



30           ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           This bill provides effective dates.

35           This bill provides for retrospective operation.

36 **Utah Code Sections Affected:**

37 AMENDS:

38           **9-4-1409**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 5

39           **59-12-103**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 5

40           **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2

41           **59-12-204**, as last amended by Laws of Utah 2006, Chapter 253

42           **59-12-1102**, as last amended by Laws of Utah 2008, Chapters 237, 382, and 384

43           **59-12-2003**, as enacted by Laws of Utah 2008, Chapter 286



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

46           Section 1. Section **9-4-1409** is amended to read:

47           **9-4-1409. Qualified Emergency Food Agencies Fund -- Expenditure of revenues.**

48           (1) As used in this section:

49           (a) "Association of governments" means the following created under the authority of

50 Title 11, Chapter 13, Interlocal Cooperation Act:

51           (i) an association of governments; or

52           (ii) a regional council that acts as an association of governments.

53           ~~[(b) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code,~~  
54 ~~and defined in Section 1(f)(5), Internal Revenue Code.]~~

55           ~~[(c)]~~ (b) "Food and food ingredients" is as defined in Section 59-12-102.

56           ~~[(d)]~~ (c) "Pounds of food donated" means the aggregate number of pounds of food and  
57 food ingredients that are donated:

58 (i) to a qualified emergency food agency; and  
59 (ii) by a person, other than an organization that as part of its activities operates a  
60 program that has as the program's primary purpose to:  
61 (A) warehouse and distribute food to other agencies and organizations providing food  
62 and food ingredients to low-income persons; or  
63 (B) provide food and food ingredients directly to low-income persons.  
64 ~~(c)~~ (d) "Qualified emergency food agency" means an organization that:  
65 (i) is:  
66 (A) exempt from federal income taxation under Section 501(c)(3), Internal Revenue  
67 Code; or  
68 (B) an association of governments;  
69 (ii) as part of its activities operates a program that has as the program's primary  
70 purpose to:  
71 (A) warehouse and distribute food to other agencies and organizations providing food  
72 and food ingredients to low-income persons; or  
73 (B) provide food and food ingredients directly to low-income persons; and  
74 (iii) the office determines to be a qualified emergency food agency.  
75 (2) There is created a restricted special revenue fund known as the Qualified  
76 Emergency Food Agencies Fund.  
77 (3) (a) The Qualified Emergency Food Agencies Fund shall be funded by the [state]  
78 sales and use tax revenues described in:  
79 (i) Section 59-12-103[-];  
80 (ii) Section 59-12-204; and  
81 (iii) Section 59-12-1102.  
82 (b) Any interest earned on the Qualified Emergency Food Agencies Fund shall be  
83 deposited into the General Fund.  
84 (4) The office shall for a fiscal year distribute monies deposited into the Qualified  
85 Emergency Food Agencies Fund to qualified emergency food agencies within the state as

86 provided in this section.

87 (5) A qualified emergency food agency shall file an application with the office before  
88 the qualified emergency food agency may receive a distribution under this section.

89 (6) Except as provided in Subsection (7), the office shall for a fiscal year distribute to  
90 a qualified emergency food agency an amount equal to the product of:

91 (a) the pounds of food donated to the qualified emergency food agency during that  
92 fiscal year; and

93 (b) \$.12.

94 (7) If the monies deposited into the Qualified Emergency Food Agencies Fund are  
95 insufficient to make the distributions required by Subsection (6), the office shall make  
96 distributions to qualified emergency food agencies in the order that the office receives  
97 applications from the qualified emergency food agencies until all of the monies deposited into  
98 the Qualified Emergency Food Agencies Fund for the fiscal year are expended.

99 (8) A qualified emergency food agency may expend a distribution received in  
100 accordance with this section only for a purpose related to:

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

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

104 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
105 the Division of Housing and Community Development may make rules providing procedures  
106 for implementing the distributions required by this section, including:

107 (a) standards for determining and verifying the amount of a distribution that a  
108 qualified emergency food agency may receive;

109 (b) procedures for a qualified emergency food agency to apply for a distribution,  
110 including the frequency with which a qualified emergency food agency may apply for a  
111 distribution; and

112 (c) consistent with Subsection (1)(e), determining whether an entity is a qualified  
113 emergency food agency.

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

115 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and**  
116 **use tax revenues.**

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

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

120 (b) amounts paid for:

121 (i) telecommunications service, other than mobile telecommunications service, that  
122 originates and terminates within the boundaries of this state;

123 (ii) mobile telecommunications service that originates and terminates within the  
124 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
125 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

126 (iii) an ancillary service associated with a:

127 (A) telecommunications service described in Subsection (1)(b)(i); or

128 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

129 (c) sales of the following for commercial use:

130 (i) gas;

131 (ii) electricity;

132 (iii) heat;

133 (iv) coal;

134 (v) fuel oil; or

135 (vi) other fuels;

136 (d) sales of the following for residential use:

137 (i) gas;

138 (ii) electricity;

139 (iii) heat;

140 (iv) coal;

141 (v) fuel oil; or

- 142 (vi) other fuels;
- 143 (e) sales of prepared food;
- 144 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 145 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 146 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 147 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed
- 148 circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf,
- 149 golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 150 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 151 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 152 exhibition, cultural, or athletic activity;
- 153 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 154 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 155 (i) the tangible personal property; and
- 156 (ii) parts used in the repairs or renovations of the tangible personal property described
- 157 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 158 of that tangible personal property;
- 159 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 160 assisted cleaning or washing of tangible personal property;
- 161 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 162 accommodations and services that are regularly rented for less than 30 consecutive days;
- 163 (j) amounts paid or charged for laundry or dry cleaning services;
- 164 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 165 this state the tangible personal property is:
- 166 (i) stored;
- 167 (ii) used; or
- 168 (iii) otherwise consumed;
- 169 (l) amounts paid or charged for tangible personal property if within this state the

170 tangible personal property is:

171 (i) stored;

172 (ii) used; or

173 (iii) consumed;

174 (m) amounts paid or charged for prepaid telephone calling cards; and

175 (n) amounts paid or charged for a sale:

176 (i) (A) of a product that:

177 (I) is transferred electronically; and

178 (II) would be subject to a tax under this chapter if the product was transferred in a

179 manner other than electronically; or

180 (B) of a repair or renovation of a product that:

181 (I) is transferred electronically; and

182 (II) would be subject to a tax under this chapter if the product was transferred in a

183 manner other than electronically; and

184 (ii) regardless of whether the sale provides:

185 (A) a right of permanent use of the product; or

186 (B) a right to use the product that is less than a permanent use, including a right:

187 (I) for a definite or specified length of time; and

188 (II) that terminates upon the occurrence of a condition.

189 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

190 is imposed on a transaction described in Subsection (1) equal to the sum of:

191 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

192 (A) 4.70%; and

193 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

194 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

195 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

196 State Sales and Use Tax Act; and

197 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

198 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
199 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
200 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

203 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is  
204 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

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

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

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

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

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

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

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

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

219 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
220 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
221 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
222 Additional State Sales and Use Tax Act; and

223 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
224 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
225 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in

226 which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

235 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
236 personal property, product, or service that is not subject to taxation under this chapter from the  
237 books and records the seller keeps in the seller's regular course of business; or

238 (II) state or federal law provides otherwise; or

239 (B) if the sales price of a bundled transaction is attributable to two or more items of  
240 tangible personal property, products, or services that are subject to taxation under this chapter  
241 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
242 higher tax rate unless:

243 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
244 personal property, product, or service that is subject to taxation under this chapter at the lower  
245 tax rate from the books and records the seller keeps in the seller's regular course of business; or

246 (II) state or federal law provides otherwise.

