

Senator Sheldon L. Killpack proposes the following substitute bill:

**FUNDING RELATING TO AIRPORTS, HIGHWAYS,
AND PUBLIC TRANSIT**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: David Clark

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act and the Transportation Code relating to a local sales and use tax to fund tourism, recreation, cultural, convention, and airport facilities, a local sales and use tax to fund certain airport, highway, or public transit projects or services, and financing of certain fixed guideways with certain airport revenue.

Highlighted Provisions:

This bill:

- ▶ addresses an audit relating to the local sales and use tax to fund tourism, recreation, cultural, convention, and airport facilities;
- ▶ repeals a purpose statement;
- ▶ provides a part title;
- ▶ defines terms;
- ▶ provides that a county legislative body may expend certain local sales and use tax revenues for an airport facility in addition to other purposes allowed by statute;
- ▶ addresses provisions relating to ordinances and bonding for purposes of the local sales and use tax to fund tourism, recreation, cultural, convention, and airport



- 26 facilities;
- 27 ▶ authorizes a county of the second class to impose a local option sales and use tax to
- 28 fund certain airport, highway, or public transit projects or services;
- 29 ▶ addresses the procedures and requirements for imposing the local option sales and
- 30 use tax to fund certain airport, highway, or public transit projects or services,
- 31 including providing that the sales and use tax is an agreement sales and use tax;
- 32 ▶ modifies the sources of funding for the Local Transportation Corridor Preservation
- 33 Fund;
- 34 ▶ creates a special revenue fund known as the County of the Second Class State
- 35 Highway Projects Fund, including:
- 36 • addressing funding of the fund; and
- 37 • addressing the purposes for which fund monies may be expended;
- 38 ▶ provides that an airport operator may not use airport revenue to contribute to
- 39 constructing, equipping, maintaining, or operating a fixed guideway; and
- 40 ▶ makes technical changes.

41 Monies Appropriated in this Bill:

42 None

43 Other Special Clauses:

44 None

45 Utah Code Sections Affected:

46 **AMENDS:**

- 47 **17-31-5.5**, as last amended by Laws of Utah 2007, Chapter 3
- 48 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288
- 49 **59-12-602**, as last amended by Laws of Utah 1995, Chapter 248
- 50 **59-12-603**, as last amended by Laws of Utah 2007, Chapters 3, 9, and 219
- 51 **72-2-117.5**, as last amended by Laws of Utah 2007, Chapters 181 and 201
- 52 **72-10-102**, as last amended by Laws of Utah 2003, Chapter 183

53 **ENACTS:**

- 54 **59-12-601.1**, Utah Code Annotated 1953
- 55 **59-12-1901**, Utah Code Annotated 1953
- 56 **59-12-1902**, Utah Code Annotated 1953

57 **59-12-1903**, Utah Code Annotated 1953

58 **72-2-121.2**, Utah Code Annotated 1953

59 **72-10-215**, Utah Code Annotated 1953

60 REPEALS:

61 **59-12-601**, as last amended by Laws of Utah 1991, Chapter 265



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

64 Section 1. Section **17-31-5.5** is amended to read:

65 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

66 (1) The legislative body of each county imposing the transient room tax provided for in
67 Section 59-12-301 shall annually engage an independent auditor to perform an audit to verify
68 that transient room tax funds are used only as authorized by this chapter and to report the
69 findings of the audit to the county legislative body.

70 (2) Subsection (1) applies to the tourism, recreation, cultural, [~~and~~] convention, and
71 airport facilities tax provided for in Section 59-12-603, except that the audit verification
72 required under this Subsection (2) shall be for the uses authorized under Section 59-12-603.

73 (3) The report required under Subsection (1) shall include a breakdown of expenditures
74 into the following categories:

75 (a) for the transient room tax, identification of expenditures for:

76 (i) establishing and promoting:

77 (A) recreation;

78 (B) tourism;

79 (C) film production; and

80 (D) conventions;

81 (ii) acquiring, leasing, constructing, furnishing, or operating:

82 (A) convention meeting rooms;

83 (B) exhibit halls;

84 (C) visitor information centers;

85 (D) museums; and

86 (E) related facilities;

87 (iii) acquiring or leasing land required for or related to the purposes listed in

88 Subsection (3)(a)(ii);
89 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and
90 (v) making the annual payment of principal, interest, premiums, and necessary reserves
91 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
92 17-31-2(2)(c) and (3)(a); and
93 (b) for the tourism, recreation, cultural, [~~and~~] convention, and airport facilities tax,
94 identification of expenditures for:
95 (i) financing tourism promotion, which means an activity to develop, encourage,
96 solicit, or market tourism that attracts transient guests to the county, including planning,
97 product development, and advertising;
98 (ii) the development, operation, and maintenance of the following facilities as defined
99 in Section 59-12-602:
100 (A) [~~tourist facilities~~] an airport facility;
101 (B) [~~recreation facilities~~] a convention facility;
102 (C) a cultural [~~facilities; and~~] facility;
103 (D) [~~convention facilities~~] a recreation facility; and
104 (E) a tourist facility; and
105 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).
106 (4) A county legislative body shall provide a copy of a report it receives under this
107 section to:
108 (a) the Governor's Office of Economic Development;
109 (b) its tourism tax advisory board; and
110 (c) the Office of the Legislative Fiscal Analyst.
111 Section 2. Section **59-12-102** is amended to read:
112 **59-12-102. Definitions.**
113 As used in this chapter:
114 (1) (a) "Admission or user fees" includes season passes.
115 (b) "Admission or user fees" does not include annual membership dues to private
116 organizations.
117 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
118 Section 59-12-102.1.

- 119 (3) "Agreement combined tax rate" means the sum of the tax rates:
120 (a) listed under Subsection (4); and
121 (b) that are imposed within a local taxing jurisdiction.
- 122 (4) "Agreement sales and use tax" means a tax imposed under:
123 (a) Subsection 59-12-103(2)(a)(i);
124 (b) Subsection 59-12-103(2)(b)(i);
125 (c) Subsection 59-12-103(2)(c)(i);
126 (d) Subsection 59-12-103(2)(d)(i);
127 (e) Subsection 59-12-103(2)(e)(ii)(A);
128 (f) Subsection 59-12-103(2)(e)(iii)(A);
129 (g) Section 59-12-204;
130 (h) Section 59-12-401;
131 (i) Section 59-12-402;
132 (j) Section 59-12-501;
133 (k) Section 59-12-502;
134 (l) Section 59-12-703;
135 (m) Section 59-12-802;
136 (n) Section 59-12-804;
137 (o) Section 59-12-1001;
138 (p) Section 59-12-1102;
139 (q) Section 59-12-1302;
140 (r) Section 59-12-1402;
141 (s) Section 59-12-1503; [or]
142 (t) Section 59-12-1703[-]; or
143 (u) Section 59-12-1903.
- 144 (5) "Aircraft" is as defined in Section 72-10-102.
145 (6) "Alcoholic beverage" means a beverage that:
146 (a) is suitable for human consumption; and
147 (b) contains .5% or more alcohol by volume.
148 (7) "Area agency on aging" is as defined in Section 62A-3-101.
149 (8) "Assisted amusement device" means an amusement device, skill device, or ride

150 device that is started and stopped by an individual:

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

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

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

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

160 (b) at the direction of the seller of the cleaning or washing of the tangible personal
161 property.

162 (10) "Authorized carrier" means:

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

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

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

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

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

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

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

175 (B) animal waste;

176 (C) methane produced:

177 (I) at landfills; or

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

179 (D) aquatic plants; and

180 (E) agricultural products.

- 181 (b) "Biomass energy" does not include:
- 182 (i) black liquor;
- 183 (ii) treated woods; or
- 184 (iii) biomass from municipal solid waste other than methane produced:
- 185 (A) at landfills; or
- 186 (B) as a byproduct of the treatment of wastewater residuals.
- 187 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 188 property if:
- 189 (i) one or more of the items of tangible personal property is food and food ingredients;
- 190 and
- 191 (ii) the items of tangible personal property are:
- 192 (A) distinct and identifiable; and
- 193 (B) sold for one price that is not itemized.
- 194 (b) "Bundled transaction" does not include the sale of tangible personal property if the
- 195 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
- 196 tangible personal property included in the transaction.
- 197 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
- 198 and identifiable does not include:
- 199 (i) packaging that:
- 200 (A) accompanies the sale of the tangible personal property; and
- 201 (B) is incidental or immaterial to the sale of the tangible personal property;
- 202 (ii) tangible personal property provided free of charge with the purchase of another
- 203 item of tangible personal property; or
- 204 (iii) an item of tangible personal property included in the definition of "purchase
- 205 price."
- 206 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
- 207 provided free of charge with the purchase of another item of tangible personal property if the
- 208 sales price of the purchased item of tangible personal property does not vary depending on the
- 209 inclusion of the tangible personal property provided free of charge.
- 210 (13) "Certified automated system" means software certified by the governing board of
- 211 the agreement in accordance with Section 59-12-102.1 that:

212 (a) calculates the agreement sales and use tax imposed within a local taxing
213 jurisdiction:
214 (i) on a transaction; and
215 (ii) in the states that are members of the agreement;
216 (b) determines the amount of agreement sales and use tax to remit to a state that is a
217 member of the agreement; and
218 (c) maintains a record of the transaction described in Subsection (13)(a)(i).
219 (14) "Certified service provider" means an agent certified:
220 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
221 and
222 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
223 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
224 own purchases.
225 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
226 suitable for general use.
227 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
228 commission shall make rules:
229 (i) listing the items that constitute "clothing"; and
230 (ii) that are consistent with the list of items that constitute "clothing" under the
231 agreement.
232 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
233 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
234 fuels that does not constitute industrial use under Subsection (42) or residential use under
235 Subsection (80).
236 (18) (a) "Common carrier" means a person engaged in or transacting the business of
237 transporting passengers, freight, merchandise, or other property for hire within this state.
238 (b) (i) "Common carrier" does not include a person who, at the time the person is
239 traveling to or from that person's place of employment, transports a passenger to or from the
240 passenger's place of employment.
241 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
242 Utah Administrative Rulemaking Act, the commission may make rules defining what

243 constitutes a person's place of employment.

244 (19) "Component part" includes:

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

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

247 (c) fuel used for providing temperature control of orchards and commercial

248 greenhouses doing a majority of their business in wholesale sales, and for providing power for

249 off-highway type farm machinery; and

250 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

258 (22) "Construction materials" means any tangible personal property that will be

259 converted into real property.

