposes a tax of .25% under this section;~~

2013 ~~and]~~

2014 [~~(b) on or after January 1, 2008, the city or town increases the tax rate under this~~

2015 ~~section to .30%.]~~

2016 Section 6. Section 59-12-1002 is amended to read:

2017 **59-12-1002. Collection of taxes by commission -- Administration, collection, and**
2018 **enforcement of tax -- Charge for service.**

2019 (1) The commission shall:

2020 (a) collect the tax imposed by a county, city, or town under this part; and

2021 (b) subject to Subsection (3), transmit to the county, city, or town monthly by
2022 electronic funds transfer the revenues generated by the tax imposed by the county, city, or
2023 town.

2024 (2) (a) Except as provided in Subsection (2)(b), a tax authorized under this part shall be
2025 administered, collected, and enforced in accordance with:

2026 (i) the same procedures used to administer, collect, and enforce the tax under:

2027 (A) Part 1, Tax Collection; or

2028 (B) Part 2, Local Sales and Use Tax Act; and

2029 (ii) Chapter 1, General Taxation Policies.

2030 (b) Notwithstanding Subsection (2)(a), a tax under this part is not subject to
2031 Subsections 59-12-205(2) through (7).

2032 (3) (a) The commission shall charge a county, city, or town imposing a tax under this
2033 part a fee for administering the tax as provided in Subsections (3)(b) and (c).

2034 (b) The fee shall be in an amount equal to the costs of administering the tax under this
2035 part, except that the fee may not exceed 1-1/2% of the revenues generated in the county, city, or
2036 town by the tax under this part.

2037 (c) Fees under this Subsection (3) shall be:

2038 (i) placed in the Sales and Use Tax Administrative Fees Account; and

2039 (ii) used for sales tax administration as provided in Subsection 59-12-206(2).

2040 Section 7. Section **59-12-1901** is enacted to read:

2041 **Part 19. County of the Second Class Airport, Highway, and Public Transit Sales and Use**
2042 **Tax Act**

2043 **59-12-1901. Title.**

2044 This part is known as the "County of the Second Class Airport, Highway, and Public
2045 Transit Sales and Use Tax Act."

2046 Section 8. Section **59-12-1902** is enacted to read:

2047 **59-12-1902. Definitions.**

2048 As used in this part:

2049 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional
2050 significance, as defined by the Transportation Commission by rule made in accordance with
2051 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

2052 (b) "Airport facility" includes:

2053 (i) an appurtenance to an airport, including a fixed guideway as defined in Section
2054 59-12-1702 that provides transportation service to or from the airport;

2055 (ii) a control tower, including a radar system;

2056 (iii) a public area of an airport; or

2057 (iv) a terminal facility.

2058 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,
2059 Annexation to County.

2060 (3) "Annexing area" means an area that is annexed into a county.

2061 (4) "Fixed guideway" is as defined in Section 59-12-1702.

2062 (5) "Local highway of regional significance" means a local highway that is a:

2063 (a) principal arterial highway as defined in Section 72-4-102.5;

2064 (b) a minor arterial highway as defined in Section 72-4-102.5;

2065 (c) a major collector highway as defined in Section 72-4-102.5; or

2066 (d) a minor collector road as defined in Section 72-4-102.5.

2067 (6) "Public transit" is as defined in Section 59-12-1502.

2068 Section 9. Section **59-12-1903** is enacted to read:

2069 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
2070 **from the tax -- Administration, collection, and enforcement of tax by commission --**

2071 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

2072 (1) (a) Subject to the other provisions of this section and except as provided in
2073 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the
2074 second class may impose a sales and use tax on the transactions:

2075 (i) described in Subsection 59-12-103(1); and

2076 (ii) within the county, including the cities and towns within the county.

2077 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a
2078 rate of:

2079 (i) .10%, to be deposited as provided in Subsection (4)(c)(i) into the County of the
2080 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
2081 provided in Section 72-2-121.2; or

2082 (ii) .25%, to be expended as follows:

2083 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the
2084 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
2085 provided in Section 72-2-121.2;

2086 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local
2087 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
2088 distributed in accordance with Section 72-2-117.5; and

2089 (C) as determined by the county legislative body, .10% to be:

2090 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class
2091 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
2092 Section 72-2-121.2;

2093 (II) expended for:

2094 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State
2095 Highways Act;

2096 (Bb) a local highway of regional significance; or

2097 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

2098 (III) expended for a project or service relating to a system for public transit for the
2099 portion of the project or service that is performed within the county;

2100 (IV) expended for a project or service relating to a fixed guideway for the portion of
2101 the project or service that is performed within the county;

