

SALES AND USE TAX AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Nielson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes amendments related to sales and use taxes.

Highlighted Provisions:

This bill:

- ▶ reduces the state sales and use tax rate if the Supreme Court of the United States authorizes or Congress permits the state to require certain sellers to collect a sales or use tax;
- ▶ amends certain study requirements for the Revenue and Taxation Interim Committee related to an action by the Supreme Court of the United States or Congress;
- ▶ repeals provisions requiring certain state sales and use tax revenue to be deposited into the Remote Sales Restricted Account; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

59-12-103 (Superseded 07/01/14), as last amended by Laws of Utah 2013, Chapters



28 150 and 227

29 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 150
30 and 227

31 **59-12-103.1**, as last amended by Laws of Utah 2013, Chapter 150

32 **59-12-103.2**, as last amended by Laws of Utah 2013, Chapter 150

33

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

35 Section 1. Section **59-12-103 (Superseded 07/01/14)** is amended to read:

36 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**

37 **-- Use of sales and use tax revenues.**

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

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

41 (b) amounts paid for:

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

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

47 (iii) an ancillary service associated with a:

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

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

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

51 (i) gas;

52 (ii) electricity;

53 (iii) heat;

54 (iv) coal;

55 (v) fuel oil; or

56 (vi) other fuels;

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

58 (i) gas;

- 59 (ii) electricity;
- 60 (iii) heat;
- 61 (iv) coal;
- 62 (v) fuel oil; or
- 63 (vi) other fuels;
- 64 (e) sales of prepared food;
- 65 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 66 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 67 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 68 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 69 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 70 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 71 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 72 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 73 exhibition, cultural, or athletic activity;
- 74 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 75 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 76 (i) the tangible personal property; and
- 77 (ii) parts used in the repairs or renovations of the tangible personal property described
- 78 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 79 of that tangible personal property;
- 80 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 81 assisted cleaning or washing of tangible personal property;
- 82 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 83 accommodations and services that are regularly rented for less than 30 consecutive days;
- 84 (j) amounts paid or charged for laundry or dry cleaning services;
- 85 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 86 this state the tangible personal property is:
- 87 (i) stored;
- 88 (ii) used; or
- 89 (iii) otherwise consumed;

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

92 (i) stored;

93 (ii) used; or

94 (iii) consumed; and

95 (m) amounts paid or charged for a sale:

96 (i) (A) of a product transferred electronically; or

97 (B) of a repair or renovation of a product transferred electronically; and

98 (ii) regardless of whether the sale provides:

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

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

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

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

103 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
104 is imposed on a transaction described in Subsection (1) equal to the sum of:

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

106 (A) subject to Section 59-12-103.1, 4.70%; and

107 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
108 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
109 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
110 State Sales and Use Tax Act; and

111 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
112 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
113 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
114 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

120 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

121 transaction under this chapter other than this part.

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

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

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

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

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

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

133 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
134 Sales and Use Tax Act, if the location of the transaction as determined under Sections
135 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
136 Additional State Sales and Use Tax Act; and

137 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
138 Sales and Use Tax Act, if the location of the transaction as determined under Sections
139 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
140 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

143 (ii) If an optional computer software maintenance contract is a bundled transaction that
144 consists of taxable and nontaxable products that are not separately itemized on an invoice or
145 similar billing document, the purchase of the optional computer software maintenance contract
146 is 40% taxable under this chapter and 60% nontaxable under this chapter.

147 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
148 transaction described in Subsection (2)(d)(i) or (ii):

149 (A) if the sales price of the bundled transaction is attributable to tangible personal
150 property, a product, or a service that is subject to taxation under this chapter and tangible
151 personal property, a product, or service that is not subject to taxation under this chapter, the

152 entire bundled transaction is subject to taxation under this chapter unless:

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

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

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

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

164 (II) state or federal law provides otherwise.

165 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
166 seller's regular course of business includes books and records the seller keeps in the regular
167 course of business for nontax purposes.

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

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

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

172 (iii) Subsection (2)(c)(i); or

173 (iv) Subsection (2)(d)(i)(A)(I).

174 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
175 begins on or after the effective date of the tax rate increase if the billing period for the
176 transaction begins before the effective date of a tax rate increase imposed under:

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

178 (B) Subsection (2)(b)(i);

179 (C) Subsection (2)(c)(i); or

180 (D) Subsection (2)(d)(i)(A)(I).