260 (23) "Delivered electronically" means delivered to a purchaser by means other than

261 tangible storage media.

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

263 (i) by a seller of:

264 (A) tangible personal property; or

265 (B) services; and

266 (ii) for preparation and delivery of the tangible personal property or services described

267 in Subsection (24)(a)(i) to a location designated by the purchaser.

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

269 (i) transportation;

270 (ii) shipping;

271 (iii) postage;

272 (iv) handling;

273 (v) crating; or

- 274 (vi) packing.
- 275 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
- 276 (i) a bridge;
- 277 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 278 (iii) a denture;
- 279 (iv) an implant;
- 280 (v) an orthodontic device designed to:
- 281 (A) retain the position or spacing of teeth; and
- 282 (B) replace a missing tooth;
- 283 (vi) a partial denture; or
- 284 (vii) a device similar to Subsections (25)(a)(i) through (vi).
- 285 (b) "Dental prosthesis" does not include an appliance or device, other than a device
- 286 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
- 287 apply force to the teeth and their supporting structures to:
- 288 (i) produce changes in their relationship to each other; and
- 289 (ii) control their growth and development.
- 290 (26) "Dietary supplement" means a product, other than tobacco, that:
- 291 (a) is intended to supplement the diet;
- 292 (b) contains one or more of the following dietary ingredients:
- 293 (i) a vitamin;
- 294 (ii) a mineral;
- 295 (iii) an herb or other botanical;
- 296 (iv) an amino acid;
- 297 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 298 dietary intake; or
- 299 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 300 described in Subsections (26)(b)(i) through (v);
- 301 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
- 302 (A) tablet form;
- 303 (B) capsule form;
- 304 (C) powder form;

- 305 (D) softgel form;
- 306 (E) gelcap form; or
- 307 (F) liquid form; or
- 308 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
- 309 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:
 - 310 (A) as conventional food; and
 - 311 (B) for use as a sole item of:
 - 312 (I) a meal; or
 - 313 (II) the diet; and
 - 314 (d) is required to be labeled as a dietary supplement:
 - 315 (i) identifiable by the "Supplemental Facts" box found on the label; and
 - 316 (ii) as required by 21 C.F.R. Sec. 101.36.
- 317 (27) (a) "Direct mail" means printed material delivered or distributed by United States
- 318 mail or other delivery service:
 - 319 (i) to:
 - 320 (A) a mass audience; or
 - 321 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
 - 322 (ii) if the cost of the printed material is not billed directly to the recipients.
 - 323 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
 - 324 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
 - 325 (c) "Direct mail" does not include multiple items of printed material delivered to a
 - 326 single address.
- 327 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
- 328 or supplies that:
 - 329 (i) cannot withstand repeated use; and
 - 330 (ii) are purchased by, for, or on behalf of a person other than:
 - 331 (A) a health care facility as defined in Section 26-21-2;
 - 332 (B) a health care provider as defined in Section 78-14-3;
 - 333 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
 - 334 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).
 - 335 (b) "Disposable home medical equipment or supplies" does not include:

- 336 (i) a drug;
- 337 (ii) durable medical equipment;
- 338 (iii) a hearing aid;
- 339 (iv) a hearing aid accessory;
- 340 (v) mobility enhancing equipment; or
- 341 (vi) tangible personal property used to correct impaired vision, including:
 - 342 (A) eyeglasses; or
 - 343 (B) contact lenses.
- 344 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 345 commission may by rule define what constitutes medical equipment or supplies.
- 346 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 347 compound, substance, or preparation that is:
 - 348 (i) recognized in:
 - 349 (A) the official United States Pharmacopoeia;
 - 350 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 351 (C) the official National Formulary; or
 - 352 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
 - 353 (ii) intended for use in the:
 - 354 (A) diagnosis of disease;
 - 355 (B) cure of disease;
 - 356 (C) mitigation of disease;
 - 357 (D) treatment of disease; or
 - 358 (E) prevention of disease; or
 - 359 (iii) intended to affect:
 - 360 (A) the structure of the body; or
 - 361 (B) any function of the body.
- 362 (b) "Drug" does not include:
 - 363 (i) food and food ingredients;
 - 364 (ii) a dietary supplement;
 - 365 (iii) an alcoholic beverage; or
 - 366 (iv) a prosthetic device.

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

- 369 (i) can withstand repeated use;
- 370 (ii) is primarily and customarily used to serve a medical purpose;
- 371 (iii) generally is not useful to a person in the absence of illness or injury; and
- 372 (iv) is not worn in or on the body.

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

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

377 (31) "Electronic" means:

- 378 (a) relating to technology; and
- 379 (b) having:
 - 380 (i) electrical capabilities;
 - 381 (ii) digital capabilities;
 - 382 (iii) magnetic capabilities;
 - 383 (iv) wireless capabilities;
 - 384 (v) optical capabilities;
 - 385 (vi) electromagnetic capabilities; or
 - 386 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).

387 (32) "Employee" is as defined in Section 59-10-401.

388 (33) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

- 392 (i) regardless of whether the substances are in:
 - 393 (A) liquid form;
 - 394 (B) concentrated form;
 - 395 (C) solid form;
 - 396 (D) frozen form;
 - 397 (E) dried form; or

- 398 (F) dehydrated form; and
- 399 (ii) that are:
- 400 (A) sold for:
- 401 (I) ingestion by humans; or
- 402 (II) chewing by humans; and
- 403 (B) consumed for the substance's:
- 404 (I) taste; or
- 405 (II) nutritional value.
- 406 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
- 407 (c) "Food and food ingredients" does not include:
- 408 (i) an alcoholic beverage;
- 409 (ii) tobacco; or
- 410 (iii) prepared food.
- 411 (35) (a) "Fundraising sales" means sales:
- 412 (i) (A) made by a school; or
- 413 (B) made by a school student;
- 414 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 415 materials, or provide transportation; and
- 416 (iii) that are part of an officially sanctioned school activity.
- 417 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"
- 418 means a school activity:
- 419 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 420 district governing the authorization and supervision of fundraising activities;
- 421 (ii) that does not directly or indirectly compensate an individual teacher or other
- 422 educational personnel by direct payment, commissions, or payment in kind; and
- 423 (iii) the net or gross revenues from which are deposited in a dedicated account
- 424 controlled by the school or school district.
- 425 (36) "Geothermal energy" means energy contained in heat that continuously flows
- 426 outward from the earth that is used as the sole source of energy to produce electricity.
- 427 (37) "Governing board of the agreement" means the governing board of the agreement
- 428 that is:

- 429 (a) authorized to administer the agreement; and
- 430 (b) established in accordance with the agreement.
- 431 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 432 (i) the executive branch of the state, including all departments, institutions, boards,
- 433 divisions, bureaus, offices, commissions, and committees;
- 434 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 435 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 436 (iii) the legislative branch of the state, including the House of Representatives, the
- 437 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 438 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 439 Analyst;
- 440 (iv) the National Guard;
- 441 (v) an independent entity as defined in Section 63E-1-102; or
- 442 (vi) a political subdivision as defined in Section 17B-1-102.
- 443 (b) "Governmental entity" does not include the state systems of public and higher
- 444 education, including:
- 445 (i) a college campus of the Utah College of Applied Technology;
- 446 (ii) a school;
- 447 (iii) the State Board of Education;
- 448 (iv) the State Board of Regents; or
- 449 (v) a state institution of higher education as defined in Section 53B-3-102.
- 450 (39) (a) "Hearing aid" means:
- 451 (i) an instrument or device having an electronic component that is designed to:
- 452 (A) (I) improve impaired human hearing; or
- 453 (II) correct impaired human hearing; and
- 454 (B) (I) be worn in the human ear; or
- 455 (II) affixed behind the human ear;
- 456 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 457 (iii) a telephone amplifying device.
- 458 (b) "Hearing aid" does not include:
- 459 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device

- 460 having an electronic component that is designed to be worn on the body;
- 461 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
- 462 designed to be used by one individual, including:
- 463 (A) a personal amplifying system;
- 464 (B) a personal FM system;
- 465 (C) a television listening system; or
- 466 (D) a device or system similar to a device or system described in Subsections
- 467 (39)(b)(ii)(A) through (C); or
- 468 (iii) an assistive listening device or system designed to be used by more than one
- 469 individual, including:
- 470 (A) a device or system installed in:
- 471 (I) an auditorium;
- 472 (II) a church;
- 473 (III) a conference room;
- 474 (IV) a synagogue; or
- 475 (V) a theater; or
- 476 (B) a device or system similar to a device or system described in Subsections
- 477 (39)(b)(iii)(A)(I) through (V).
- 478 (40) (a) "Hearing aid accessory" means a hearing aid:
- 479 (i) component;
- 480 (ii) attachment; or
- 481 (iii) accessory.
- 482 (b) "Hearing aid accessory" includes:
- 483 (i) a hearing aid neck loop;
- 484 (ii) a hearing aid cord;
- 485 (iii) a hearing aid ear mold;
- 486 (iv) hearing aid tubing;
- 487 (v) a hearing aid ear hook; or
- 488 (vi) a hearing aid remote control.
- 489 (c) "Hearing aid accessory" does not include:
- 490 (i) a component, attachment, or accessory designed to be used only with an:

- 491 (A) instrument or device described in Subsection (39)(b)(i); or
- 492 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
- 493 (ii) a hearing aid battery.
- 494 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
- 495 electricity.
- 496 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 497 other fuels:
- 498 (a) in mining or extraction of minerals;
- 499 (b) in agricultural operations to produce an agricultural product up to the time of
- 500 harvest or placing the agricultural product into a storage facility, including:
- 501 (i) commercial greenhouses;
- 502 (ii) irrigation pumps;
- 503 (iii) farm machinery;
- 504 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 505 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 506 (v) other farming activities;
- 507 (c) in manufacturing tangible personal property at an establishment described in SIC
- 508 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 509 Executive Office of the President, Office of Management and Budget;
- 510 (d) by a scrap recycler if:
- 511 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 512 one or more of the following items into prepared grades of processed materials for use in new
- 513 products:
- 514 (A) iron;
- 515 (B) steel;
- 516 (C) nonferrous metal;
- 517 (D) paper;
- 518 (E) glass;
- 519 (F) plastic;
- 520 (G) textile; or
- 521 (H) rubber; and

522 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
523 nonrecycled materials; or

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

526 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
527 for installing tangible personal property.

528 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
529 for repairs or renovations of tangible personal property.