2102 (V) expended for a project or service relating to an airport facility:
2103 (Aa) if that airport facility is part of the regional transportation plan of the area
2104 metropolitan planning organization if a metropolitan planning organization exists for the area;
2105 and
2106 (Bb) for the portion of the project or service that is performed within the county; or
2107 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through
2108 (V).
2109 (c) If a county legislative body imposes a tax under this part, the county legislative
2110 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation
2111 Act.
2112 (d) For purposes of this Subsection (1), the location of a transaction shall be
2113 determined in accordance with Section 59-12-207.
2114 (2) (a) A county legislative body may not impose a tax under this part on:
2115 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
2116 are exempt from taxation under Section 59-12-104;
2117 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
2118 59-12-107(1)(b); or
2119 (iii) except as provided in Subsection (2)(b), amounts paid or charged for food and
2120 food ingredients.
2121 (b) A county legislative body imposing a tax under this part shall impose the tax on
2122 amounts paid or charged for food and food ingredients if:
2123 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
2124 food and food ingredients and tangible personal property other than food and food ingredients;
2125 and
2126 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
2127 accordance with Subsection 59-12-107(1)(b).
2128 (3) To impose a tax under this part, a county legislative body shall obtain approval
2129 from a majority of the members of the county legislative body.
2130 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall
2131 transmit revenues collected within a county from a tax under this part that are required to be
2132 expended for a purpose described in Subsection (1)(b)(ii)(C):

2133 (i) to the county legislative body;

2134 (ii) monthly; and

2135 (iii) by electronic funds transfer.

2136 (b) Except as provided in Subsection (6), the commission shall transfer the revenues
2137 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
2138 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2139 (i) provides written notice to the commission requesting the transfer; and

2140 (ii) designates the public transit district to which the county legislative body requests
2141 the commission to transfer the revenues described in Subsection (4)(a).

2142 (c) Except as provided in Subsection (6), the commission shall deposit revenues
2143 collected within a county from a tax under this part that:

2144 (i) are required to be expended for a purpose described in Subsection (1)(b)(i) or
2145 (1)(b)(ii)(A) into the County of the Second Class State Highway Projects Fund created by
2146 Section 72-2-121.2;

2147 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into
2148 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2149 (iii) a county legislative body determines to expend for a purpose described in
2150 Subsection (1)(b)(ii)(C)(I) into the County of the Second Class State Highway Projects Fund
2151 created by Section 72-2-121.2 if the county legislative body provides written notice to the
2152 commission requesting the deposit.

2153 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
2154 collect, and enforce a tax under this part in accordance with:

2155 (i) the same procedures used to administer, collect, and enforce the tax under:

2156 (A) Part 1, Tax Collection; or

2157 (B) Part 2, Local Sales and Use Tax Act; and

2158 (ii) Chapter 1, General Taxation Policies.

2159 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

2160 (6) (a) The commission may retain an amount of tax collected under this part of not to
2161 exceed the lesser of:

2162 (i) 1.5%; or

2163 (ii) an amount equal to the cost to the commission of administering this part.

- 2164 (b) Any amount the commission retains under Subsection (6)(a) shall be:
2165 (i) deposited into the Sales and Use Tax Administrative Fees Account; and
2166 (ii) used as provided in Subsection 59-12-206(2).
2167 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
2168 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
2169 repeal, or change shall take effect:
2170 (A) on the first day of a calendar quarter; and
2171 (B) after a 90-day period beginning on the date the commission receives notice meeting
2172 the requirements of Subsection (7)(a)(ii) from the county.
2173 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
2174 (A) that the county will enact, repeal, or change the rate of a tax under this part;
2175 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
2176 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
2177 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2178 (7)(a)(ii)(A), the rate of the tax.
2179 (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
2180 transaction begins before the effective date of the enactment of the tax or the tax rate increase
2181 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
2182 day of the first billing period that begins after the effective date of the enactment of the tax or
2183 the tax rate increase.
2184 (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
2185 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
2186 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
2187 first day of the last billing period that began before the effective date of the repeal of the tax or
2188 the tax rate decrease.
2189 (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:
2190 (A) Subsection 59-12-103(1)(b);
2191 (B) Subsection 59-12-103(1)(c);
2192 (C) Subsection 59-12-103(1)(d);
2193 (D) Subsection 59-12-103(1)(e);
2194 (E) Subsection 59-12-103(1)(f);

2195 (F) Subsection 59-12-103(1)(g);

2196 (G) Subsection 59-12-103(1)(h);

2197 (H) Subsection 59-12-103(1)(i);

2198 (I) Subsection 59-12-103(1)(j); or

2199 (J) Subsection 59-12-103(1)(k).

2200 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2201 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2202 described in Subsection (7)(a)(i) takes effect:

2203 (A) on the first day of a calendar quarter; and

2204 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2205 rate of the tax under Subsection (7)(a)(i).

2206 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2207 the commission may by rule define the term "catalogue sale."