247 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the  
248 seller's regular course of business includes books and records the seller keeps in the regular  
249 course of business for nontax purposes.

250 (e) Subject to Subsections (2) (f) and (g), a tax rate repeal or tax rate change for a tax  
251 rate imposed under the following shall take effect on the first day of a calendar quarter:

252 (i) Subsection (2)(a)(i)(A);

253 (ii) Subsection (2)(b)(i);

254 (iii) Subsection (2)(c)(i); or  
255 (iv) Subsection (2)(d)(i)(A)(I).  
256 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that  
257 begins after the effective date of the tax rate increase if the billing period for the transaction  
258 begins before the effective date of a tax rate increase imposed under:  
259 (A) Subsection (2)(a)(i)(A);  
260 (B) Subsection (2)(b)(i);  
261 (C) Subsection (2)(c)(i); or  
262 (D) Subsection (2)(d)(i)(A)(I).  
263 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
264 billing period that began before the effective date of the repeal of the tax or the tax rate  
265 decrease if the billing period for the transaction begins before the effective date of the repeal  
266 of the tax or the tax rate decrease imposed under:  
267 (A) Subsection (2)(a)(i)(A);  
268 (B) Subsection (2)(b)(i);  
269 (C) Subsection (2)(c)(i); or  
270 (D) Subsection (2)(d)(i)(A)(I).  
271 (g) (i) For a tax rate described in Subsection (2) (g)(ii), if a tax due on a catalogue sale  
272 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
273 or change in a tax rate takes effect:  
274 (A) on the first day of a calendar quarter; and  
275 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.  
276 (ii) Subsection (2) (g)(i) applies to the tax rates described in the following:  
277 (A) Subsection (2)(a)(i)(A);  
278 (B) Subsection (2)(b)(i);  
279 (C) Subsection (2)(c)(i); or  
280 (D) Subsection (2)(d)(i)(A)(I).  
281 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

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

283 (3) (a) The following state taxes shall be deposited into the General Fund:

284 (i) the tax imposed by Subsection (2)(a)(i)(A);

285 (ii) the tax imposed by Subsection (2)(b)(i);

286 (iii) the tax imposed by Subsection (2)(c)(i); or

287 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

288 (b) The following local taxes shall be distributed to a county, city, or town as provided  
289 in this chapter:

290 (i) the tax imposed by Subsection (2)(a)(ii);

291 (ii) the tax imposed by Subsection (2)(b)(ii);

292 (iii) the tax imposed by Subsection (2)(c)(ii); and

293 (iv) the tax imposed by Subsection (2)(d)(i)(B).

294 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July  
295 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
296 through (g):

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

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

299 (B) for the fiscal year; or

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

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

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

306 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
307 act, to political subdivisions of the state to implement the measures described in Subsections  
308 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

309 (ii) Money transferred to the Department of Natural Resources under Subsection

310 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
311 person to list or attempt to have listed a species as threatened or endangered under the  
312 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

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

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

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

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

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

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

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

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

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

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

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

337 (ii) In addition to the uses allowed of the Water Resources Conservation and

338 Development Fund under Section 73-10-24, the Water Resources Conservation and  
339 Development Fund may also be used to:

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

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

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

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

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

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

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

357 (iii) develop surface water sources.

358 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July  
359 1, 2006, the difference between the following amounts shall be expended as provided in this  
360 Subsection (5), if that difference is greater than \$1:

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

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

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

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

366 credits; and

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

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

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

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

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

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

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

385 (i) preconstruction costs:

386 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
387 26, Bear River Development Act; and

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

390 (ii) the cost of employing a civil engineer to oversee any project authorized by Title  
391 73, Chapter 26, Bear River Development Act;

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

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

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

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

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

405 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
406 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a  
407 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be  
408 deposited in the Transportation Fund created by Section 72-2-102.

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

414 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
415 have been paid off and the highway projects completed that are intended to be paid from  
416 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
417 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
418 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
419 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
420 by a 1/64% tax rate on the taxable transactions under Subsection (1).

421 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in

422 Subsection (7)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after  
423 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund  
424 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
425 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a  
426 portion of the approximately 17% of sales and use tax revenues generated annually by the  
427 sales and use tax on vehicles and vehicle-related products:

- 428 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 429 (ii) the tax imposed by Subsection (2)(b)(i);
- 430 (iii) the tax imposed by Subsection (2)(c)(i); and
- 431 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

432 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
433 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
434 highway projects completed that are intended to be paid from revenues deposited in the  
435 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
436 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
437 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
438 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following  
439 taxes, which represents a portion of the approximately 17% of sales and use tax revenues  
440 generated annually by the sales and use tax on vehicles and vehicle-related products:

- 441 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 442 (ii) the tax imposed by Subsection (2)(b)(i);
- 443 (iii) the tax imposed by Subsection (2)(c)(i); and
- 444 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

448 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
449 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit

450 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
451 Critical Highway Needs Fund created by Section 72-2-125.

452 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
453 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
454 have been paid off and the highway projects completed that are included in the prioritized  
455 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
456 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
457 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
458 of 2005 created by Section 72-2-124.

459 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
460 [~~2008-09, \$915,000~~] 2009-10, \$533,750 shall be deposited into the Qualified Emergency  
461 Food Agencies Fund created by Section 9-4-1409 and expended as provided in Section  
462 9-4-1409.

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

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

473 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),  
474 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the  
475 general obligation bonds authorized by Section 63B-16-101 have been paid off and the  
476 highway projects completed that are included in the prioritized project list under Subsection  
477 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of

478 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
479 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions  
480 described in Subsection (1).

481 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into  
482 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
483 charged for food and food ingredients, except for tax revenue generated by a bundled  
484 transaction attributable to food and food ingredients and tangible personal property other than  
485 food and food ingredients described in Subsection (2)(e).

486 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
487 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
488 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
489 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
490 chokepoints in construction management.

491 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
492 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
493 food ingredients, except for tax revenue generated by a bundled transaction attributable to  
494 food and food ingredients and tangible personal property other than food and food ingredients  
495 described in Subsection (2)(e).