530 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
531 personal property for:

- 532 (i) (A) a fixed term; or
- 533 (B) an indeterminate term; and
- 534 (ii) consideration.

535 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
536 amount of consideration may be increased or decreased by reference to the amount realized
537 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
538 Code.

539 (c) "Lease" or "rental" does not include:

540 (i) a transfer of possession or control of property under a security agreement or
541 deferred payment plan that requires the transfer of title upon completion of the required
542 payments;

543 (ii) a transfer of possession or control of property under an agreement that requires the
544 transfer of title:

- 545 (A) upon completion of required payments; and
- 546 (B) if the payment of an option price does not exceed the greater of:
 - 547 (I) \$100; or
 - 548 (II) 1% of the total required payments; or

549 (iii) providing tangible personal property along with an operator for a fixed period of
550 time or an indeterminate period of time if the operator is necessary for equipment to perform as
551 designed.

552 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to

553 perform as designed if the operator's duties exceed the:

- 554 (i) set-up of tangible personal property;
- 555 (ii) maintenance of tangible personal property; or
- 556 (iii) inspection of tangible personal property.

557 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
558 if the tangible storage media is not physically transferred to the purchaser.

559 (46) "Local taxing jurisdiction" means a:

- 560 (a) county that is authorized to impose an agreement sales and use tax;
- 561 (b) city that is authorized to impose an agreement sales and use tax; or
- 562 (c) town that is authorized to impose an agreement sales and use tax.

563 (47) "Manufactured home" is as defined in Section 58-56-3.

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

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

566 Industrial Classification Manual of the federal Executive Office of the President, Office of
567 Management and Budget;

568 (b) a scrap recycler if:

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

- 572 (A) iron;
- 573 (B) steel;
- 574 (C) nonferrous metal;
- 575 (D) paper;
- 576 (E) glass;
- 577 (F) plastic;
- 578 (G) textile; or
- 579 (H) rubber; and

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

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

583 (49) "Member of the immediate family of the producer" means a person who is related

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

- 585 (a) child or stepchild, regardless of whether the child or stepchild is:
- 586 (i) an adopted child or adopted stepchild; or
- 587 (ii) a foster child or foster stepchild;
- 588 (b) grandchild or stepgrandchild;
- 589 (c) grandparent or stepgrandparent;
- 590 (d) nephew or stepnephew;
- 591 (e) niece or stepniece;
- 592 (f) parent or stepparent;
- 593 (g) sibling or stepsibling;
- 594 (h) spouse;
- 595 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);

596 or

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

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

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

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

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

607 (ii) appropriate for use in a:

608 (A) home; or

609 (B) motor vehicle; and

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

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

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

- 615 (i) a motor vehicle;
- 616 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
617 vehicle manufacturer;
- 618 (iii) durable medical equipment; or
- 619 (iv) a prosthetic device.
- 620 (53) "Model 1 seller" means a seller that has selected a certified service provider as the
621 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
622 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
623 seller's own purchases.
- 624 (54) "Model 2 seller" means a seller that:
 - 625 (a) except as provided in Subsection (54)(b), has selected a certified automated system
626 to perform the seller's sales tax functions for agreement sales and use taxes; and
 - 627 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
628 sales tax:
 - 629 (i) collected by the seller; and
 - 630 (ii) to the appropriate local taxing jurisdiction.
- 631 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:
 - 632 (i) sales in at least five states that are members of the agreement;
 - 633 (ii) total annual sales revenues of at least \$500,000,000;
 - 634 (iii) a proprietary system that calculates the amount of tax:
 - 635 (A) for an agreement sales and use tax; and
 - 636 (B) due to each local taxing jurisdiction; and
 - 637 (iv) entered into a performance agreement with the governing board of the agreement.
 - 638 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
639 sellers using the same proprietary system.
- 640 (56) "Modular home" means a modular unit as defined in Section 58-56-3.
- 641 (57) "Motor vehicle" is as defined in Section 41-1a-102.
- 642 (58) "Oil shale" means a group of fine black to dark brown shales containing
643 bituminous material that yields petroleum upon distillation.
- 644 (59) (a) "Other fuels" means products that burn independently to produce heat or
645 energy.

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

648 (60) "Pawnbroker" is as defined in Section 13-32a-102.

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

650 (62) (a) "Permanently attached to real property" means that for tangible personal
651 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

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

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

674 (B) a hot water heater;

675 (C) a water softener system; or

676 (D) a water filtration system, other than a water filtration system manufactured as part

677 of a refrigerator.

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

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

681 (A) convenience;

682 (B) stability; or

683 (C) for an obvious temporary purpose;

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

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

690 (A) a refrigerator;

691 (B) a washer;

692 (C) a dryer;

693 (D) a stove;

694 (E) a television;

695 (F) a computer;

696 (G) a telephone; or

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

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

704 (64) "Place of primary use":

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

- 708 (i) the residential street address of the purchaser; or
- 709 (ii) the primary business street address of the purchaser; or
- 710 (b) for mobile telecommunications service, is as defined in the Mobile
- 711 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 712 (65) "Postproduction" means an activity related to the finishing or duplication of a
- 713 medium described in Subsection 59-12-104(56)(a).
- 714 (66) (a) "Prepared food" means:
- 715 (i) food:
- 716 (A) sold in a heated state; or
- 717 (B) heated by a seller;
- 718 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 719 item; or
- 720 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
- 721 by the seller, including a:
- 722 (A) plate;
- 723 (B) knife;
- 724 (C) fork;
- 725 (D) spoon;
- 726 (E) glass;
- 727 (F) cup;
- 728 (G) napkin; or
- 729 (H) straw.
- 730 (b) "Prepared food" does not include:
- 731 (i) food that a seller only:
- 732 (A) cuts;
- 733 (B) repackages; or
- 734 (C) pasteurizes; or
- 735 (ii) (A) the following:
- 736 (I) raw egg;
- 737 (II) raw fish;
- 738 (III) raw meat;

- 739 (IV) raw poultry; or
- 740 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
- 741 and
- 742 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 743 Food and Drug Administration's Food Code that a consumer cook the items described in
- 744 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
- 745 (iii) the following if sold without eating utensils provided by the seller:
- 746 (A) food and food ingredients sold by a seller if the seller's proper primary
- 747 classification under the 2002 North American Industry Classification System of the federal
- 748 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 749 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 750 Manufacturing;
- 751 (B) food and food ingredients sold in an unheated state:
- 752 (I) by weight or volume; and
- 753 (II) as a single item; or
- 754 (C) a bakery item, including:
- 755 (I) a bagel;
- 756 (II) a bar;
- 757 (III) a biscuit;
- 758 (IV) bread;
- 759 (V) a bun;
- 760 (VI) a cake;
- 761 (VII) a cookie;
- 762 (VIII) a croissant;
- 763 (IX) a danish;
- 764 (X) a donut;
- 765 (XI) a muffin;
- 766 (XII) a pastry;
- 767 (XIII) a pie;
- 768 (XIV) a roll;
- 769 (XV) a tart;

770 (XVI) a torte; or

771 (XVII) a tortilla.

772 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
773 does not include the following used to transport the food:

774 (i) a container; or

775 (ii) packaging.

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

777 (a) (i) orally;

778 (ii) in writing;

779 (iii) electronically; or

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

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

782 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
783 software" means computer software that is not designed and developed:

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

785 (ii) to the specifications of a specific purchaser.

786 (b) "Prewritten computer software" includes:

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

789 (A) by the author or other creator of the computer software; and

790 (B) to the specifications of a specific purchaser;

791 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
792 the author or other creator of the computer software to the specifications of a specific purchaser
793 if the computer software is sold to a person other than the purchaser; or

794 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
795 prewritten computer software or a prewritten portion of prewritten computer software:

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

797 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
798 designed and developed to the specifications of a specific purchaser.

799 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
800 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for

801 the modification or enhancement are:

802 (i) reasonable; and

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

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

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

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

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

809 (b) "Prosthetic device" includes:

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

811 (ii) replacement parts for a prosthetic device; or

812 (iii) a dental prosthesis.

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

814 (i) corrective eyeglasses;

815 (ii) contact lenses; or

816 (iii) hearing aids.

817 (70) (a) "Protective equipment" means an item:

818 (i) for human wear; and

819 (ii) that is:

820 (A) designed as protection:

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

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

823 (B) not suitable for general use.

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

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

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

828 under the agreement.

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

831 (i) regardless of:

- 832 (A) characteristics;
- 833 (B) copyright;
- 834 (C) form;
- 835 (D) format;
- 836 (E) method of reproduction; or
- 837 (F) source; and
- 838 (ii) made available in printed or electronic format.
- 839 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 840 commission may by rule define the term "photocopy."
- 841 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 842 (i) valued in money; and
- 843 (ii) for which tangible personal property or services are:
- 844 (A) sold;
- 845 (B) leased; or
- 846 (C) rented.
- 847 (b) "Purchase price" and "sales price" include:
- 848 (i) the seller's cost of the tangible personal property or services sold;
- 849 (ii) expenses of the seller, including:
- 850 (A) the cost of materials used;
- 851 (B) a labor cost;
- 852 (C) a service cost;
- 853 (D) interest;
- 854 (E) a loss;
- 855 (F) the cost of transportation to the seller; or
- 856 (G) a tax imposed on the seller; or
- 857 (iii) a charge by the seller for any service necessary to complete the sale.
- 858 (c) "Purchase price" and "sales price" do not include:
- 859 (i) a discount:
- 860 (A) in a form including:
- 861 (I) cash;
- 862 (II) term; or

- 863 (III) coupon;
- 864 (B) that is allowed by a seller;
- 865 (C) taken by a purchaser on a sale; and
- 866 (D) that is not reimbursed by a third party; or
- 867 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 868 provided to the purchaser:
 - 869 (A) the amount of a trade-in;
 - 870 (B) the following from credit extended on the sale of tangible personal property or
 - 871 services:
 - 872 (I) interest charges;
 - 873 (II) financing charges; or
 - 874 (III) carrying charges;
 - 875 (C) a tax or fee legally imposed directly on the consumer;
 - 876 (D) a delivery charge; or
 - 877 (E) an installation charge.
- 878 (73) "Purchaser" means a person to whom:
 - 879 (a) a sale of tangible personal property is made; or
 - 880 (b) a service is furnished.
- 881 (74) "Regularly rented" means:
 - 882 (a) rented to a guest for value three or more times during a calendar year; or
 - 883 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 884 value.
- 885 (75) "Renewable energy" means:
 - 886 (a) biomass energy;
 - 887 (b) hydroelectric energy;
 - 888 (c) geothermal energy;
 - 889 (d) solar energy; or
 - 890 (e) wind energy.
- 891 (76) (a) "Renewable energy production facility" means a facility that:
 - 892 (i) uses renewable energy to produce electricity; and
 - 893 (ii) has a production capacity of 20 kilowatts or greater.