2208 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
2209 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
2210 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2211 effect:

2212 (A) on the first day of a calendar quarter; and

2213 (B) after a 90-day period beginning on the date the commission receives notice meeting
2214 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2215 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2216 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,
2217 repeal, or change in the rate of a tax under this part for the annexing area;

2218 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2219 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

2220 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2221 (7)(d)(ii)(A), the rate of the tax.

2222 (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
2223 transaction begins before the effective date of the enactment of the tax or a tax rate increase
2224 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
2225 day of the first billing period that begins after the effective date of the enactment of the tax or

2226 the tax rate increase.

2227 (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
 2228 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
 2229 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
 2230 first day of the last billing period that began before the effective date of the repeal of the tax or
 2231 the tax rate decrease.

2232 (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:

2233 (A) Subsection 59-12-103(1)(b);

2234 (B) Subsection 59-12-103(1)(c);

2235 (C) Subsection 59-12-103(1)(d);

2236 (D) Subsection 59-12-103(1)(e);

2237 (E) Subsection 59-12-103(1)(f);

2238 (F) Subsection 59-12-103(1)(g);

2239 (G) Subsection 59-12-103(1)(h);

2240 (H) Subsection 59-12-103(1)(i);

2241 (I) Subsection 59-12-103(1)(j); or

2242 (J) Subsection 59-12-103(1)(k).

2243 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
 2244 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
 2245 described in Subsection (7)(d)(i) takes effect:

2246 (A) on the first day of a calendar quarter; and

2247 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
 2248 rate under Subsection (7)(d)(i).

2249 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 2250 the commission may by rule define the term "catalogue sale."

2251 Section 10. Section **72-2-117.5** is amended to read:

2252 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

2253 (1) As used in this section:

2254 (a) "Council of governments" means a decision-making body in each county composed
 2255 of the county governing body and the mayors of each municipality in the county.

2256 (b) "Metropolitan planning organization" has the same meaning as defined in Section

2257 72-1-208.5.

2258 (2) There is created the Local Transportation Corridor Preservation Fund within the
2259 Transportation Fund.

2260 (3) The fund shall be funded from the following sources:

2261 (a) a local option transportation corridor preservation fee imposed under Section
2262 41-1a-1222;

2263 (b) appropriations made to the fund by the Legislature;

2264 (c) contributions from other public and private sources for deposit into the fund;

2265 (d) interest earnings on cash balances;

2266 (e) all monies collected from rents and sales of real property acquired with fund
2267 monies;

2268 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
2269 as authorized by Title 63B, Bonds; [~~and~~]

2270 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
2271 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund[-]; and

2272 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the
2273 fund.

2274 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund
2275 are nonlapsing.

2276 (b) The State Tax Commission shall provide the department with sufficient data for the
2277 department to allocate the revenues:

2278 (i) provided under Subsection (3)(a) to each county imposing a local option
2279 transportation corridor preservation fee under Section 41-1a-1222; [~~and~~]

2280 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
2281 option sales and use tax for transportation[-]; and

2282 (iii) provided under Subsection (3)(h) to each county of the second class imposing the
2283 sales and use tax authorized by Section 59-12-1903.

2284 (c) The monies allocated under Subsection (4)(b):

2285 (i) shall be used for the purposes provided in this section for each county; and

2286 (ii) are allocated to each county as provided in this section:

2287 (A) with the condition that the state will not be charged for any asset purchased with

2288 the monies allocated under Subsection (4)(b); and

2289 (B) are considered a local matching contribution for the purposes described under
2290 Section 72-2-123 if used on a state highway.

2291 (d) Administrative costs of the department to implement this section shall be paid from
2292 the fund.

2293 (5) (a) The department shall authorize the expenditure of fund monies to allow a
2294 highway authority to acquire real property or any interests in real property for state, county, and
2295 municipal highway corridors subject to:

2296 (i) monies available in the fund to each county under Subsection (4)(b); and

2297 (ii) the provisions of this section.

2298 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
2299 section.

2300 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired
2301 under this section but limited to a total of 5% of the purchase price of the property.

2302 (B) Any additional maintenance cost shall be paid from funds other than under this
2303 section.

2304 (C) Revenue generated by any property acquired under this section is excluded from
2305 the limitations under this Subsection (5)(c)(i).

2306 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired
2307 under this section.

2308 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway
2309 authority for countywide transportation planning if:

2310 (i) the county is not included in a metropolitan planning organization;

2311 (ii) the transportation planning is part of the county's continuing, cooperative, and
2312 comprehensive process for transportation planning, corridor preservation, right-of-way
2313 acquisition, and project programming;

2314 (iii) no more than four years allocation every 20 years to each county is used for
2315 transportation planning under this Subsection (5)(d); and

2316 (iv) the county otherwise qualifies to use the fund monies as provided under this
2317 section.

2318 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county

2319 highway authority for transportation corridor planning that is part of the corridor elements of an
2320 ongoing work program of transportation projects.