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

497 **59-12-104. Exemptions.**

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

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

501 (2) sales to the state, its institutions, and its political subdivisions; however, this  
502 exemption does not apply to sales of:

503 (a) construction materials except:

504 (i) construction materials purchased by or on behalf of institutions of the public  
505 education system as defined in Utah Constitution Article X, Section 2, provided the

506 construction materials are clearly identified and segregated and installed or converted to real  
507 property which is owned by institutions of the public education system; and

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

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

514 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

515 (i) the proceeds of each sale do not exceed \$1; and

516 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
517 the cost of the item described in Subsection (3)(b) as goods consumed; and

518 (b) Subsection (3)(a) applies to:

519 (i) food and food ingredients; or

520 (ii) prepared food;

521 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

522 (i) alcoholic beverages;

523 [~~a~~] (ii) food and food ingredients; or

524 [~~b~~] (iii) prepared food; [or]

525 (b) sales of tangible personal property or a product transferred electronically:

526 (i) to a passenger;

527 (ii) by a commercial airline carrier; and

528 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

529 (c) services related to Subsection (4)(a) or (b);

530 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of  
531 parts and equipment:

532 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
533 North American Industry Classification System of the federal Executive Office of the

534 President, Office of Management and Budget; and  
535 (II) for:  
536 (Aa) installation in an aircraft, including services relating to the installation of parts or  
537 equipment in the aircraft;  
538 (Bb) renovation of an aircraft; or  
539 (Cc) repair of an aircraft; or  
540 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
541 commerce; or  
542 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
543 aircraft operated by a common carrier in interstate or foreign commerce; and  
544 (b) notwithstanding the time period of Subsection 59-12-110(2) for filing for a refund,  
545 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
546 refund:  
547 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;  
548 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;  
549 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
550 the sale prior to filing for the refund;  
551 (iv) for sales and use taxes paid under this chapter on the sale;  
552 (v) in accordance with Section 59-12-110; and  
553 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,  
554 if the person files for the refund on or before September 30, 2011;  
555 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
556 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
557 exhibitor, distributor, or commercial television or radio broadcaster;  
558 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
559 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
560 washing of tangible personal property;  
561 (b) if a seller that sells at the same business location assisted cleaning or washing of

562 tangible personal property and cleaning or washing of tangible personal property that is not  
563 assisted cleaning or washing of tangible personal property, the exemption described in  
564 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
565 or washing of the tangible personal property; and

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

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

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

572 (8) sales made to or by religious or charitable institutions in the conduct of their  
573 regular religious or charitable functions and activities, if the requirements of Section  
574 59-12-104.1 are fulfilled;

575 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws  
576 of this state if the vehicle is:

577 (a) not registered in this state; and

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

579 (ii) used in this state:

580 (A) if the vehicle is not used to conduct business, for a time period that does not  
581 exceed the longer of:

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

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

584 (B) if the vehicle is used to conduct business, for the time period necessary to  
585 transport the vehicle to the borders of this state;

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

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

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

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

590 (b) (i) Subsection (10)(a) applies to:  
591 (A) a drug;  
592 (B) a syringe; or  
593 (C) a stoma supply; and  
594 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
595 the commission may by rule define the terms:  
596 (A) "syringe"; or  
597 (B) "stoma supply";  
598 (11) sales or use of property, materials, or services used in the construction of or  
599 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;  
600 (12) (a) sales of an item described in Subsection (12)(c) served by:  
601 (i) the following if the item described in Subsection (12)(c) is not available to the  
602 general public:  
603 (A) a church; or  
604 (B) a charitable institution;  
605 (ii) an institution of higher education if:  
606 (A) the item described in Subsection (12)(c) is not available to the general public; or  
607 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
608 offered by the institution of higher education; or  
609 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
610 (i) a medical facility; or  
611 (ii) a nursing facility; and  
612 (c) Subsections (12)(a) and (b) apply to:  
613 (i) food and food ingredients;  
614 (ii) prepared food; or  
615 (iii) alcoholic beverages;  
616 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal  
617 property or a product transferred electronically by a person:

618 (i) regardless of the number of transactions involving the sale of that tangible personal  
619 property or product transferred electronically by that person; and

620 (ii) not regularly engaged in the business of selling that type of tangible personal  
621 property or product transferred electronically;

622 (b) this Subsection (13) does not apply if:

623 (i) the sale is one of a series of sales of a character to indicate that the person is  
624 regularly engaged in the business of selling that type of tangible personal property or product  
625 transferred electronically;

626 (ii) the person holds that person out as regularly engaged in the business of selling that  
627 type of tangible personal property or product transferred electronically;

628 (iii) the person sells an item of tangible personal property or product transferred  
629 electronically that the person purchased as a sale that is exempt under Subsection (25); or

630 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
631 this state in which case the tax is based upon:

632 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
633 sold; or

634 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
635 value of the vehicle or vessel being sold at the time of the sale as determined by the  
636 commission; and

637 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
638 commission shall make rules establishing the circumstances under which:

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

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

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

646 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
647 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration  
648 facility, for the following:

649 (i) machinery and equipment that:

650 (A) is used:

651 (I) for a manufacturing facility other than a manufacturing facility that is a scrap  
652 recycler described in Subsection 59-12-102 (52)(b):

653 (Aa) in the manufacturing process; and

654 (Bb) to manufacture an item sold as tangible personal property; or

655 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
656 59-12-102 (52)(b), to process an item sold as tangible personal property; and

657 (B) has an economic life of three or more years; and

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

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

660 (B) are used:

661 (I) for a manufacturing facility in the state other than a manufacturing facility that is a  
662 scrap recycler described in Subsection 59-12-102 (52)(b), in the manufacturing process; or

663 (II) for a manufacturing facility in the state that is a scrap recycler described in  
664 Subsection 59-12-102 (52)(b), to process an item sold as tangible personal property;

665 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
666 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
667 for the following:

668 (A) machinery and equipment that:

669 (I) is used:

670 (Aa) in the manufacturing process; and

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

672 (II) has an economic life of three or more years; and

673 (B) normal operating repair or replacement parts that:

674 (I) are used in the manufacturing process in a manufacturing facility in the state; and

675 (II) have an economic life of three or more years; and

676 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,

677 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may

678 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

679 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;

680 and

681 (B) in accordance with Section 59-12-110;

682 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

683 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

684 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

685 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

686 of the 2002 North American Industry Classification System of the federal Executive Office of

687 the President, Office of Management and Budget:

688 (i) machinery and equipment that:

689 (A) are used in:

690 (I) the production process, other than the production of real property; or

691 (II) research and development; and

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

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

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

695 (B) are used in:

696 (I) the production process, other than the production of real property, in an

697 establishment described in this Subsection (14)(c) in the state; or

698 (II) research and development in an establishment described in this Subsection (14)(c)

699 in the state;

700 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

701 Utah Administrative Rulemaking Act, the commission:

702 (i) shall by rule define the term "establishment"; and  
703 (ii) may by rule define what constitutes:  
704 (A) processing an item sold as tangible personal property;  
705 (B) the production process, other than the production of real property; or  
706 (C) research and development; and  
707 (e) on or before October 1, 2011, and every five years after October 1, 2011, the  
708 commission shall:  
709 (i) review the exemptions described in this Subsection (14) and make  
710 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
711 exemptions should be continued, modified, or repealed; and  
712 (ii) include in its report:  
713 (A) the cost of the exemptions;  
714 (B) the purpose and effectiveness of the exemptions; and  
715 (C) the benefits of the exemptions to the state;  
716 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:  
717 (i) tooling;  
718 (ii) special tooling;  
719 (iii) support equipment;  
720 (iv) special test equipment; or  
721 (v) parts used in the repairs or renovations of tooling or equipment described in  
722 Subsections (15)(a)(i) through (iv); and  
723 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:  
724 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
725 performance of any aerospace or electronics industry contract with the United States  
726 government or any subcontract under that contract; and  
727 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
728 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
729 by:

730 (A) a government identification tag placed on the tooling, equipment, or parts; or

731 (B) listing on a government-approved property record if placing a government

732 identification tag on the tooling, equipment, or parts is impractical;

733 (16) sales of newspapers or newspaper subscriptions;

734 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

735 product transferred electronically traded in as full or part payment of the purchase price,