894 (b) A facility is a renewable energy production facility regardless of whether the
895 facility is:

- 896 (i) connected to an electric grid; or
- 897 (ii) located on the premises of an electricity consumer.

898 (77) "Rental" is as defined in Subsection (44).

899 (78) "Repairs or renovations of tangible personal property" means:

900 (a) a repair or renovation of tangible personal property that is not permanently attached
901 to real property; or

902 (b) attaching tangible personal property to other tangible personal property if the other
903 tangible personal property to which the tangible personal property is attached is not
904 permanently attached to real property.

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

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

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

- 912 (a) resale;
- 913 (b) sublease; or
- 914 (c) subrent.

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

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

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

923 (b) "Sale" includes:

- 924 (i) installment and credit sales;

- 925 (ii) any closed transaction constituting a sale;
- 926 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
927 chapter;
- 928 (iv) any transaction if the possession of property is transferred but the seller retains the
929 title as security for the payment of the price; and
- 930 (v) any transaction under which right to possession, operation, or use of any article of
931 tangible personal property is granted under a lease or contract and the transfer of possession
932 would be taxable if an outright sale were made.
- 933 (84) "Sale at retail" is as defined in Subsection (81).
- 934 (85) "Sale-leaseback transaction" means a transaction by which title to tangible
935 personal property that is subject to a tax under this chapter is transferred:
- 936 (a) by a purchaser-lessee;
- 937 (b) to a lessor;
- 938 (c) for consideration; and
- 939 (d) if:
- 940 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
941 of the tangible personal property;
- 942 (ii) the sale of the tangible personal property to the lessor is intended as a form of
943 financing:
- 944 (A) for the property; and
- 945 (B) to the purchaser-lessee; and
- 946 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
947 is required to:
- 948 (A) capitalize the property for financial reporting purposes; and
- 949 (B) account for the lease payments as payments made under a financing arrangement.
- 950 (86) "Sales price" is as defined in Subsection (72).
- 951 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
952 amounts charged by a school:
- 953 (i) sales that are directly related to the school's educational functions or activities
954 including:
- 955 (A) the sale of:

- 956 (I) textbooks;
- 957 (II) textbook fees;
- 958 (III) laboratory fees;
- 959 (IV) laboratory supplies; or
- 960 (V) safety equipment;
- 961 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 962 that:
- 963 (I) a student is specifically required to wear as a condition of participation in a
- 964 school-related event or school-related activity; and
- 965 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 966 place of ordinary clothing;
- 967 (C) sales of the following if the net or gross revenues generated by the sales are
- 968 deposited into a school district fund or school fund dedicated to school meals:
- 969 (I) food and food ingredients; or
- 970 (II) prepared food; or
- 971 (D) transportation charges for official school activities; or
- 972 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 973 event or school-related activity.
- 974 (b) "Sales relating to schools" does not include:
- 975 (i) bookstore sales of items that are not educational materials or supplies;
- 976 (ii) except as provided in Subsection (87)(a)(i)(B):
- 977 (A) clothing;
- 978 (B) clothing accessories or equipment;
- 979 (C) protective equipment; or
- 980 (D) sports or recreational equipment; or
- 981 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 982 event or school-related activity if the amounts paid or charged are passed through to a person:
- 983 (A) other than a:
- 984 (I) school;
- 985 (II) nonprofit organization authorized by a school board or a governing body of a
- 986 private school to organize and direct a competitive secondary school activity; or

987 (III) nonprofit association authorized by a school board or a governing body of a
988 private school to organize and direct a competitive secondary school activity; and

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

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

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

993 (a) means:

994 (i) an elementary school or a secondary school that:

995 (A) is a:

996 (I) public school; or

997 (II) private school; and

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

999 (ii) a public school district; and

1000 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1001 (89) "Seller" means a person that makes a sale, lease, or rental of:

1002 (a) tangible personal property; or

1003 (b) a service.

1004 (90) (a) "Semiconductor fabricating, processing, research, or development materials"

1005 means tangible personal property:

1006 (i) used primarily in the process of:

1007 (A) (I) manufacturing a semiconductor;

1008 (II) fabricating a semiconductor; or

1009 (III) research or development of a:

1010 (Aa) semiconductor; or

1011 (Bb) semiconductor manufacturing process; or

1012 (B) maintaining an environment suitable for a semiconductor; or

1013 (ii) consumed primarily in the process of:

1014 (A) (I) manufacturing a semiconductor;

1015 (II) fabricating a semiconductor; or

1016 (III) research or development of a:

1017 (Aa) semiconductor; or

- 1018 (Bb) semiconductor manufacturing process; or
- 1019 (B) maintaining an environment suitable for a semiconductor.
- 1020 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1021 includes:
- 1022 (i) parts used in the repairs or renovations of tangible personal property described in
- 1023 Subsection (90)(a); or
- 1024 (ii) a chemical, catalyst, or other material used to:
- 1025 (A) produce or induce in a semiconductor a:
- 1026 (I) chemical change; or
- 1027 (II) physical change;
- 1028 (B) remove impurities from a semiconductor; or
- 1029 (C) improve the marketable condition of a semiconductor.
- 1030 (91) "Senior citizen center" means a facility having the primary purpose of providing
- 1031 services to the aged as defined in Section 62A-3-101.
- 1032 (92) "Simplified electronic return" means the electronic return:
- 1033 (a) described in Section 318(C) of the agreement; and
- 1034 (b) approved by the governing board of the agreement.
- 1035 (93) "Solar energy" means the sun used as the sole source of energy for producing
- 1036 electricity.
- 1037 (94) (a) "Sports or recreational equipment" means an item:
- 1038 (i) designed for human use; and
- 1039 (ii) that is:
- 1040 (A) worn in conjunction with:
- 1041 (I) an athletic activity; or
- 1042 (II) a recreational activity; and
- 1043 (B) not suitable for general use.
- 1044 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1045 commission shall make rules:
- 1046 (i) listing the items that constitute "sports or recreational equipment"; and
- 1047 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1048 equipment" under the agreement.

1049 (95) "State" means the state of Utah, its departments, and agencies.

1050 (96) "Storage" means any keeping or retention of tangible personal property or any
1051 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1052 sale in the regular course of business.

1053 (97) (a) "Tangible personal property" means personal property that:

1054 (i) may be:

1055 (A) seen;

1056 (B) weighed;

1057 (C) measured;

1058 (D) felt; or

1059 (E) touched; or

1060 (ii) is in any manner perceptible to the senses.

1061 (b) "Tangible personal property" includes:

1062 (i) electricity;

1063 (ii) water;

1064 (iii) gas;

1065 (iv) steam; or

1066 (v) prewritten computer software.

1067 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
1068 and require further processing other than mechanical blending before becoming finished
1069 petroleum products.

1070 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1071 software" means an item listed in Subsection (99)(b) if that item is purchased or leased
1072 primarily to enable or facilitate one or more of the following to function:

1073 (i) telecommunications switching or routing equipment, machinery, or software; or

1074 (ii) telecommunications transmission equipment, machinery, or software.

1075 (b) The following apply to Subsection (99)(a):

1076 (i) a pole;

1077 (ii) software;

1078 (iii) a supplementary power supply;

1079 (iv) temperature or environmental equipment or machinery;

1080 (v) test equipment;
1081 (vi) a tower; or
1082 (vii) equipment, machinery, or software that functions similarly to an item listed in
1083 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in
1084 accordance with Subsection (99)(c).

1085 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1086 commission may by rule define what constitutes equipment, machinery, or software that
1087 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).

1088 (100) "Telecommunications equipment, machinery, or software required for 911
1089 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1090 Sec. 20.18.

1091 (101) "Telecommunications maintenance or repair equipment, machinery, or software"
1092 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1093 one or more of the following, regardless of whether the equipment, machinery, or software is
1094 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1095 following:

- 1096 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1097 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1098 (c) telecommunications transmission equipment, machinery, or software.

1099 (102) (a) "Telecommunications switching or routing equipment, machinery, or
1100 software" means an item listed in Subsection (102)(b) if that item is purchased or leased
1101 primarily for switching or routing:

- 1102 (i) voice communications;
- 1103 (ii) data communications; or
- 1104 (iii) telephone service.

1105 (b) The following apply to Subsection (102)(a):

- 1106 (i) a bridge;
- 1107 (ii) a computer;
- 1108 (iii) a cross connect;
- 1109 (iv) a modem;
- 1110 (v) a multiplexer;

- 1111 (vi) plug in circuitry;
- 1112 (vii) a router;
- 1113 (viii) software;
- 1114 (ix) a switch; or
- 1115 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1116 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in
- 1117 accordance with Subsection (102)(c).

1118 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1119 commission may by rule define what constitutes equipment, machinery, or software that

1120 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).

1121 (103) (a) "Telecommunications transmission equipment, machinery, or software"

1122 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for

1123 sending, receiving, or transporting:

- 1124 (i) voice communications;
- 1125 (ii) data communications; or
- 1126 (iii) telephone service.

1127 (b) The following apply to Subsection (103)(a):

- 1128 (i) an amplifier;
- 1129 (ii) a cable;
- 1130 (iii) a closure;
- 1131 (iv) a conduit;
- 1132 (v) a controller;
- 1133 (vi) a duplexer;
- 1134 (vii) a filter;
- 1135 (viii) an input device;
- 1136 (ix) an input/output device;
- 1137 (x) an insulator;
- 1138 (xi) microwave machinery or equipment;
- 1139 (xii) an oscillator;
- 1140 (xiii) an output device;
- 1141 (xiv) a pedestal;

- 1142 (xv) a power converter;
- 1143 (xvi) a power supply;
- 1144 (xvii) a radio channel;
- 1145 (xviii) a radio receiver;
- 1146 (xix) a radio transmitter;
- 1147 (xx) a repeater;
- 1148 (xxi) software;
- 1149 (xxii) a terminal;
- 1150 (xxiii) a timing unit;
- 1151 (xxiv) a transformer;
- 1152 (xxv) a wire; or
- 1153 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1154 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
- 1155 accordance with Subsection (103)(c).