2321 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
2322 direction of:

2323 (A) the metropolitan planning organization if the county is within the boundaries of a
2324 metropolitan planning organization; or

2325 (B) the department if the county is not within the boundaries of a metropolitan
2326 planning organization.

2327 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
2328 preserve highway corridors, promote long-term statewide transportation planning, save on
2329 acquisition costs, and promote the best interests of the state in a manner which minimizes
2330 impact on prime agricultural land.

2331 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
2332 a highway corridor that is right-of-way:

2333 (A) in a county of the first or second class for a:

2334 (I) state highway;

2335 (II) a principal arterial highway as defined in Section 72-4-102.5;

2336 (III) a minor arterial highway as defined in Section 72-4-102.5; or

2337 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

2338 (B) in a county of the third, fourth, fifth, or sixth class for a:

2339 (I) state highway;

2340 (II) a principal arterial highway as defined in Section 72-4-102.5;

2341 (III) a minor arterial highway as defined in Section 72-4-102.5;

2342 (IV) a major collector highway as defined in Section 72-4-102.5; or

2343 (V) a minor collector road as defined in Section 72-4-102.5.

2344 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
2345 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.

2346 (b) (i) The department shall develop and implement a program to educate highway
2347 authorities on the objectives, application process, use, and responsibilities of the Local
2348 Transportation Corridor Preservation Fund as provided under this section to promote the most
2349 efficient and effective use of fund monies including priority use on designated high priority

2350 corridor preservation projects.

2351 (ii) The department shall develop a model transportation corridor property acquisition
2352 policy or ordinance that meets federal requirements for the benefit of a highway authority to
2353 acquire real property or any interests in real property under this section.

2354 (c) The department shall authorize the expenditure of fund monies after determining
2355 that the expenditure is being made in accordance with this section from applications that are:

2356 (i) made by a highway authority;

2357 (ii) endorsed by the council of governments; and

2358 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

2359 (7) (a) (i) A council of governments shall establish a council of governments
2360 endorsement process which includes prioritization and application procedures for use of the
2361 monies allocated to each county under this section.

2362 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
2363 endorsement of the preservation project by the:

2364 (A) metropolitan planning organization if the county is within the boundaries of a
2365 metropolitan planning organization; or

2366 (B) the department if the county is not within the boundaries of a metropolitan
2367 planning organization.

2368 (b) All fund monies shall be prioritized by each highway authority and council of
2369 governments based on considerations, including:

2370 (i) areas with rapidly expanding population;

2371 (ii) the willingness of local governments to complete studies and impact statements
2372 that meet department standards;

2373 (iii) the preservation of corridors by the use of local planning and zoning processes;

2374 (iv) the availability of other public and private matching funds for a project;

2375 (v) the cost-effectiveness of the preservation projects;

2376 (vi) long and short-term maintenance costs for property acquired; and

2377 (vii) whether the transportation corridor is included as part of:

2378 (A) the county and municipal master plan; and

2379 (B) (I) the statewide long range plan; or

2380 (II) the regional transportation plan of the area metropolitan planning organization if

2381 one exists for the area.

2382 (c) The council of governments shall:

2383 (i) establish a priority list of highway corridor preservation projects within the county;

2384 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for

2385 approval; and

2386 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

2387 members of the county legislative body.

2388 (d) A county's council of governments may only submit one priority list described in

2389 Subsection (7)(c)(i) per calendar year.

2390 (e) A county legislative body may only consider and approve one priority list described

2391 in Subsection (7)(c)(i) per calendar year.

2392 (8) (a) Unless otherwise provided by written agreement with another highway

2393 authority, the highway authority that holds the deed to the property is responsible for

2394 maintenance of the property.

2395 (b) The transfer of ownership for property acquired under this section from one

2396 highway authority to another shall include a recorded deed for the property and a written

2397 agreement between the highway authorities.

2398 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the

2399 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for

2400 funds under this section.

2401 (b) The highway authority shall pledge the necessary part of the revenues of the Local

2402 Transportation Corridor Preservation Fund to the payment of principal and interest on the

2403 bonds or other obligations.

2404 (10) (a) A highway authority may not apply for monies under this section to purchase a

2405 right-of-way for a state highway unless the highway authority has:

2406 (i) a transportation corridor property acquisition policy or ordinance in effect that

2407 meets federal requirements for the acquisition of real property or any interests in real property

2408 under this section; and

2409 (ii) an access management policy or ordinance in effect that meets the requirements

2410 under Subsection 72-2-117(9).

2411 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a

2412 written agreement with the department for the acquisition of real property or any interests in
2413 real property under this section.

2414 Section 11. Section **72-2-121.2** is enacted to read:

2415 **72-2-121.2. County of the Second Class State Highway Projects Fund.**

2416 (1) As used in this section, "fund" means the County of the Second Class State
2417 Highway Projects Fund created by this section.