736 except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle

737 dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

738 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

739 vehicle being traded in; or

740 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

741 fair market value of the vehicle being sold and the vehicle being traded in, as determined by

742 the commission; and

743 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the

744 following items of tangible personal property or products transferred electronically traded in as

745 full or part payment of the purchase price:

746 (i) money;

747 (ii) electricity;

748 (iii) water;

749 (iv) gas; or

750 (v) steam;

751 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal

752 property or a product transferred electronically used or consumed primarily and directly in

753 farming operations, regardless of whether the tangible personal property or product transferred

754 electronically:

755 (A) becomes part of real estate; or

756 (B) is installed by a:

757 (I) farmer;

758 (II) contractor; or  
759 (III) subcontractor; or  
760 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
761 product transferred electronically if the tangible personal property or product transferred  
762 electronically is exempt under Subsection (18)(a)(i); and  
763 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are  
764 subject to the taxes imposed by this chapter:  
765 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
766 incidental to farming:  
767 (I) machinery;  
768 (II) equipment;  
769 (III) materials; or  
770 (IV) supplies; and  
771 (B) tangible personal property that is considered to be used in a manner that is  
772 incidental to farming includes:  
773 (I) hand tools; or  
774 (II) maintenance and janitorial equipment and supplies;  
775 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
776 transferred electronically if the tangible personal property or product transferred electronically  
777 is used in an activity other than farming; and  
778 (B) tangible personal property or a product transferred electronically that is considered  
779 to be used in an activity other than farming includes:  
780 (I) office equipment and supplies; or  
781 (II) equipment and supplies used in:  
782 (Aa) the sale or distribution of farm products;  
783 (Bb) research; or  
784 (Cc) transportation; or  
785 (iii) a vehicle required to be registered by the laws of this state during the period

786 ending two years after the date of the vehicle's purchase;  
787 (19) sales of hay;  
788 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
789 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
790 garden, farm, or other agricultural produce is sold by:  
791 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
792 agricultural produce;  
793 (b) an employee of the producer described in Subsection (20)(a); or  
794 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
795 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
796 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

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

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

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

803 (i) the product is:

804 (A) purchased outside of this state;

805 (B) brought into this state:

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

809 (C) used for the personal use or enjoyment of the nonresident person described in  
810 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and  
811 (D) not used in conducting business in this state; and

812 (ii) for:

813 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

814 the product for a purpose for which the product is designed occurs outside of this state;

815 (B) a boat, the boat is registered outside of this state; or

816 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
817 outside of this state;

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

819 (i) a lease or rental of a product; or

820 (ii) a sale of a vehicle exempt under Subsection (33); and

821 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
822 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
823 following:

824 (i) conducting business in this state if that phrase has the same meaning in this  
825 Subsection (24) as in Subsection (64);

826 (ii) the first use of a product if that phrase has the same meaning in this Subsection  
827 (24) as in Subsection (64); or

828 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
829 this Subsection (24) as in Subsection (64);

830 (25) a product purchased for resale in this state, in the regular course of business, either  
831 in its original form or as an ingredient or component part of a manufactured or compounded  
832 product;

833 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
834 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
835 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
836 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
837 Act;

838 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
839 person for use in compounding a service taxable under the subsections;

840 (28) purchases made in accordance with the special supplemental nutrition program  
841 for women, infants, and children established in 42 U.S.C. Sec. 1786;

842 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
843 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or  
844 ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial  
845 Classification Manual of the federal Executive Office of the President, Office of Management  
846 and Budget;

847 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
848 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

849 (a) not registered in this state; and

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

851 (ii) used in this state:

852 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
853 time period that does not exceed the longer of:

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

855 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
856 the borders of this state; or

857 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
858 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
859 state;

860 (31) sales of aircraft manufactured in Utah;

861 (32) amounts paid for the purchase of telecommunications service for purposes of  
862 providing telecommunications service;

863 (33) sales, leases, or uses of the following:

864 (a) a vehicle by an authorized carrier; or

865 (b) tangible personal property that is installed on a vehicle:

866 (i) sold or leased to or used by an authorized carrier; and

867 (ii) before the vehicle is placed in service for the first time;

868 (34) (a) 45% of the sales price of any new manufactured home; and

869 (b) 100% of the sales price of any used manufactured home;

870 (35) sales relating to schools and fundraising sales;

871 (36) sales or rentals of durable medical equipment if:

872 (a) a person presents a prescription for the durable medical equipment; and

873 (b) the durable medical equipment is used for home use only;

874 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

875 Section 72-11-102; and

876 (b) the commission shall by rule determine the method for calculating sales exempt

877 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

878 (38) sales to a ski resort of:

879 (a) snowmaking equipment;

880 (b) ski slope grooming equipment;

881 (c) passenger ropeways as defined in Section 72-11-102; or

882 (d) parts used in the repairs or renovations of equipment or passenger ropeways

883 described in Subsections (38)(a) through (c);

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

885 use;

886 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

887 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

888 59-12-102;

889 (b) if a seller that sells or rents at the same business location the right to use or operate

890 for amusement, entertainment, or recreation one or more unassisted amusement devices and

891 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

892 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

893 amusement, entertainment, or recreation for the assisted amusement devices; and

894 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

895 Utah Administrative Rulemaking Act, the commission may make rules:

896 (i) governing the circumstances under which sales are at the same business location;

897 and

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

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

902 (i) a governmental entity; or

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

904 (A) a school; or

905 (B) the State Board of Education; or

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

907 (42) amounts paid for admission to an athletic event at an institution of higher  
908 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
909 20 U.S.C. Sec. 1681 et seq.;

910 (43) sales of telecommunications service charged to a prepaid telephone calling card;

911 (44) (a) sales made to or by:

912 (i) an area agency on aging; or

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

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

915 (45) sales or leases of semiconductor fabricating, processing, research, or development  
916 materials regardless of whether the semiconductor fabricating, processing, research, or  
917 development materials:

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

919 (b) ultimately become incorporated into real property;

920 (46) an amount paid by or charged to a purchaser for accommodations and services  
921 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
922 59-12-104.2;

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

- 926 (48) sales or uses of electricity, if the sales or uses are:
- 927 (a) made under a tariff adopted by the Public Service Commission of Utah only for
- 928 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
- 929 source, as designated in the tariff by the Public Service Commission of Utah; and
- 930 (b) for an amount of electricity that is:
- 931 (i) unrelated to the amount of electricity used by the person purchasing the electricity
- 932 under the tariff described in Subsection (48)(a); and
- 933 (ii) equivalent to the number of kilowatthours specified in the tariff described in
- 934 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);
- 935 (49) sales or rentals of mobility enhancing equipment if a person presents a
- 936 prescription for the mobility enhancing equipment;
- 937 (50) sales of water in a:
- 938 (a) pipe;
- 939 (b) conduit;
- 940 (c) ditch; or
- 941 (d) reservoir;
- 942 (51) sales of currency or coinage that constitute legal tender of the United States or of
- 943 a foreign nation;
- 944 (52) (a) sales of an item described in Subsection (52)(b) if the item:
- 945 (i) does not constitute legal tender of any nation; and
- 946 (ii) has a gold, silver, or platinum content of 80% or more; and
- 947 (b) Subsection (52)(a) applies to a gold, silver, or platinum:
- 948 (i) ingot;
- 949 (ii) bar;
- 950 (iii) medallion; or
- 951 (iv) decorative coin;
- 952 (53) amounts paid on a sale-leaseback transaction;
- 953 (54) sales of a prosthetic device;