1156 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1157 commission may by rule define what constitutes equipment, machinery, or software that
1158 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).

- 1159 (104) (a) "Telephone service" means a two-way transmission:
- 1160 (i) by:
- 1161 (A) wire;
- 1162 (B) radio;
- 1163 (C) lightwave; or
- 1164 (D) other electromagnetic means; and
- 1165 (ii) of one or more of the following:
- 1166 (A) a sign;
- 1167 (B) a signal;
- 1168 (C) writing;
- 1169 (D) an image;
- 1170 (E) sound;
- 1171 (F) a message;
- 1172 (G) data; or

- 1173 (H) other information of any nature.
- 1174 (b) "Telephone service" includes:
- 1175 (i) mobile telecommunications service;
- 1176 (ii) private communications service; or
- 1177 (iii) automated digital telephone answering service.
- 1178 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1179 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1180 Tax Freedom Act, Pub. L. No. 105-277.
- 1181 (105) Notwithstanding where a call is billed or paid, "telephone service address"
- 1182 means:
- 1183 (a) if the location described in this Subsection (105)(a) is known, the location of the
- 1184 telephone service equipment:
- 1185 (i) to which a call is charged; and
- 1186 (ii) from which the call originates or terminates;
- 1187 (b) if the location described in Subsection (105)(a) is not known but the location
- 1188 described in this Subsection (105)(b) is known, the location of the origination point of the
- 1189 signal of the telephone service first identified by:
- 1190 (i) the telecommunications system of the seller; or
- 1191 (ii) if the system used to transport the signal is not that of the seller, information
- 1192 received by the seller from its service provider; or
- 1193 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location
- 1194 of a purchaser's primary place of use.
- 1195 (106) (a) "Telephone service provider" means a person that:
- 1196 (i) owns, controls, operates, or manages a telephone service; and
- 1197 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or
- 1198 resale to any person of the telephone service.
- 1199 (b) A person described in Subsection (106)(a) is a telephone service provider whether
- 1200 or not the Public Service Commission of Utah regulates:
- 1201 (i) that person; or
- 1202 (ii) the telephone service that the person owns, controls, operates, or manages.
- 1203 (107) "Tobacco" means:

- 1204 (a) a cigarette;
- 1205 (b) a cigar;
- 1206 (c) chewing tobacco;
- 1207 (d) pipe tobacco; or
- 1208 (e) any other item that contains tobacco.
- 1209 (108) "Unassisted amusement device" means an amusement device, skill device, or
- 1210 ride device that is started and stopped by the purchaser or renter of the right to use or operate
- 1211 the amusement device, skill device, or ride device.
- 1212 (109) (a) "Use" means the exercise of any right or power over tangible personal
- 1213 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
- 1214 property, item, or service.
- 1215 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
- 1216 the regular course of business and held for resale.
- 1217 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are
- 1218 required to be titled, registered, or titled and registered:
- 1219 (i) an aircraft as defined in Section 72-10-102;
- 1220 (ii) a vehicle as defined in Section 41-1a-102;
- 1221 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1222 (iv) a vessel as defined in Section 41-1a-102.
- 1223 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1224 (i) a vehicle described in Subsection (110)(a); or
- 1225 (ii) (A) a locomotive;
- 1226 (B) a freight car;
- 1227 (C) railroad work equipment; or
- 1228 (D) other railroad rolling stock.
- 1229 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1230 exchanging a vehicle as defined in Subsection (110).
- 1231 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a
- 1232 facility that generates electricity:
- 1233 (i) using as the primary source of energy waste materials that would be placed in a
- 1234 landfill or refuse pit if it were not used to generate electricity, including:

- 1235 (A) tires;
- 1236 (B) waste coal; or
- 1237 (C) oil shale; and
- 1238 (ii) in amounts greater than actually required for the operation of the facility.
- 1239 (b) "Waste energy facility" does not include a facility that incinerates:
- 1240 (i) municipal solid waste;
- 1241 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1242 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1243 (113) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1244 (114) "Wind energy" means wind used as the sole source of energy to produce
- 1245 electricity.
- 1246 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1247 location by the United States Postal Service.

1248 Section 3. Section **59-12-601.1** is enacted to read:

1249 **Part 6. Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act**
1250 **59-12-601.1. Title.**

1251 This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport
1252 Facilities Tax Act."

1253 Section 4. Section **59-12-602** is amended to read:

1254 **59-12-602. Definitions.**

1255 As used in this part:

1256 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional
1257 significance, as defined by the Transportation Commission by rule made in accordance with
1258 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

1259 (b) "Airport facility" includes:

1260 (i) an appurtenance to an airport, including a fixed guideway as defined in Section
1261 59-12-1702 that provides transportation service to or from the airport;

1262 (ii) a control tower, including a radar system;

1263 (iii) a public area of an airport; or

1264 (iv) a terminal facility.

1265 [~~(+)~~ (2) "Convention facility" means any publicly owned or operated convention

1266 center, sports arena, or other facility at which conventions, conferences, and other gatherings
1267 are held and whose primary business or function is to host such conventions, conferences, and
1268 other gatherings.

1269 ~~[(2)]~~ (3) "Cultural facility" means any publicly owned or operated museum, theater, art
1270 center, music hall, or other cultural or arts facility.

1271 ~~[(3)]~~ (4) "Recreation facility" or "tourist facility" means any publicly owned or
1272 operated park, campground, marina, dock, golf course, water park, historic park, monument,
1273 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

1274 ~~[(4)]~~ (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda
1275 fountain, or fast-food service where food is prepared for immediate consumption.

1276 (b) "Restaurant" does not include:

1277 (i) any retail establishment whose primary business or function is the sale of fuel or
1278 food items for off-premise, but not immediate, consumption; and

1279 (ii) a theater that sells food items, but not a dinner theater.

1280 Section 5. Section **59-12-603** is amended to read:

1281 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
1282 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**
1283 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

1284 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
1285 part, impose a tax as follows:

1286 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
1287 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
1288 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
1289 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

1290 (B) beginning on or after January 1, 1999, a county legislative body of any county
1291 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
1292 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
1293 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
1294 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
1295 to a repair or an insurance agreement;

1296 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all

1297 sales of the following that are sold by a restaurant:

1298 (A) prepared food; or

1299 (B) food and food ingredients; and

1300 (iii) a county legislative body of a county of the first class may impose a tax of not to
1301 exceed .5% on charges for the accommodations and services described in Subsection
1302 59-12-103(1)(i).

1303 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
1304 17-31-5.5.

1305 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
1306 for in Subsections (1)(a)(i) through (iii) may be used for ~~[the purposes of]:~~

1307 (i) financing tourism promotion; and

1308 (ii) the development, operation, and maintenance of ~~[tourist, recreation, cultural, and
1309 convention facilities as defined in Section 59-12-602.]:~~

1310 (A) an airport facility;

1311 (B) a convention facility;

1312 (C) a cultural facility;

1313 (D) a recreation facility; or

1314 (E) a tourist facility.

1315 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
1316 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
1317 marketing and ticketing system designed to:

1318 (i) promote tourism in ski areas within the county by persons that do not reside within
1319 the state; and

1320 (ii) combine the sale of:

1321 (A) ski lift tickets; and

1322 (B) accommodations and services described in Subsection 59-12-103(1)(i).

1323 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
1324 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
1325 Government Bonding Act, or a community development and renewal agency under Title 17C,
1326 Chapter 1, Part 5, Agency Bonds, to finance ~~[tourism, recreation, cultural, and convention
1327 facilities.]:~~

1328 (a) an airport facility;

1329 (b) a convention facility;

1330 (c) a cultural facility;

1331 (d) a recreation facility; or

1332 (e) a tourist facility.

1333 (4) (a) In order to impose the tax under Subsection (1), each county legislative body
1334 shall [~~annually~~] adopt an ordinance imposing the tax.

1335 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
1336 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
1337 those items and sales described in Subsection (1).

1338 (c) The name of the county as the taxing agency shall be substituted for that of the state
1339 where necessary, and an additional license is not required if one has been or is issued under
1340 Section 59-12-106.

1341 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
1342 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
1343 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
1344 amendments to Part 1, Tax Collection.

1345 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
1346 board in accordance with Section 17-31-8, the county legislative body of the county of the first
1347 class shall create a tax advisory board in accordance with this Subsection (6).

1348 (b) The tax advisory board shall be composed of nine members appointed as follows:

1349 (i) four members shall be appointed by the county legislative body of the county of the
1350 first class as follows:

1351 (A) one member shall be a resident of the unincorporated area of the county;

1352 (B) two members shall be residents of the incorporated area of the county; and

1353 (C) one member shall be a resident of the unincorporated or incorporated area of the
1354 county; and

1355 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
1356 towns within the county of the first class appointed by an organization representing all mayors
1357 of cities and towns within the county of the first class.

1358 (c) Five members of the tax advisory board constitute a quorum.

- 1359 (d) The county legislative body of the county of the first class shall determine:
- 1360 (i) terms of the members of the tax advisory board;
- 1361 (ii) procedures and requirements for removing a member of the tax advisory board;
- 1362 (iii) voting requirements, except that action of the tax advisory board shall be by at
- 1363 least a majority vote of a quorum of the tax advisory board;
- 1364 (iv) chairs or other officers of the tax advisory board;
- 1365 (v) how meetings are to be called and the frequency of meetings; and
- 1366 (vi) the compensation, if any, of members of the tax advisory board.
- 1367 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
- 1368 body of the county of the first class on the expenditure of revenues collected within the county
- 1369 of the first class from the taxes described in Subsection (1)(a).
- 1370 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
- 1371 shall be administered, collected, and enforced in accordance with:
- 1372 (A) the same procedures used to administer, collect, and enforce the tax under:
- 1373 (I) Part 1, Tax Collection; or
- 1374 (II) Part 2, Local Sales and Use Tax Act; and
- 1375 (B) Chapter 1, General Taxation Policies.
- 1376 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections
- 1377 59-12-205(2) through (7).
- 1378 (b) Except as provided in Subsection (7)(c):
- 1379 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
- 1380 commission shall distribute the revenues to the county imposing the tax; and
- 1381 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
- 1382 according to the distribution formula provided in Subsection (8).
- 1383 (c) The commission shall deduct from the distributions under Subsection (7)(b) an
- 1384 administrative charge for collecting the tax as provided in Section 59-12-206.
- 1385 (8) The commission shall distribute the revenues generated by the tax under Subsection
- 1386 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
- 1387 following formula:
- 1388 (a) the commission shall distribute 70% of the revenues based on the percentages
- 1389 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by

1390 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and
1391 (b) the commission shall distribute 30% of the revenues based on the percentages
1392 generated by dividing the population of each county collecting a tax under Subsection
1393 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
1394 (9) (a) For purposes of this Subsection (9):
1395 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
1396 Annexation to County.
1397 (ii) "Annexing area" means an area that is annexed into a county.
1398 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
1399 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
1400 change shall take effect:
1401 (A) on the first day of a calendar quarter; and
1402 (B) after a 90-day period beginning on the date the commission receives notice meeting
1403 the requirements of Subsection (9)(b)(ii) from the county.
1404 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
1405 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
1406 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
1407 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
1408 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1409 (9)(b)(ii)(A), the rate of the tax.
1410 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
1411 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
1412 first billing period:
1413 (A) that begins after the effective date of the enactment of the tax or the tax rate
1414 increase; and
1415 (B) if the billing period for the transaction begins before the effective date of the
1416 enactment of the tax or the tax rate increase imposed under Subsection (1).
1417 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
1418 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1419 billing period:
1420 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

1421 and

1422 (B) if the billing period for the transaction begins before the effective date of the repeal
1423 of the tax or the tax rate decrease imposed under Subsection (1).