2418 (2) There is created within the Transportation Fund a special revenue fund known as
2419 the County of the Second Class State Highway Projects Fund.

2420 (3) The fund shall be funded by monies collected from:

2421 (a) any voluntary contributions the department receives for new construction, major
2422 renovations, and improvements to state highways within a county of the second class; and

2423 (b) the sales and use tax described in:

2424 (i) Subsection 59-12-1903(1)(b)(i);

2425 (ii) Subsection 59-12-1903(1)(b)(ii)(A); or

2426 (iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative body
2427 of the county of the second class.

2428 (4) The department shall make a separate accounting for:

2429 (a) the revenues described in Subsection (3); and

2430 (b) each county of the second class for which revenues are deposited into the fund.

2431 (5) (a) The fund shall earn interest.

2432 (b) Interest earned on fund monies shall be deposited into the fund.

2433 (6) The executive director may use fund monies only:

2434 (a) for right-of-way acquisition, new construction, major renovations, and

2435 improvements to state highways within a county of the second class in an amount that does not
2436 exceed the amounts deposited for or allocated to that county of the second class in accordance
2437 with this section;

2438 (b) to pay any debt service and bond issuance costs related to a purpose described in
2439 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to
2440 that county of the second class described in Subsection (6)(a) in accordance with this section;
2441 and

2442 (c) to pay the costs of the department to administer the fund in an amount not to exceed

2443 interest earned by the fund monies.

2444 (7) If interest remains in the fund after the executive director pays the costs of the
2445 department to administer the fund, the interest shall be:

2446 (a) allocated to each county of the second class for which revenues are deposited into
2447 the fund in proportion to the deposits made into the fund for that county of the second class;
2448 and

2449 (b) expended for the purposes described in Subsection (6).

2450 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are
2451 considered to be a local matching contribution for the purposes described in Section 72-2-123.

2452 Section 12. **Repealer.**

2453 This bill repeals:

2454 Section **59-12-1401, Purpose statement -- Definitions -- Scope of part.**

2455 Section **59-12-1402, Opinion question election -- Base -- Rate -- Imposition of tax --**
2456 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

2457 Section **59-12-1403, Distribution of revenues -- Administrative costs.**

2458 Section 13. **Effective date.**

2459 (1) Except as provided in Subsections (2) and (3), this bill takes effect on January 1,
2460 2009.

2461 (2) The enactments of the following sections take effect on May 5, 2008:

2462 (a) Section 59-12-1901;

2463 (b) Section 59-12-1902;

2464 (c) Section 59-12-1903; and

2465 (d) Section 72-2-121.2.

2466 (3) The amendments to Section 72-2-117.5 take effect on May 5, 2008.

2467 Section 14. **Revisor instructions.**

2468 It is the intent of the Legislature that, in preparing the Utah Code database for
2469 publication, the Office of Legislative Research and General Counsel shall replace the reference
2470 in Subsection 59-12-704(6)(a)(ii) from "by this bill" to the bill's designated chapter and section
2471 number in the Laws of Utah.

2472 Section 15. **Coordinating H.B. 183 with S.B. 245 -- Merging definitions.**

2473 If this H.B. 183 and S.B. 245, Funding Relating to Airports, Highways, and Public

2474 Transit, both pass, it is the intent of the Legislature that the Office of Legislative Research and
 2475 General Counsel, in preparing the Utah Code database for publication, modify Subsection
 2476 59-12-1902(1) in this H.B. 183 to read:

2477 "(1) "Airport facility" is as defined in Section 59-12-602."

2478 Section 16. **Coordinating H.B. 183 with H.B. 206 -- Substantive and technical**
 2479 **amendments.**

2480 If this H.B. 183 and H.B. 206, Tax Amendments, both pass, it is the intent of the
 2481 Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah
 2482 Code database for publication:

2483 (1) modify Section 59-12-1903 to read:

2484 "59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected
 2485 from the tax -- Administration, collection, and enforcement of tax by commission --
 2486 Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

2487 (1) (a) Subject to the other provisions of this section and except as provided in
 2488 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the
 2489 second class may impose a sales and use tax on the transactions:

2490 (i) described in Subsection 59-12-103(1); and

2491 (ii) within the county, including the cities and towns within the county.