954 (a) for use on or in a human; and  
955 (b) (i) for which a prescription is required; or  
956 (ii) if the prosthetic device is purchased by a hospital or other medical facility;  
957 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of  
958 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery  
959 or equipment is primarily used in the production or postproduction of the following media for  
960 commercial distribution:  
961 (i) a motion picture;  
962 (ii) a television program;  
963 (iii) a movie made for television;  
964 (iv) a music video;  
965 (v) a commercial;  
966 (vi) a documentary; or  
967 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the  
968 commission by administrative rule made in accordance with Subsection (55)(d); or  
969 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or  
970 equipment by an establishment described in Subsection (55)(c) that is used for the production  
971 or postproduction of the following are subject to the taxes imposed by this chapter:  
972 (i) a live musical performance;  
973 (ii) a live news program; or  
974 (iii) a live sporting event;  
975 (c) the following establishments listed in the 1997 North American Industry  
976 Classification System of the federal Executive Office of the President, Office of Management  
977 and Budget, apply to Subsections (55)(a) and (b):  
978 (i) NAICS Code 512110; or  
979 (ii) NAICS Code 51219; and  
980 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
981 the commission may by rule:

982 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);

983 or

984 (ii) define:

985 (A) "commercial distribution";

986 (B) "live musical performance";

987 (C) "live news program"; or

988 (D) "live sporting event";

989 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but

990 on or before June 30, 2019, of machinery or equipment that:

991 (i) is leased or purchased for or by a facility that:

992 (A) is a renewable energy production facility;

993 (B) is located in the state; and

994 (C) (I) becomes operational on or after July 1, 2004; or

995 (II) has its generation capacity increased by one or more megawatts on or after July 1,

996 2004 as a result of the use of the machinery or equipment;

997 (ii) has an economic life of five or more years; and

998 (iii) is used to make the facility or the increase in capacity of the facility described in

999 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

1000 transmission grid including:

1001 (A) a wind turbine;

1002 (B) generating equipment;

1003 (C) a control and monitoring system;

1004 (D) a power line;

1005 (E) substation equipment;

1006 (F) lighting;

1007 (G) fencing;

1008 (H) pipes; or

1009 (I) other equipment used for locating a power line or pole; and

1010 (b) this Subsection (56) does not apply to:

1011 (i) machinery or equipment used in construction of:

1012 (A) a new renewable energy production facility; or

1013 (B) the increase in the capacity of a renewable energy production facility;

1014 (ii) contracted services required for construction and routine maintenance activities;

1015 and

1016 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1017 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or

1018 acquired after:

1019 (A) the renewable energy production facility described in Subsection (56)(a)(i) is

1020 operational as described in Subsection (56)(a)(iii); or

1021 (B) the increased capacity described in Subsection (56)(a)(i) is operational as

1022 described in Subsection (56)(a)(iii);

1023 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but

1024 on or before June 30, 2019, of machinery or equipment that:

1025 (i) is leased or purchased for or by a facility that:

1026 (A) is a waste energy production facility;

1027 (B) is located in the state; and

1028 (C) (I) becomes operational on or after July 1, 2004; or

1029 (II) has its generation capacity increased by one or more megawatts on or after July 1,

1030 2004 as a result of the use of the machinery or equipment;

1031 (ii) has an economic life of five or more years; and

1032 (iii) is used to make the facility or the increase in capacity of the facility described in

1033 Subsection (57)(a)(i) operational up to the point of interconnection with an existing

1034 transmission grid including:

1035 (A) generating equipment;

1036 (B) a control and monitoring system;

1037 (C) a power line;

- 1038 (D) substation equipment;
- 1039 (E) lighting;
- 1040 (F) fencing;
- 1041 (G) pipes; or
- 1042 (H) other equipment used for locating a power line or pole; and
- 1043 (b) this Subsection (57) does not apply to:
- 1044 (i) machinery or equipment used in construction of:
- 1045 (A) a new waste energy facility; or
- 1046 (B) the increase in the capacity of a waste energy facility;
- 1047 (ii) contracted services required for construction and routine maintenance activities;
- 1048 and
- 1049 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1050 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 1051 (A) the waste energy facility described in Subsection (57)(a)(i) is operational as
- 1052 described in Subsection (57)(a)(iii); or
- 1053 (B) the increased capacity described in Subsection (57)(a)(i) is operational as
- 1054 described in Subsection (57)(a)(iii);
- 1055 (58) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 1056 or before June 30, 2019, of machinery or equipment that:
- 1057 (i) is leased or purchased for or by a facility that:
- 1058 (A) is located in the state;
- 1059 (B) produces fuel from biomass energy including:
- 1060 (I) methanol; or
- 1061 (II) ethanol; and
- 1062 (C) (I) becomes operational on or after July 1, 2004; or
- 1063 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004
- 1064 as a result of the installation of the machinery or equipment;
- 1065 (ii) has an economic life of five or more years; and

- 1066 (iii) is installed on the facility described in Subsection (58)(a)(i);
- 1067 (b) this Subsection (58) does not apply to:
- 1068 (i) machinery or equipment used in construction of:
- 1069 (A) a new facility described in Subsection (58)(a)(i); or
- 1070 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or
- 1071 (ii) contracted services required for construction and routine maintenance activities;
- 1072 and
- 1073 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1074 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 1075 (A) the facility described in Subsection (58)(a)(i) is operational; or
- 1076 (B) the increased capacity described in Subsection (58)(a)(i) is operational;
- 1077 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a
- 1078 product transferred electronically to a person within this state if that tangible personal property
- 1079 or product transferred electronically is subsequently shipped outside the state and incorporated
- 1080 pursuant to contract into and becomes a part of real property located outside of this state;
- 1081 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other
- 1082 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 1083 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 1084 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 1085 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a
- 1086 refund, a person may claim the exemption allowed by this Subsection (59) for a sale by filing
- 1087 for a refund:
- 1088 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 1089 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on
- 1090 which the sale is made;
- 1091 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the
- 1092 sale prior to filing for the refund;
- 1093 (iv) for sales and use taxes paid under this chapter on the sale;

1094 (v) in accordance with Section 59-12-110; and  
1095 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,  
1096 if the person files for the refund on or before June 30, 2011;  
1097 (60) purchases:  
1098 (a) of one or more of the following items in printed or electronic format:  
1099 (i) a list containing information that includes one or more:  
1100 (A) names; or  
1101 (B) addresses; or  
1102 (ii) a database containing information that includes one or more:  
1103 (A) names; or  
1104 (B) addresses; and  
1105 (b) used to send direct mail;  
1106 (61) redemptions or repurchases of a product by a person if that product was:  
1107 (a) delivered to a pawnbroker as part of a pawn transaction; and  
1108 (b) redeemed or repurchased within the time period established in a written agreement  
1109 between the person and the pawnbroker for redeeming or repurchasing the product;  
1110 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:  
1111 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;  
1112 and  
1113 (ii) has a useful economic life of one or more years; and  
1114 (b) the following apply to Subsection (62)(a):  
1115 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
1116 (ii) telecommunications equipment, machinery, or software required for 911 service;  
1117 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
1118 (iv) telecommunications switching or routing equipment, machinery, or software; or  
1119 (v) telecommunications transmission equipment, machinery, or software;  
1120 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of  
1121 tangible personal property or a product transferred electronically that are used in the research