1424 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

1425 (A) Subsection 59-12-103(1)(e);

1426 (B) Subsection 59-12-103(1)(i); or

1427 (C) Subsection 59-12-103(1)(k).

1428 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
1429 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
1430 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

1431 (A) on the first day of a calendar quarter; and

1432 (B) after a 90-day period beginning on the date the commission receives notice meeting
1433 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

1434 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

1435 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
1436 repeal, or change in the rate of a tax under this part for the annexing area;

1437 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

1438 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

1439 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1440 (9)(d)(ii)(A), the rate of the tax.

1441 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
1442 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
1443 first billing period:

1444 (A) that begins after the effective date of the enactment of the tax or the tax rate
1445 increase; and

1446 (B) if the billing period for the transaction begins before the effective date of the
1447 enactment of the tax or the tax rate increase imposed under Subsection (1).

1448 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
1449 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1450 billing period:

1451 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

1452 and

1453 (B) if the billing period for the transaction begins before the effective date of the repeal
1454 of the tax or the tax rate decrease imposed under Subsection (1).

1455 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

1456 (A) Subsection 59-12-103(1)(e);

1457 (B) Subsection 59-12-103(1)(i); or

1458 (C) Subsection 59-12-103(1)(k).

1459 Section 6. Section **59-12-1901** is enacted to read:

1460 **Part 19. County of the Second Class Airport, Highway, and Public Transit Sales and Use**
1461 **Tax Act**

1462 **59-12-1901. Title.**

1463 This part is known as the "County of the Second Class Airport, Highway, and Public
1464 Transit Sales and Use Tax Act."

1465 Section 7. Section **59-12-1902** is enacted to read:

1466 **59-12-1902. Definitions.**

1467 As used in this part:

1468 (1) "Airport facility" is as defined in Section 59-12-602.

1469 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,

1470 Annexation to County.

1471 (3) "Annexing area" means an area that is annexed into a county.

1472 (4) "Fixed guideway" is as defined in Section 59-12-1702.

1473 (5) "Local highway of regional significance" means a local highway that is a:

1474 (a) principal arterial highway as defined in Section 72-4-102.5;

1475 (b) a minor arterial highway as defined in Section 72-4-102.5;

1476 (c) a major collector highway as defined in Section 72-4-102.5; or

1477 (d) a minor collector road as defined in Section 72-4-102.5.

1478 (6) "Public transit" is as defined in Section 59-12-1502.

1479 Section 8. Section **59-12-1903** is enacted to read:

1480 **59-12-1903. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected**
1481 **from the tax -- Administration, collection, and enforcement of tax by commission --**
1482 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

1483 (1) (a) Subject to the other provisions of this section and except as provided in
1484 Subsection (2), beginning on January 1, 2009, a county legislative body of a county of the
1485 second class may impose a sales and use tax on the transactions:

1486 (i) described in Subsection 59-12-103(1); and
1487 (ii) within the county, including the cities and towns within the county.

1488 (b) For purposes of Subsection (1)(a), a county legislative body may impose a tax at a
1489 rate of:

1490 (i) .10%, to be deposited as provided in Subsection (4)(c)(i) into the County of the
1491 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
1492 provided in Section 72-2-121.2; or

1493 (ii) .25%, to be expended as follows:

1494 (A) .10% to be deposited as provided in Subsection (4)(c)(i) into the County of the
1495 Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
1496 provided in Section 72-2-121.2;

1497 (B) .05%, to be deposited as provided in Subsection (4)(c)(ii) into the Local
1498 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
1499 distributed in accordance with Section 72-2-117.5; and

1500 (C) as determined by the county legislative body, .10% to be:

1501 (I) deposited as provided in Subsection (4)(c)(i) into the County of the Second Class
1502 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
1503 Section 72-2-121.2;

1504 (II) expended for:

1505 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of State
1506 Highways Act;

1507 (Bb) a local highway of regional significance; or

1508 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);

1509 (III) expended for a project or service relating to a system for public transit for the
1510 portion of the project or service that is performed within the county;

1511 (IV) expended for a project or service relating to a fixed guideway for the portion of
1512 the project or service that is performed within the county;

1513 (V) expended for a project or service relating to airport facility;

1514 (Aa) if that airport facility is part of the regional transportation plan of the area
1515 metropolitan planning organization if a metropolitan planning organization exists for the area;
1516 and

1517 (Bb) for the portion of the project or service that is performed within the county; or
1518 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through
1519 (V).

1520 (c) If a county legislative body imposes a tax under this part, the county legislative
1521 body may not impose a tax under Part 17, County Option Sales and Use Tax for Transportation
1522 Act.

1523 (d) For purposes of this Subsection (1), the location of a transaction shall be
1524 determined in accordance with Section 59-12-207.

1525 (2) (a) A county legislative body may not impose a tax under this part on:

1526 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
1527 are exempt from taxation under Section 59-12-104;

1528 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
1529 59-12-107(1)(b); or

1530 (iii) except as provided in Subsection (2)(b), amounts paid or charged for food and
1531 food ingredients.

1532 (b) A county legislative body imposing a tax under this part shall impose the tax on
1533 amounts paid or charged for food and food ingredients if:

1534 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
1535 food and food ingredients and tangible personal property other than food and food ingredients;
1536 and

1537 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
1538 accordance with Subsection 59-12-107(1)(b).

1539 (3) To impose a tax under this part, a county legislative body shall obtain approval
1540 from a majority of the members of the county legislative body.

1541 (4) (a) Except as provided in Subsection (4)(b) or (c) or Subsection (6), the
1542 commission shall transmit revenues collected within a county from a tax under this part that are
1543 required to be expended for a purpose described in Subsection (1)(b)(ii)(C):

1544 (i) to the county legislative body;

1545 (ii) monthly; and
1546 (iii) by electronic funds transfer.
1547 (b) Except as provided in Subsection (6), the commission shall transfer the revenues
1548 described in Subsection (4)(a) directly to a public transit district organized under Title 17B,
1549 Chapter 2a, Part 8, Public Transit District Act, if the county legislative body:
1550 (i) provides written notice to the commission requesting the transfer; and
1551 (ii) designates the public transit district to which the county legislative body requests
1552 the commission to transfer the revenues described in Subsection (4)(a).
1553 (c) Except as provided in Subsection (6), the commission shall deposit revenues
1554 collected within a county from a tax under this part that:
1555 (i) are required to be expended for a purpose described in Subsection (1)(b)(i) or
1556 (1)(b)(ii)(A) into the County of the Second Class State Highway Projects Fund created by
1557 Section 72-2-121.2;
1558 (ii) are required to be expended for a purpose described in Subsection (1)(B)(ii)(B) into
1559 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or
1560 (iii) a county legislative body determines to expend for a purpose described in
1561 Subsection (1)(b)(ii)(C)(I) into the County of the Second Class State Highway Projects Fund
1562 created by Section 72-2-121.2 if the county legislative body provides written notice to the
1563 commission requesting the deposit.
1564 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
1565 collect, and enforce a tax under this part in accordance with:
1566 (i) the same procedures used to administer, collect, and enforce the tax under:
1567 (A) Part 1, Tax Collection; or
1568 (B) Part 2, Local Sales and Use Tax Act; and
1569 (ii) Chapter 1, General Taxation Policies.
1570 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
1571 (6) (a) The commission may retain an amount of tax collected under this part of not to
1572 exceed the lesser of:
1573 (i) 1.5%; or
1574 (ii) an amount equal to the cost to the commission of administering this part.
1575 (b) Any amount the commission retains under Subsection (6)(a) shall be:

- 1576 (i) deposited into the Sales and Use Tax Administrative Fees Account; and
- 1577 (ii) used as provided in Subsection 59-12-206(2).
- 1578 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
- 1579 a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
- 1580 repeal, or change shall take effect:
- 1581 (A) on the first day of a calendar quarter; and
- 1582 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1583 the requirements of Subsection (7)(a)(ii) from the county.
- 1584 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
- 1585 (A) that the county will enact, repeal, or change the rate of a tax under this part;
- 1586 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
- 1587 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
- 1588 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 1589 (7)(a)(ii)(A), the rate of the tax.
- 1590 (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
- 1591 transaction begins before the effective date of the enactment of the tax or the tax rate increase
- 1592 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
- 1593 day of the first billing period that begins after the effective date of the enactment of the tax or
- 1594 the tax rate increase.
- 1595 (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
- 1596 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
- 1597 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
- 1598 first day of the last billing period that began before the effective date of the repeal of the tax or
- 1599 the tax rate decrease.
- 1600 (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:
- 1601 (A) Subsection 59-12-103(1)(b);
- 1602 (B) Subsection 59-12-103(1)(c);
- 1603 (C) Subsection 59-12-103(1)(d);
- 1604 (D) Subsection 59-12-103(1)(e);
- 1605 (E) Subsection 59-12-103(1)(f);
- 1606 (F) Subsection 59-12-103(1)(g);

1607 (G) Subsection 59-12-103(1)(h);

1608 (H) Subsection 59-12-103(1)(i);

1609 (I) Subsection 59-12-103(1)(j); or

1610 (J) Subsection 59-12-103(1)(k).