2492 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a
 2493 rate of:

2494 (i) .10%, to be deposited as provided in Subsection (4)(c)(i) into the County of the
 2495 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
 2496 provided in Section 72-2-121.2; or

2497 (ii) .25%, to be expended as follows:

2498 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the
 2499 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
 2500 provided in Section 72-2-121.2;

2501 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local
 2502 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
 2503 distributed in accordance with Section 72-2-117.5; and

2504 (C) as determined by the county legislative body, .10% to be:

2505 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class
2506 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
2507 Section 72-2-121.2;

2508 (II) expended for:

2509 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State
2510 Highways Act;

2511 (Bb) a local highway of regional significance; or

2512 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

2513 (III) expended for a project or service relating to a system for public transit for the
2514 portion of the project or service that is performed within the county;

2515 (IV) expended for a project or service relating to a fixed guideway for the portion of
2516 the project or service that is performed within the county;

2517 (V) expended for a project or service relating to an airport facility:

2518 (Aa) if that airport facility is part of the regional transportation plan of the area
2519 metropolitan planning organization if a metropolitan planning organization exists for the area;
2520 and

2521 (Bb) for the portion of the project or service that is performed within the county; or

2522 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through
2523 (V).

2524 (c) If a county legislative body imposes a tax under this part, the county legislative
2525 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation
2526 Act.

2527 (d) For purposes of this Subsection (1), the location of a transaction shall be
2528 determined in accordance with Sections 59-12-211 through 59-12-215.

2529 (2) (a) A county legislative body may not impose a tax under this part on:

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

2532 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
2533 ingredients.

2534 (b) A county legislative body imposing a tax under this part shall impose the tax on
2535 amounts paid or charged for food and food ingredients if the food and food ingredients are sold

2536 as part of a bundled transaction attributable to food and food ingredients and tangible personal
2537 property other than food and food ingredients.

2538 (3) To impose a tax under this part, a county legislative body shall obtain approval
2539 from a majority of the members of the county legislative body.

2540 (4) (a) Except as provided in Subsection (4)(b) or (c) or (6), the commission shall
2541 transmit revenues collected within a county from a tax under this part that are required to be
2542 expended for a purpose described in Subsection (1)(b)(ii)(C):

2543 (i) to the county legislative body;

2544 (ii) monthly; and

2545 (iii) by electronic funds transfer.

2546 (b) Except as provided in Subsection (6), the commission shall transfer the revenues
2547 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
2548 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:

2549 (i) provides written notice to the commission requesting the transfer; and

2550 (ii) designates the public transit district to which the county legislative body requests
2551 the commission to transfer the revenues described in Subsection (4)(a).

2552 (c) Except as provided in Subsection (6), the commission shall deposit revenues
2553 collected within a county from a tax under this part that:

2554 (i) are required to be expended for a purpose described in Subsection (1)(b)(i) or
2555 (1)(b)(ii)(A) into the County of the Second Class State Highway Projects Fund created by
2556 Section 72-2-121.2;

2557 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B) into
2558 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

2559 (iii) a county legislative body determines to expend for a purpose described in
2560 Subsection (1)(b)(ii)(C)(I) into the County of the Second Class State Highway Projects Fund
2561 created by Section 72-2-121.2 if the county legislative body provides written notice to the
2562 commission requesting the deposit.

2563 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
2564 collect, and enforce a tax under this part in accordance with:

2565 (i) the same procedures used to administer, collect, and enforce the tax under:

2566 (A) Part 1, Tax Collection; or

2567 (B) Part 2, Local Sales and Use Tax Act; and
2568 (ii) Chapter 1, General Taxation Policies.
2569 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).
2570 (6) (a) The commission may retain an amount of tax collected under this part of not to
2571 exceed the lesser of:
2572 (i) 1.5%; or
2573 (ii) an amount equal to the cost to the commission of administering this part.
2574 (b) Any amount the commission retains under Subsection (6)(a) shall be:
2575 (i) deposited into the Sales and Use Tax Administrative Fees Account; and
2576 (ii) used as provided in Subsection 59-12-206(2).
2577 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
2578 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
2579 repeal, or change shall take effect:
2580 (A) on the first day of a calendar quarter; and
2581 (B) after a 90-day period beginning on the date the commission receives notice meeting
2582 the requirements of Subsection (7)(a)(ii) from the county.
2583 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
2584 (A) that the county will enact, repeal, or change the rate of a tax under this part;
2585 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
2586 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
2587 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2588 (7)(a)(ii)(A), the rate of the tax.
2589 (b) (i) If the billing period for a transaction begins before the effective date of the
2590 enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a
2591 tax rate increase shall take effect on the first day of the first billing period that begins after the
2592 effective date of the enactment of the tax or the tax rate increase.
2593 (ii) If the billing period for a transaction begins before the effective date of the repeal
2594 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
2595 decrease shall take effect on the first day of the last billing period that began before the
2596 effective date of the repeal of the tax or the tax rate decrease.
2597 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales

2598 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
2599 described in Subsection (7)(a)(i) takes effect:

2600 (A) on the first day of a calendar quarter; and

2601 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2602 rate of the tax under Subsection (7)(a)(i).

2603 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2604 the commission may by rule define the term "catalogue sale."