1122 and development of coal-to-liquids, oil shale, or tar sands technology; and  
1123 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1124 the commission may, for purposes of Subsection (63)(a), make rules defining what constitutes  
1125 purchases of tangible personal property or a product transferred electronically that are used in  
1126 the research and development of coal-to-liquids, oil shale, and tar sands technology;  
1127 (64) (a) purchases of tangible personal property or a product transferred electronically  
1128 if:  
1129 (i) the tangible personal property or product transferred electronically is:  
1130 (A) purchased outside of this state;  
1131 (B) brought into this state at any time after the purchase described in Subsection  
1132 (64)(a)(i)(A); and  
1133 (C) used in conducting business in this state; and  
1134 (ii) for:  
1135 (A) tangible personal property or a product transferred electronically other than the  
1136 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property  
1137 for a purpose for which the property is designed occurs outside of this state; or  
1138 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1139 outside of this state;  
1140 (b) the exemption provided for in Subsection (64)(a) does not apply to:  
1141 (i) a lease or rental of tangible personal property or a product transferred  
1142 electronically; or  
1143 (ii) a sale of a vehicle exempt under Subsection (33); and  
1144 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1145 purposes of Subsection (64)(a), the commission may by rule define what constitutes the  
1146 following:  
1147 (i) conducting business in this state if that phrase has the same meaning in this  
1148 Subsection (64) as in Subsection (24);  
1149 (ii) the first use of tangible personal property or a product transferred electronically if

1150 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or  
1151 (iii) a purpose for which tangible personal property or a product transferred  
1152 electronically is designed if that phrase has the same meaning in this Subsection (64) as in  
1153 Subsection (24);  
1154 (65) sales of disposable home medical equipment or supplies if:  
1155 (a) a person presents a prescription for the disposable home medical equipment or  
1156 supplies;  
1157 (b) the disposable home medical equipment or supplies are used exclusively by the  
1158 person to whom the prescription described in Subsection (65)(a) is issued; and  
1159 (c) the disposable home medical equipment and supplies are listed as eligible for  
1160 payment under:  
1161 (i) Title XVIII, federal Social Security Act; or  
1162 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
1163 (66) sales:  
1164 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
1165 District Act; or  
1166 (b) of tangible personal property to a subcontractor of a public transit district, if the  
1167 tangible personal property is:  
1168 (i) clearly identified; and  
1169 (ii) installed or converted to real property owned by the public transit district;  
1170 (67) sales of construction materials:  
1171 (a) purchased on or after July 1, 2010;  
1172 (b) purchased by, on behalf of, or for the benefit of an international airport:  
1173 (i) located within a county of the first class; and  
1174 (ii) that has a United States customs office on its premises; and  
1175 (c) if the construction materials are:  
1176 (i) clearly identified;  
1177 (ii) segregated; and

1178 (iii) installed or converted to real property:  
1179 (A) owned or operated by the international airport described in Subsection (67)(b);  
1180 and  
1181 (B) located at the international airport described in Subsection (67)(b);  
1182 (68) sales of construction materials:  
1183 (a) purchased on or after July 1, 2008;  
1184 (b) purchased by, on behalf of, or for the benefit of a new airport:  
1185 (i) located within a county of the second class; and  
1186 (ii) that is owned or operated by a city in which an airline as defined in Section  
1187 59-2-102 is headquartered; and  
1188 (c) if the construction materials are:  
1189 (i) clearly identified;  
1190 (ii) segregated; and  
1191 (iii) installed or converted to real property:  
1192 (A) owned or operated by the new airport described in Subsection (68)(b);  
1193 (B) located at the new airport described in Subsection (68)(b); and  
1194 (C) as part of the construction of the new airport described in Subsection (68)(b); and  
1195 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.  
1196 Section 4. Section **59-12-204** is amended to read:  
1197 **59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of**  
1198 **tax revenues -- Commission requirement to retain an amount to be deposited into the**  
1199 **Qualified Emergency Food Agencies Fund.**  
1200 (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those  
1201 transactions listed in Subsection 59-12-103(1).  
1202 (2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a  
1203 tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including  
1204 areas contained within the cities and towns located in the county:  
1205 (i) at the rate of 1% of the purchase price paid or charged; and

1206 (ii) if the transaction is consummated within the county in accordance with Section  
1207 59-12-205.

1208 (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall  
1209 include a provision prohibiting a county, city, or town from imposing a tax under this section  
1210 on:

1211 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses  
1212 are exempt from taxation under Section 59-12-104; and

1213 (ii) any amounts paid or charged by a seller that collects a tax in accordance with  
1214 Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in the state impose the  
1215 tax under this section.

1216 (3) Such tax ordinance shall include provisions substantially the same as those  
1217 contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the  
1218 name of the county as the taxing agency shall be substituted for that of the state where  
1219 necessary for the purpose of this part and that an additional license is not required if one has  
1220 been or is issued under Section 59-12-106.

1221 (4) Such tax ordinance shall include a provision that the county shall contract, prior to  
1222 the effective date of the ordinance, with the commission to perform all functions incident to  
1223 the administration or operation of the ordinance.

1224 (5) Such tax ordinance shall include a provision that the sale, storage, use, or other  
1225 consumption of tangible personal property, the purchase price or the cost of which has been  
1226 subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this  
1227 part by any county, city, or town in any other county in this state, shall be exempt from the tax  
1228 due under this ordinance.

1229 (6) Such tax ordinance shall include a provision that any person subject to the  
1230 provisions of a city or town sales and use tax shall be exempt from the county sales and use  
1231 tax if the city or town sales and use tax is levied under an ordinance including provisions in  
1232 substance as follows:

1233 (a) a provision imposing a tax upon every transaction listed in Section 59-12-103

1234 made within the city or town at the rate imposed by the county in which it is situated pursuant  
1235 to Subsection (2);

1236 (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from  
1237 imposing a tax under this section on any amounts paid or charged by a seller that collects a tax  
1238 in accordance with Subsection 59-12-107(1)(b) unless all of the counties, cities, and towns in  
1239 the state impose a tax under this section;

1240 (c) provisions substantially the same as those contained in Part 1, Tax Collection,  
1241 insofar as they relate to sales and use taxes, except that the name of the city or town as the  
1242 taxing agency shall be substituted for that of the state where necessary for the purposes of this  
1243 part;

1244 (d) a provision that the city or town shall contract prior to the effective date of the city  
1245 or town sales and use tax ordinance with the commission to perform all functions incident to  
1246 the administration or operation of the sales and use tax ordinance of the city or town;

1247 (e) a provision that the sale, storage, use, or other consumption of tangible personal  
1248 property, the gross receipts from the sale of or the cost of which has been subject to sales or  
1249 use tax under a sales and use tax ordinance enacted in accordance with this part by any county  
1250 other than the county in which the city or town is located, or city or town in this state, shall be  
1251 exempt from the tax; and

1252 (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not  
1253 be included as a part of the purchase price paid or charged for a taxable item.