1611 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
1612 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
1613 described in Subsection (7)(a)(i) takes effect:

1614 (A) on the first day of a calendar quarter; and

1615 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
1616 rate of the tax under Subsection (7)(a)(i).

1617 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1618 the commission may by rule define the term "catalogue sale."

1619 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
1620 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
1621 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
1622 effect:

1623 (A) on the first day of a calendar quarter; and

1624 (B) after a 90-day period beginning on the date the commission receives notice meeting
1625 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

1626 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

1627 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment,
1628 repeal, or change in the rate of a tax under this part for the annexing area;

1629 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

1630 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

1631 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1632 (7)(d)(ii)(A), the rate of the tax.

1633 (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
1634 transaction begins before the effective date of the enactment of the tax or a tax rate increase
1635 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
1636 day of the first billing period that begins after the effective date of the enactment of the tax or
1637 the tax rate increase.

1638 (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
1639 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
1640 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
1641 first day of the last billing period that began before the effective date of the repeal of the tax or
1642 the tax rate decrease.

1643 (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:

1644 (A) Subsection 59-12-103(1)(b);

1645 (B) Subsection 59-12-103(1)(c);

1646 (C) Subsection 59-12-103(1)(d);

1647 (D) Subsection 59-12-103(1)(e);

1648 (E) Subsection 59-12-103(1)(f);

1649 (F) Subsection 59-12-103(1)(g);

1650 (G) Subsection 59-12-103(1)(h);

1651 (H) Subsection 59-12-103(1)(i);

1652 (I) Subsection 59-12-103(1)(j); or

1653 (J) Subsection 59-12-103(1)(k).

1654 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
1655 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
1656 described in Subsection (7)(d)(i) takes effect:

1657 (A) on the first day of a calendar quarter; and

1658 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
1659 rate under Subsection (7)(d)(i).

1660 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1661 the commission may by rule define the term "catalogue sale."

1662 Section 9. Section **72-2-117.5** is amended to read:

1663 **72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.**

1664 (1) As used in this section:

1665 (a) "Council of governments" means a decision-making body in each county composed
1666 of the county governing body and the mayors of each municipality in the county.

1667 (b) "Metropolitan planning organization" has the same meaning as defined in Section
1668 72-1-208.5.

1669 (2) There is created the Local Transportation Corridor Preservation Fund within the
1670 Transportation Fund.

1671 (3) The fund shall be funded from the following sources:

1672 (a) a local option transportation corridor preservation fee imposed under Section
1673 41-1a-1222;

1674 (b) appropriations made to the fund by the Legislature;

1675 (c) contributions from other public and private sources for deposit into the fund;

1676 (d) interest earnings on cash balances;

1677 (e) all monies collected from rents and sales of real property acquired with fund
1678 monies;

1679 (f) proceeds from general obligation bonds, revenue bonds, or other obligations issued
1680 as authorized by Title 63B, Bonds; [~~and~~]

1681 (g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
1682 and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund[~~;~~]; and

1683 (h) sales and use tax revenues required by Section 59-12-1903 to be deposited into the
1684 fund.

1685 (4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund
1686 are nonlapsing.

1687 (b) The State Tax Commission shall provide the department with sufficient data for the
1688 department to allocate the revenues:

1689 (i) provided under Subsection (3)(a) to each county imposing a local option
1690 transportation corridor preservation fee under Section 41-1a-1222; [~~and~~]

1691 (ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county
1692 option sales and use tax for transportation[~~;~~]; and

1693 (iii) provided under Subsection (3)(h) to each county of the second class imposing the
1694 sales and use tax authorized by Section 59-12-1903.

1695 (c) The monies allocated under Subsection (4)(b):

1696 (i) shall be used for the purposes provided in this section for each county; and

1697 (ii) are allocated to each county as provided in this section:

1698 (A) with the condition that the state will not be charged for any asset purchased with
1699 the monies allocated under Subsection (4)(b); and

1700 (B) are considered a local matching contribution for the purposes described under
1701 Section 72-2-123 if used on a state highway.

1702 (d) Administrative costs of the department to implement this section shall be paid from
1703 the fund.

1704 (5) (a) The department shall authorize the expenditure of fund monies to allow a
1705 highway authority to acquire real property or any interests in real property for state, county, and
1706 municipal highway corridors subject to:

1707 (i) monies available in the fund to each county under Subsection (4)(b); and

1708 (ii) the provisions of this section.

1709 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
1710 section.

1711 (c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired
1712 under this section but limited to a total of 5% of the purchase price of the property.

1713 (B) Any additional maintenance cost shall be paid from funds other than under this
1714 section.

1715 (C) Revenue generated by any property acquired under this section is excluded from
1716 the limitations under this Subsection (5)(c)(i).

1717 (ii) Fund monies may be used to pay direct costs of acquisition of properties acquired
1718 under this section.

1719 (d) Fund monies allocated under Subsection (4)(b) may be used by a county highway
1720 authority for countywide transportation planning if:

1721 (i) the county is not included in a metropolitan planning organization;

1722 (ii) the transportation planning is part of the county's continuing, cooperative, and
1723 comprehensive process for transportation planning, corridor preservation, right-of-way
1724 acquisition, and project programming;

1725 (iii) no more than four years allocation every 20 years to each county is used for
1726 transportation planning under this Subsection (5)(d); and

1727 (iv) the county otherwise qualifies to use the fund monies as provided under this
1728 section.

1729 (e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county
1730 highway authority for transportation corridor planning that is part of the corridor elements of an

1731 ongoing work program of transportation projects.

1732 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
1733 direction of:

1734 (A) the metropolitan planning organization if the county is within the boundaries of a
1735 metropolitan planning organization; or

1736 (B) the department if the county is not within the boundaries of a metropolitan
1737 planning organization.

1738 (6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to
1739 preserve highway corridors, promote long-term statewide transportation planning, save on
1740 acquisition costs, and promote the best interests of the state in a manner which minimizes
1741 impact on prime agricultural land.

1742 (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve
1743 a highway corridor that is right-of-way:

1744 (A) in a county of the first or second class for a:

1745 (I) state highway;

1746 (II) a principal arterial highway as defined in Section 72-4-102.5;

1747 (III) a minor arterial highway as defined in Section 72-4-102.5; or

1748 (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

1749 (B) in a county of the third, fourth, fifth, or sixth class for a:

1750 (I) state highway;

1751 (II) a principal arterial highway as defined in Section 72-4-102.5;

1752 (III) a minor arterial highway as defined in Section 72-4-102.5;

1753 (IV) a major collector highway as defined in Section 72-4-102.5; or

1754 (V) a minor collector road as defined in Section 72-4-102.5.

1755 (iii) The Local Transportation Corridor Preservation Fund may not be used for a
1756 highway corridor that is primarily a recreational trail as defined under Section 63-11a-101.

1757 (b) (i) The department shall develop and implement a program to educate highway
1758 authorities on the objectives, application process, use, and responsibilities of the Local
1759 Transportation Corridor Preservation Fund as provided under this section to promote the most
1760 efficient and effective use of fund monies including priority use on designated high priority
1761 corridor preservation projects.

1762 (ii) The department shall develop a model transportation corridor property acquisition
1763 policy or ordinance that meets federal requirements for the benefit of a highway authority to
1764 acquire real property or any interests in real property under this section.

1765 (c) The department shall authorize the expenditure of fund monies after determining
1766 that the expenditure is being made in accordance with this section from applications that are:

1767 (i) made by a highway authority;

1768 (ii) endorsed by the council of governments; and

1769 (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

1770 (7) (a) (i) A council of governments shall establish a council of governments
1771 endorsement process which includes prioritization and application procedures for use of the
1772 monies allocated to each county under this section.

1773 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
1774 endorsement of the preservation project by the:

1775 (A) metropolitan planning organization if the county is within the boundaries of a
1776 metropolitan planning organization; or

1777 (B) the department if the county is not within the boundaries of a metropolitan
1778 planning organization.

1779 (b) All fund monies shall be prioritized by each highway authority and council of
1780 governments based on considerations, including:

1781 (i) areas with rapidly expanding population;

1782 (ii) the willingness of local governments to complete studies and impact statements
1783 that meet department standards;

1784 (iii) the preservation of corridors by the use of local planning and zoning processes;

1785 (iv) the availability of other public and private matching funds for a project;

1786 (v) the cost-effectiveness of the preservation projects;

1787 (vi) long and short-term maintenance costs for property acquired; and

1788 (vii) whether the transportation corridor is included as part of:

1789 (A) the county and municipal master plan; and

1790 (B) (I) the statewide long range plan; or

1791 (II) the regional transportation plan of the area metropolitan planning organization if
1792 one exists for the area.

- 1793 (c) The council of governments shall:
- 1794 (i) establish a priority list of highway corridor preservation projects within the county;
- 1795 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
- 1796 approval; and
- 1797 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the
- 1798 members of the county legislative body.
- 1799 (d) A county's council of governments may only submit one priority list described in
- 1800 Subsection (7)(c)(i) per calendar year.
- 1801 (e) A county legislative body may only consider and approve one priority list described
- 1802 in Subsection (7)(c)(i) per calendar year.
- 1803 (8) (a) Unless otherwise provided by written agreement with another highway
- 1804 authority, the highway authority that holds the deed to the property is responsible for
- 1805 maintenance of the property.
- 1806 (b) The transfer of ownership for property acquired under this section from one
- 1807 highway authority to another shall include a recorded deed for the property and a written
- 1808 agreement between the highway authorities.
- 1809 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
- 1810 Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for
- 1811 funds under this section.
- 1812 (b) The highway authority shall pledge the necessary part of the revenues of the Local
- 1813 Transportation Corridor Preservation Fund to the payment of principal and interest on the
- 1814 bonds or other obligations.
- 1815 (10) (a) A highway authority may not apply for monies under this section to purchase a
- 1816 right-of-way for a state highway unless the highway authority has:
- 1817 (i) a transportation corridor property acquisition policy or ordinance in effect that
- 1818 meets federal requirements for the acquisition of real property or any interests in real property
- 1819 under this section; and
- 1820 (ii) an access management policy or ordinance in effect that meets the requirements
- 1821 under Subsection 72-2-117(9).
- 1822 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
- 1823 written agreement with the department for the acquisition of real property or any interests in

1824 real property under this section.

1825 Section 10. Section **72-2-121.2** is enacted to read:

1826 **72-2-121.2. County of the Second Class State Highway Projects Fund.**

1827 (1) As used in this section, "fund" means the County of the Second Class State
1828 Highway Projects Fund created by this section.