2605 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
2606 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
2607 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
2608 effect:

2609 (A) on the first day of a calendar quarter; and

2610 (B) after a 90-day period beginning on the date the commission receives notice meeting
2611 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

2612 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

2613 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,
2614 repeal, or change in the rate of a tax under this part for the annexing area;

2615 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

2616 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

2617 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2618 (7)(d)(ii)(A), the rate of the tax.

2619 (e) (i) If the billing period for a transaction begins before the effective date of the
2620 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
2621 rate increase shall take effect on the first day of the first billing period that begins after the
2622 effective date of the enactment of the tax or the tax rate increase.

2623 (ii) If the billing period for a transaction begins before the effective date of the repeal
2624 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
2625 decrease shall take effect on the first day of the last billing period that began before the
2626 effective date of the repeal of the tax or the tax rate decrease.

2627 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
2628 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax

2629 described in Subsection (7)(d)(i) takes effect:

2630 (A) on the first day of a calendar quarter; and

2631 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
2632 rate under Subsection (7)(d)(i).

2633 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2634 the commission may by rule define the term "catalogue sale.""; and

2635 (2) insert as newly enacted provisions into the Utah Code database, the following
2636 sections:

2637 "59-12-1904. Seller or certified service provider reliance on commission information
2638 or certain systems.

2639 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
2640 imposed under this part if:

2641 (1) the tax rate at which the seller or certified service provider collects the tax is
2642 derived from a database created by the commission containing tax rates; and

2643 (2) the seller's or certified service provider's failure to collect the tax is as a result of the
2644 seller's or certified service provider's reliance on incorrect data provided by the commission in
2645 the database created by the commission containing tax rates."

2646 "59-12-1905. Certified service provider or model 2 seller reliance on commission
2647 certified software.

2648 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified
2649 service provider or model 2 seller is not liable for failing to collect a tax required under this
2650 part if:

2651 (a) the certified service provider or model 2 seller relies on software the commission
2652 certifies; and

2653 (b) the certified service provider's or model 2 seller's failure to collect a tax required
2654 under this part is as a result of the seller's or certified service provider's reliance on incorrect
2655 data:

2656 (i) provided by the commission; or

2657 (ii) in the software the commission certifies.

2658 (2) The relief from liability described in Subsection (1) does not apply if a certified
2659 service provider or model 2 seller incorrectly classifies an item or transaction into a product

2660 category the commission certifies.

2661 (3) If the taxability of a product category is incorrectly classified in software the
2662 commission certifies, the commission shall:

2663 (a) notify a certified service provider or model 2 seller of the incorrect classification of
2664 the taxability of a product category in software the commission certifies; and

2665 (b) state in the notice required by Subsection (3)(a) that the certified service provider or
2666 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
2667 incorrectly classified product category if the certified service provider or model 2 seller fails to
2668 correct the taxability of the item or transaction within ten days after the day on which the
2669 certified service provider or model 2 seller receives the notice.

2670 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
2671 item or transaction within ten days after the day on which the certified service provider or
2672 model 2 seller receives the notice described in Subsection (3), the certified service provider or
2673 model 2 seller is liable for failing to collect the correct amount of tax under this part on the
2674 item or transaction."

2675 "59-12-1906. Purchaser relief from liability.

2676 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
2677 under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

2678 (i) the purchaser's seller or certified service provider relies on incorrect data provided
2679 by the commission:

2680 (A) on a tax rate;

2681 (B) on a boundary;

2682 (C) on a taxing jurisdiction; or

2683 (D) in the taxability matrix the commission provides in accordance with the agreement;

2684 or

2685 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
2686 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

2687 (A) on a tax rate;

2688 (B) on a boundary;

2689 (C) on a taxing jurisdiction; or

2690 (D) in the taxability matrix the commission provides in accordance with the agreement.

2691 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
2692 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
2693 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
2694 incorrect data provided by the commission is as a result of conduct that is:

- 2695 (i) fraudulent;
- 2696 (ii) intentional; or
- 2697 (iii) willful.

2698 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
2699 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
2700 or an underpayment if:

2701 (a) the purchaser's seller or certified service provider relies on:

2702 (i) incorrect data provided by the commission:

2703 (A) on a tax rate;

2704 (B) on a boundary; or

2705 (C) on a taxing jurisdiction; or

2706 (ii) an erroneous classification by the commission:

2707 (A) in the taxability matrix the commission provides in accordance with the agreement;

2708 and

2709 (B) with respect to a term:

2710 (I) in the library of definitions; and

2711 (II) that is:

2712 (Aa) listed as taxable or exempt;

2713 (Bb) included or excluded from "sales price"; or

2714 (Cc) included in or excluded from a definition; or

2715 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
2716 accordance with Section 59-12-107.1, relies on:

2717 (i) incorrect data provided by the commission:

2718 (A) on a tax rate;

2719 (B) on a boundary; or

2720 (C) on a taxing jurisdiction; or

2721 (ii) an erroneous classification by the commission:

- 2722 (A) in the taxability matrix the commission provides in accordance with the agreement;
2723 and
2724 (B) with respect to a term:
2725 (I) in the library of definitions; and
2726 (II) that is:
2727 (Aa) listed as taxable or exempt;
2728 (Bb) included or excluded from "sales price"; or
2729 (Cc) included in or excluded from a definition."