1254 (7) Notwithstanding any other provision of this section, beginning July 1, 2000, the  
1255 commission shall:

1256 (a) determine and retain the portion of sales and use tax imposed under this section:

1257 (i) by each county and by each city and town within that county whose legislative  
1258 body consents by resolution to the commission's retaining and depositing sales and use tax  
1259 revenues as provided in this Subsection (7); and

1260 (ii) that is equal to the revenues generated by a 1/64% tax rate;

1261 (b) deposit the revenues described in Subsection (7)(a) into a special fund of the

1262 county, or a city, town, or other political subdivision of the state located within that county,  
1263 that has issued bonds to finance sports or recreational facilities or that is leasing sports or  
1264 recreational facilities, in order to repay those bonds or to pay the lease payments; and

1265 (c) continue to deposit those revenues into the special fund only as long as the bonds  
1266 or leases are outstanding.

1267 (8) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009,  
1268 the commission shall calculate and retain a portion of the sales and use tax collected under this  
1269 part as provided in this Subsection (8).

1270 (b) For a city, town, or unincorporated area of a county that imposes a tax under this  
1271 part, the commission shall calculate a percentage each month by dividing the sales and use tax  
1272 collected under this part for that month within the boundaries of that city, town, or  
1273 unincorporated area of a county by the total sales and use tax collected under this part for that  
1274 month within the boundaries of all of the cities, towns, and unincorporated areas of the  
1275 counties that impose a tax under this part.

1276 (c) For a city, town, or unincorporated area of a county that imposes a tax under this  
1277 part, the commission shall retain each month an amount equal to the product of:

1278 (i) the percentage the commission determines for the month under Subsection (8)(b)  
1279 for the city, town, or unincorporated area of a county; and

1280 (ii) \$25,417.

1281 (d) The commission shall deposit an amount the commission retains in accordance  
1282 with this Subsection (8) into the Qualified Emergency Food Agencies Fund created by Section  
1283 9-4-1409.

1284 (e) An amount the commission deposits into the Qualified Emergency Food Agencies  
1285 Fund shall be expended as provided in Section 9-4-1409.

1286 Section 5. Section **59-12-1102** is amended to read:

1287 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**  
1288 **Administration -- Commission requirement to retain an amount to be deposited into the**  
1289 **Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date**

1290 -- **Notice requirements.**

1291 (1) (a) (i) Subject to Subsections (2) through [~~(5)~~] (6), and in addition to any other tax  
1292 authorized by this chapter, a county may impose by ordinance a county option sales and use  
1293 tax of .25% upon the transactions described in Subsection 59-12-103(1).

1294 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this  
1295 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses  
1296 are exempt from taxation under Section 59-12-104.

1297 (b) For purposes of this Subsection (1), the location of a transaction shall be  
1298 determined in accordance with Sections 59-12-211 through 59-12-215.

1299 (c) The county option sales and use tax under this section shall be imposed:

1300 (i) upon transactions that are located within the county, including transactions that are  
1301 located within municipalities in the county; and

1302 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of  
1303 January:

1304 (A) of the next calendar year after adoption of the ordinance imposing the tax if the  
1305 ordinance is adopted on or before May 25; or

1306 (B) of the second calendar year after adoption of the ordinance imposing the tax if the  
1307 ordinance is adopted after May 25.

1308 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under  
1309 this section shall be imposed:

1310 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before  
1311 September 4, 1997; or

1312 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during  
1313 1997 but after September 4, 1997.

1314 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a  
1315 county shall hold two public hearings on separate days in geographically diverse locations in  
1316 the county.

1317 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting

1318 time of no earlier than 6 p.m.

1319 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than  
1320 seven days after the day the first advertisement required by Subsection (2)(c) is published.

1321 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county  
1322 shall advertise in a newspaper of general circulation in the county:

1323 (A) its intent to adopt a county option sales and use tax;

1324 (B) the date, time, and location of each public hearing; and

1325 (C) a statement that the purpose of each public hearing is to obtain public comments  
1326 regarding the proposed tax.

1327 (ii) The advertisement shall be published once each week for the two weeks preceding  
1328 the earlier of the two public hearings.

1329 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall  
1330 be no smaller than 18 point and surrounded by a 1/4-inch border.

1331 (iv) The advertisement may not be placed in that portion of the newspaper where legal  
1332 notices and classified advertisements appear.

1333 (v) Whenever possible:

1334 (A) the advertisement shall appear in a newspaper that is published at least five days a  
1335 week, unless the only newspaper in the county is published less than five days a week; and

1336 (B) the newspaper selected shall be one of general interest and readership in the  
1337 community, and not one of limited subject matter.

1338 (d) The adoption of an ordinance imposing a county option sales and use tax is subject  
1339 to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part  
1340 6, Local Referenda - Procedures.

1341 (3) (a) [Hf] Subject to Subsection (5), if the aggregate population of the counties  
1342 imposing a county option sales and use tax under Subsection (1) is less than 75% of the state  
1343 population, the tax levied under Subsection (1) shall be distributed to the county in which the  
1344 tax was collected.

1345 (b) [Hf] Subject to Subsection (5), if the aggregate population of the counties imposing

1346 a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the  
1347 state population:

1348 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to  
1349 the county in which the tax was collected; and

1350 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection  
1351 (1) in each county shall be distributed proportionately among all counties imposing the tax,  
1352 based on the total population of each county.

1353 (c) [~~ff~~] Except as provided in Subsection (5), the amount to be distributed annually to  
1354 a county under Subsection (3)(b)(ii), when combined with the amount distributed to the  
1355 county under Subsection (3)(b)(i), does not equal at least \$75,000, then:

1356 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii)  
1357 shall be increased so that, when combined with the amount distributed to the county under  
1358 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

1359 (ii) the amount to be distributed annually to all other counties under Subsection  
1360 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under  
1361 Subsection (3)(c)(i).

1362 (d) The commission shall establish rules to implement the distribution of the tax under  
1363 Subsections (3)(a), (b), and (c).

1364 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part  
1365 shall be administered, collected, and enforced in accordance with:

1366 (i) the same procedures used to administer, collect, and enforce the tax under:

1367 (A) Part 1, Tax Collection; or

1368 (B) Part 2, Local Sales and Use Tax Act; and

1369 (ii) Chapter 1, General Taxation Policies.

1370 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to  
1371 Subsections 59-12-205(2) through (6).

1372 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under  
1373 Section 59-12-206 shall be based on the distribution amounts resulting after [~~aff~~]:

1374 (i) the applicable distribution calculations under Subsection (3) have been made[-];

1375 and

1376 (ii) the commission retains the amount required by Subsection (5).

1377 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion  
1378 of the sales and use tax collected under this part as provided in this Subsection (5).

1379 (b) For a county that imposes a tax under this part, the commission shall calculate a  
1380 percentage each month by dividing the sales and use tax collected under this part for that  
1381 month within the boundaries of that county by the total sales and use tax collected under this  
1382 part for that month within the boundaries of all of the counties that impose a tax under this  
1383 part.

1384 (c) For a county that imposes a tax under this part, the commission shall retain each  
1385 month an amount equal to the product of:

1386 (i) the percentage the commission determines for the month under Subsection (5)(b)  
1387 for the county; and

1388 (ii) \$6,354.

1389 (d) The commission shall deposit an amount the commission retains in accordance  
1390 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section  
1391 9-4-1409.

1392 (e) An amount the commission deposits into the Qualified Emergency Food Agencies  
1393 Fund shall be expended as provided in Section 9-4-1409.