1829 (2) There is created within the Transportation Fund a special revenue fund known as
1830 the County of the Second Class State Highway Projects Fund.

1831 (3) The fund shall be funded by monies collected from:

1832 (a) any voluntary contributions the department receives for new construction, major
1833 renovations, and improvements to state highways within a county of the second class; and

1834 (b) the sales and use tax described in:

1835 (i) Subsection 59-12-1903(1)(b)(i);

1836 (ii) Subsection 59-12-1903(1)(b)(ii)(A); or

1837 (iii) Subsection 59-12-1903(1)(b)(ii)(C)(I) as determined by the county legislative body
1838 of the county of the second class.

1839 (4) The department shall make a separate accounting for:

1840 (a) the revenues described in Subsection (3); and

1841 (b) each county of the second class for which revenues are deposited into the fund.

1842 (5) (a) The fund shall earn interest.

1843 (b) Interest earned on fund monies shall be deposited into the fund.

1844 (6) The executive director may use fund monies only:

1845 (a) for right-of-way acquisition, new construction, major renovations, and
1846 improvements to state highways within a county of the second class in an amount that does not
1847 exceed the amounts deposited for or allocated to that county of the second class in accordance
1848 with this section;

1849 (b) to pay any debt service and bond issuance costs related to a purpose described in
1850 Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to
1851 that county of the second class described in Subsection (6)(a) in accordance with this section;
1852 and

1853 (c) to pay the costs of the department to administer the fund in an amount not to exceed
1854 interest earned by the fund monies.

1855 (7) If interest remains in the fund after the executive director pays the costs of the
1856 department to administer the fund, the interest shall be:

1857 (a) allocated to each county of the second class for which revenues are deposited into
1858 the fund in proportion to the deposits made into the fund for that county of the second class;

1859 and

1860 (b) expended for the purposes described in Subsection (6).

1861 (8) Revenues described in Subsection (3)(b) that are deposited into the fund are
1862 considered to be a local matching contribution for the purposes described in Section 72-2-123.

1863 Section 11. Section **72-10-102** is amended to read:

1864 **72-10-102. Definitions.**

1865 As used in this chapter:

1866 (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air
1867 navigation.

1868 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,
1869 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or
1870 other air navigation facilities.

1871 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give
1872 instruction in aeronautics, flying, or ground subjects, either with or without:

1873 (a) compensation or other reward;

1874 (b) advertising the occupation;

1875 (c) calling his facilities an air school, or any equivalent term; or

1876 (d) employing or using other instructors.

1877 (4) "Aircraft" means any contrivance now known or in the future invented, used, or
1878 designed for navigation of or flight in the air.

1879 (5) "Air instruction" means the imparting of aeronautical information by any aviation
1880 instructor or in any air school or flying club.

1881 (6) "Airport" means any area of land, water, or both, that:

1882 (a) is used or is made available for landing and takeoff;

1883 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of
1884 passengers and cargo; ~~and~~

1885 (c) meets the minimum requirements established by the division as to size and design,

1886 surface, marking, equipment, and operation; and

1887 (d) includes all areas shown as part of the airport in the current airport layout plan as
1888 approved by the Federal Aviation Administration.

1889 (7) "Airport authority" means a political subdivision of the state, other than a county or
1890 municipality, that is authorized by statute to operate an airport.

1891 (8) "Airport operator" means a municipality, county, or airport authority that owns or
1892 operates a commercial airport.

1893 (9) (a) "Airport revenue" means:

1894 (i) all fees, charges, rents, or other payments received by or accruing to an airport
1895 operator for any of the following reasons:

1896 (A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport
1897 permittees making use of airport property and services, and other parties;

1898 (B) revenue received from the activities of others or the transfer of rights to others
1899 relating to the airport, including revenue received:

1900 (I) for the right to conduct an activity on the airport or to use or occupy airport
1901 property;

1902 (II) for the sale, transfer, or disposition of airport real or personal property, or any
1903 interest in that property, including transfer through a condemnation proceeding;

1904 (III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural
1905 products or water owned by the airport operator to be taken from the airport; and

1906 (IV) for the right to conduct an activity on, or for the use or disposition of, real or
1907 personal property or any interest in real or personal property owned or controlled by the airport
1908 operator and used for an airport-related purpose but not located on the airport;

1909 (C) revenue received from activities conducted by the airport operator whether on or
1910 off the airport, which is directly connected to the airport operator's ownership or operation of
1911 the airport; and

1912 (ii) state and local taxes on aviation fuel.

1913 (b) "Airport revenue" does not include amounts received by an airport operator as
1914 passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

1915 ~~[(8)]~~ (10) "Air school" means any person engaged in giving, offering to give, or
1916 advertising, representing, or holding himself out as giving, with or without compensation or

1917 other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these
1918 subjects.

1919 ~~[(9)]~~ (11) "Airworthiness" means conformity with requirements prescribed by the
1920 Federal Aviation Administration regarding the structure or functioning of aircraft, engine,
1921 parts, or accessories.

1922 ~~[(10)]~~ (12) "Antique aircraft" means a civil aircraft that is:

- 1923 (a) 30 years old or older, calculated as to include the current year;
1924 (b) primarily a collector's item and used solely for recreational or display purposes;
1925 (c) not used for daily or regular transportation; and
1926 (d) not used for commercial operations.

1927 ~~[(11)]~~ (13) "Civil aircraft" means any aircraft other than a public aircraft.

1928 ~~[(12)]~~ (14) "Commercial aircraft" means aircraft used for commercial purposes.

1929 ~~[(13)]~~ (15) "Commercial airport" means a landing area, landing strip, or airport that
1930 may be used for commercial operations.

1931 ~~[(14)]~~ (16) "Commercial flight operator" means a person who conducts commercial
1932 operations.

1933 ~~[(15)]~~ (17) "Commercial operations" means:

1934 (a) any operations of an aircraft for compensation or hire or any services performed
1935 incidental to the operation of any aircraft for which a fee is charged or compensation is
1936 received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of
1937 aircraft, the operation of flight or ground schools, the operation of aircraft for the application or
1938 distribution of chemicals or other substances, and the operation of aircraft for hunting and
1939 fishing; or

1940 (b) the brokering or selling of any of these services; but

1941 (c) does not include any operations of aircraft as common carriers certificated by the
1942 federal government or the services incidental to those operations.

1943 ~~[(16)]~~ (18) "Dealer" means any person who is actively engaged in the business of flying
1944 for demonstration purposes, or selling or exchanging aircraft, and who has an established place
1945 of business.

1946 ~~[(17)]~~ (19) "Division" means the Operations Division in the Department of
1947 Transportation, created in Section 72-1-204.

1948 [~~(18)~~] (20) "Experimental aircraft" means:
1949 (a) any aircraft designated by the Federal Aviation Administration or the military as
1950 experimental and used solely for the purpose of experiments, or tests regarding the structure or
1951 functioning of aircraft, engines, or their accessories; and
1952 (b) any aircraft designated by the Federal Aviation Administration as:
1953 (i) being custom or amateur built; and
1954 (ii) used for recreational, educational, or display purposes.
1955 [~~(19)~~] (21) "Flight" means any kind of locomotion by aircraft while in the air.
1956 [~~(20)~~] (22) "Flying club" means five or more persons who for neither profit nor reward
1957 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.
1958 [~~(21)~~] (23) "Glider" means an aircraft heavier than air, similar to an airplane, but
1959 without a power plant.
1960 [~~(22)~~] (24) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or
1961 overhauls aircraft, engines, or accessories.
1962 [~~(23)~~] (25) "Parachute jumper" means any person who has passed the required test for
1963 jumping with a parachute from an aircraft, and has passed an examination showing that he
1964 possesses the required physical and mental qualifications for the jumping.
1965 [~~(24)~~] (26) "Parachute rigger" means any person who has passed the required test for
1966 packing, repairing, and maintaining parachutes.
1967 [~~(25)~~] (27) "Passenger aircraft" means aircraft used for transporting persons, in
1968 addition to the pilot or crew, with or without their necessary personal belongings.
1969 [~~(26)~~] (28) "Person" means any individual, corporation, limited liability company, or
1970 association of individuals.
1971 [~~(27)~~] (29) "Pilot" means any person who operates the controls of an aircraft while
1972 in-flight.
1973 [~~(28)~~] (30) "Primary glider" means any glider that has a gliding angle of less than ten to
1974 one.
1975 [~~(29)~~] (31) "Public aircraft" means an aircraft used exclusively in the service of any
1976 government or of any political subdivision, including the government of the United States, of
1977 the District of Columbia, and of any state, territory, or insular possession of the United States,
1978 but not including any government-owned aircraft engaged in carrying persons or goods for

1979 commercial purposes.

1980 ~~[(30)]~~ (32) "Reckless flying" means the operation or piloting of any aircraft recklessly,
1981 or in a manner as to endanger the property, life, or body of any person, due regard being given
1982 to the prevailing weather conditions, field conditions, and to the territory being flown over.

1983 ~~[(31)]~~ (33) "Registration number" means the number assigned by the Federal Aviation
1984 Administration to any aircraft, whether or not the number includes a letter or letters.

1985 ~~[(32)]~~ (34) "Secondary glider" means any glider that has a gliding angle between ten to
1986 one and 16 to one, inclusive.

1987 ~~[(33)]~~ (35) "Soaring glider" means any glider that has a gliding angle of more than 16
1988 to one.

1989 Section 12. Section **72-10-215** is enacted to read:

1990 **72-10-215. Restrictions on use of airport revenue to finance a fixed guideway.**

1991 An airport operator may not use airport revenue to contribute to the cost of
1992 constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined
1993 in Section 59-12-1702.

1994 Section 13. **Repealer.**

1995 This bill repeals:

1996 Section **59-12-601, Purpose statement.**

Fiscal Note**S.B. 245 3rd Sub. (Ivory) - Funding Relating to Airports, Highways, and
Public Transit**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill will allow counties to use sales tax revenue for airport facilities. Counties of the second class may impose a sales and use tax on certain transactions to fund a County of the Second Class State Highway Project Fund and/or Local Transportation Corridor Preservation Fund. Depending upon decisions made by the respective county legislative body, sales tax revenue may increase. Some counties of the second class will be required to decrease the county option transportation tax in order to raise the revenue discussed in the bill. Should all four counties of the second class choose to impose the entire sales tax rate, revenue in FY 2010 would be \$39 million.