2730 **Section 17. Coordinating H.B. 183 with H.B. 77 -- Substantive and technical**
2731 **amendments.**

2732 If this H.B. 183 and H.B. 77, Personal Property Tax Amendments, both pass, it is the
2733 intent of the Legislature that the Office of Legislative Research and General Counsel, in
2734 preparing the Utah Code database for publication:

2735 (1) modify Subsection 59-2-924.2(2) in H.B. 77 to read:

2736 "(2)(a) Beginning January 1, 1997, if a taxing entity receives increased revenues from
2737 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
2738 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
2739 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
2740 rate to offset the increased revenues.

2741 (b) A taxing entity shall decrease its certified tax rate to offset increased revenues from
2742 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
2743 59-2-405.2, or 59-2-405.3 if:

2744 (i) the city or town within which the taxing entity is located:

2745 (A) on December 31, 2008, does not impose a tax in accordance with Section
2746 59-12-1001; and

2747 (B) on or after January 1, 2009, but on or before April 1, 2009, imposes a tax in
2748 accordance with Section 59-12-1001; and

2749 (ii) the taxing entity receives increased revenues from uniform fees on tangible
2750 personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as
2751 a result of the city or town imposing a sales and use tax under Section 59-12-1001.";

2752 (2) modify Subsection 59-2-924.2(3) in H.B. 77 to read:

2753 "(3)(a) Subject to Subsection (3)(c), beginning on July 1, 1997, if a county has imposed
2754 a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's
2755 certified tax rate shall be:

2756 (i) decreased on a one-time basis by the amount of the estimated sales and use tax
2757 revenue to be distributed to the county under Subsection 59-12-1102(3); and

2758 (ii) increased by the amount necessary to offset the county's reduction in revenue from
2759 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
2760 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
2761 (3)(a)(i).

2762 (b) Subject to Subsections (3)(c) and (d), if a city or town that, on December 31, 2008,
2763 does not impose a tax in accordance with Section 59-12-1001, imposes a sales and use tax in
2764 accordance with Section 59-12-1001 on or after January 1, 2009, but on or before April 1,
2765 2009, the city's or town's certified tax rate shall be:

2766 (i) decreased on a one-time basis by the amount of the estimated sales and use tax
2767 revenue under Section 59-12-1001 to be distributed to the city or town for the first year that the
2768 city or town imposes the tax; and

2769 (ii) increased by the amount necessary to offset the city's or town's reduction in revenue
2770 from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
2771 59-2-405.2, or 59-2-405.3, as a result of the decrease in the certified tax rate under Subsection
2772 (3)(b)(i).

2773 (c) The commission shall determine estimates of sales and use tax distributions for
2774 purposes of Subsections (3)(a)(i) and (3)(b)(i).

2775 (d) A certified tax rate increase or decrease required by Subsection (3)(b) shall be made
2776 for the calendar year beginning on the January 1 of the year in which the sales and use tax is
2777 imposed that requires the certified tax rate to be increased or decreased in accordance with
2778 Subsection (3)(b)."; and

2779 (3) modify Subsection 59-2-924.2(8) in H.B. 77 to read:

2780 "(8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
2781 reduced for any year to the extent necessary to provide a community development and renewal
2782 agency established under Title 17C, Limited Purpose Local Government Entities - Community
2783 Development and Renewal Agencies, with approximately the same amount of money the

2784 agency would have received without a reduction in the county's certified tax rate, calculated in
2785 accordance with Section 59-2-924, if:

2786 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3);

2787 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
2788 previous year; and

2789 (iii) the decrease results in a reduction of the amount to be paid to the agency under
2790 Section 17C-1-403 or 17C-1-404.

2791 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
2792 year to the extent necessary to provide a community development and renewal agency with
2793 approximately the same amount of money as the agency would have received without an
2794 increase in the certified tax rate that year if:

2795 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
2796 a decrease in the certified tax rate under Subsection (2) or (3); and

2797 (ii) the certified tax rate of a city, school district, local district, or special service
2798 district increases independent of the adjustment to the taxable value of the base year.

2799 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3), the
2800 amount of money allocated and, when collected, paid each year to a community development
2801 and renewal agency established under Title 17C, Limited Purpose Local Government Entities -
2802 Community Development and Renewal Agencies, for the payment of bonds or other contract
2803 indebtedness, but not for administrative costs, may not be less than that amount would have
2804 been without a decrease in the certified tax rate under Subsection (2) or (3)."