1394 [~~5~~] (6) (a) For purposes of this Subsection [~~5~~] (6):

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 [~~5~~] (6)(c) or (d), if, on or after July 1, 2004,  
1399 a county enacts or repeals a tax under this part:

1400 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

1401 (II) the repeal shall take effect on the first day of a calendar quarter; and

1402 (B) after a 90-day period beginning on the date the commission receives notice  
1403 meeting the requirements of Subsection [~~(5)~~] (6)(b)(ii) from the county.

1404 (ii) The notice described in Subsection [~~(5)~~] (6)(b)(i)(B) shall state:

1405 (A) that the county will enact or repeal a tax under this part;

1406 (B) the statutory authority for the tax described in Subsection [~~(5)~~] (6)(b)(ii)(A);

1407 (C) the effective date of the tax described in Subsection [~~(5)~~] (6)(b)(ii)(A); and

1408 (D) if the county enacts the tax described in Subsection [~~(5)~~] (6)(b)(ii)(A), the rate of  
1409 the tax.

1410 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

1411 (A) that begins after the effective date of the enactment of the tax; and

1412 (B) if the billing period for the transaction begins before the effective date of the  
1413 enactment of the tax under Subsection (1).

1414 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

1415 (A) that began before the effective date of the repeal of the tax; and

1416 (B) if the billing period for the transaction begins before the effective date of the  
1417 repeal of the tax imposed under Subsection (1).

1418 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
1419 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
1420 Subsection [~~(5)~~] (6)(b)(i) takes effect:

1421 (A) on the first day of a calendar quarter; and

1422 (B) beginning 60 days after the effective date of the enactment or repeal under  
1423 Subsection [~~(5)~~] (6)(b)(i).

1424 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1425 the commission may by rule define the term "catalogue sale."

1426 (e) (i) Except as provided in Subsection [~~(5)~~] (6)(f) or (g), if, for an annexation that  
1427 occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax  
1428 under this part for an annexing area, the enactment or repeal shall take effect:

1429 (A) on the first day of a calendar quarter; and

1430 (B) after a 90-day period beginning on the date the commission receives notice  
1431 meeting the requirements of Subsection [~~5~~] (6)(e)(ii) from the county that annexes the  
1432 annexing area.

1433 (ii) The notice described in Subsection [~~5~~] (6)(e)(i)(B) shall state:

1434 (A) that the annexation described in Subsection [~~5~~] (6)(e)(i) will result in an  
1435 enactment or repeal of a tax under this part for the annexing area;

1436 (B) the statutory authority for the tax described in Subsection [~~5~~] (6)(e)(ii)(A);  
1437 (C) the effective date of the tax described in Subsection [~~5~~] (6)(e)(ii)(A); and  
1438 (D) the rate of the tax described in Subsection [~~5~~] (6)(e)(ii)(A).

1439 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

1440 (A) that begins after the effective date of the enactment of the tax; and  
1441 (B) if the billing period for the transaction begins before the effective date of the  
1442 enactment of the tax under Subsection (1).

1443 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

1444 (A) that began before the effective date of the repeal of the tax; and  
1445 (B) if the billing period for the transaction begins before the effective date of the  
1446 repeal of the tax imposed under Subsection (1).

1447 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
1448 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
1449 Subsection [~~5~~] (6)(e)(i) takes effect:

1450 (A) on the first day of a calendar quarter; and  
1451 (B) beginning 60 days after the effective date of the enactment or repeal under  
1452 Subsection [~~5~~] (6)(e)(i).

1453 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1454 the commission may by rule define the term "catalogue sale."

1455 Section 6. Section **59-12-2003** is amended to read:

1456 **59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public**  
1457 **transit districts.**

1458 (1) Subject to the other provisions of this section and except as provided in Subsection  
1459 (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the  
1460 transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated  
1461 area of a county of the first or second class if, on January 1, 2008, there is a public transit  
1462 district within any portion of that county of the first or second class.

1463 (2) The state may not impose a tax under this part within a county of the first or  
1464 second class if within all of the cities, towns, and the unincorporated area of the county of the  
1465 first or second class there is imposed a sales and use tax of:

- 1466 (a) .30% under Section 59-12-501;
- 1467 (b) .30% under Section 59-12-1001; or
- 1468 (c) .30% under Section 59-12-1503.

1469 (3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax  
1470 rate imposed within a city, town, or the unincorporated area of a county of the first or second  
1471 class is a percentage equal to the difference between:

- 1472 (i) .30%; and
- 1473 (ii) (A) for a city within the county of the first or second class, the highest tax rate  
1474 imposed within that city under:

- 1475 (I) Section 59-12-501;
- 1476 (II) Section 59-12-1001; or
- 1477 (III) Section 59-12-1503;

1478 (B) for a town within the county of the first or second class, the highest tax rate  
1479 imposed within that town under:

- 1480 (I) Section 59-12-501;
- 1481 (II) Section 59-12-1001; or
- 1482 (III) Section 59-12-1503; or

1483 (C) for the unincorporated area of the county of the first or second class, the highest  
1484 tax rate imposed within that unincorporated area under:

- 1485 (I) Section 59-12-501;

1486 (II) Section 59-12-1001; or

1487 (III) Section 59-12-1503.

1488 (b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of  
1489 a county of the first or second class, the highest tax rate imposed under Section 59-12-501,  
1490 59-12-1001, or 59-12-1503 within that city, town, or unincorporated area of the county of the  
1491 first or second class is .30%, the state may not impose a tax under this part within that city,  
1492 town, or unincorporated area.

1493 (4) (a) The state may not impose a tax under this part on:

1494 [~~(i) a transaction described in Subsection 59-12-103(1)(d);]~~

1495 [~~(ii) except as provided in Subsection (4)(b), a transaction described in Subsection~~  
1496 ~~59-12-103(2)(c); or]~~

1497 [~~(iii) (i) the sales and uses described in Section 59-12-104 to the extent the sales and~~  
1498 ~~uses are exempt from taxation under Section 59-12-104[-]; or~~

1499 (ii) except as provided in Subsection (4)(b), amounts paid or charged for food and  
1500 food ingredients.

1501 (b) The state shall impose a tax under this part on amounts paid or charged for food  
1502 and food ingredients if the food and food ingredients are sold as part of a bundled transaction  
1503 attributable to food and ingredients and tangible personal property other than food and food  
1504 ingredients.

1505 (5) For purposes of Subsection (1), the location of a transaction shall be determined in  
1506 accordance with Sections 59-12-211 through 59-12-215.

1507 (6) The commission shall distribute the revenues the state collects from the sales and  
1508 use tax under this part, after subtracting amounts a seller retains in accordance with Section  
1509 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

1510 (a) within which the state imposes a tax under this part; and

1511 (b) in proportion to the revenues collected from the sales and use tax under this part  
1512 within each city, town, and unincorporated area within which the state imposes a tax under  
1513 this part.

1514           Section 7. **Effective dates -- Retrospective operation.**  
1515           (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2009.  
1516           (2) The amendments to Section 59-12-2003 in this bill:  
1517           (a) if approved by two-thirds of all the members elected to each house, take effect  
1518 upon approval by the governor, or the day following the constitutional time limit of Utah  
1519 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1520 the date of veto override; and  
1521           (b) have retrospective operation to July 1, 2008.