181 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
182 statement for the billing period is rendered on or after the effective date of the repeal of the tax

183 or the tax rate decrease imposed under:

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

185 (B) Subsection (2)(b)(i);

186 (C) Subsection (2)(c)(i); or

187 (D) Subsection (2)(d)(i)(A)(I).

188 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
189 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
190 or change in a tax rate takes effect:

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

192 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

193 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

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

195 (B) Subsection (2)(b)(i);

196 (C) Subsection (2)(c)(i); or

197 (D) Subsection (2)(d)(i)(A)(I).

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

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

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

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

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

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

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

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

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

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

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

211 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
212 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
213 through (g):

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

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

216 (B) for the fiscal year; or

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

218 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

219 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

220 Department of Natural Resources to:

221 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

222 protect sensitive plant and animal species; or

223 (B) award grants, up to the amount authorized by the Legislature in an appropriations

224 act, to political subdivisions of the state to implement the measures described in Subsections

225 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

227 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

228 person to list or attempt to have listed a species as threatened or endangered under the

229 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

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

231 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

232 Conservation and Development Fund created in Section 73-10-24;

233 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

234 Program Subaccount created in Section 73-10c-5; and

235 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

236 Program Subaccount created in Section 73-10c-5.

237 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

238 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

239 created in Section 4-18-106.

240 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

241 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

242 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

243 water rights.

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

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

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

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

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

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

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

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

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

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

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

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

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

274 (iii) develop surface water sources.

275 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

276 2006, the difference between the following amounts shall be expended as provided in this
277 Subsection (5), if that difference is greater than \$1:

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

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

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

282 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
283 credits; and

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

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

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

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

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

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

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

302 (i) preconstruction costs:

303 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
304 26, Bear River Development Act; and

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

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

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

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

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

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

320 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
321 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
322 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
323 the Transportation Fund created by Section 72-2-102.

324 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
325 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
326 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
327 by a 1/64% tax rate on the taxable transactions under Subsection (1).

328 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
329 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
330 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
331 created by Section 72-2-124:

332 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
333 the revenues collected from the following taxes, which represents a portion of the
334 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
335 on vehicles and vehicle-related products:

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

337 (B) the tax imposed by Subsection (2)(b)(i);

338 (C) the tax imposed by Subsection (2)(c)(i); and
339 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
340 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
341 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
342 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
343 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

344 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
345 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
346 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
347 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
348 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
349 (8)(a) equal to the product of:

350 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
351 previous fiscal year; and

352 (B) the total sales and use tax revenue generated by the taxes described in Subsections
353 (8)(a)(i)(A) through (D) in the current fiscal year.

354 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
355 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
356 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
357 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
358 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

359 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
360 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
361 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
362 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
363 current fiscal year under Subsection (8)(a).

364 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
365 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
366 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
367 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
368 [72-2-124](#).

369 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
370 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
371 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

372 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
373 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
374 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
375 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
376 transactions described in Subsection (1).

377 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
378 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
379 charged for food and food ingredients, except for tax revenue generated by a bundled
380 transaction attributable to food and food ingredients and tangible personal property other than
381 food and food ingredients described in Subsection (2)(d).

382 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
383 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
384 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
385 .025% tax rate on the transactions described in Subsection (1) to be expended to address
386 chokepoints in construction management.

387 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
388 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
389 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
390 and food ingredients and tangible personal property other than food and food ingredients
391 described in Subsection (2)(d).

392 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
393 or deposited in accordance with Subsections (4) through (12) may not include an amount the
394 Division of Finance deposits in accordance with Section 59-12-103.2.

395 Section 2. Section 59-12-103 (Effective 07/01/14) is amended to read:

396 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
397 **Use of sales and use tax revenues.**

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

- 400 (a) retail sales of tangible personal property made within the state;
- 401 (b) amounts paid for:
 - 402 (i) telecommunications service, other than mobile telecommunications service, that
 - 403 originates and terminates within the boundaries of this state;
 - 404 (ii) mobile telecommunications service that originates and terminates within the
 - 405 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 - 406 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - 407 (iii) an ancillary service associated with a:
 - 408 (A) telecommunications service described in Subsection (1)(b)(i); or
 - 409 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
 - 410 (c) sales of the following for commercial use:
 - 411 (i) gas;
 - 412 (ii) electricity;
 - 413 (iii) heat;
 - 414 (iv) coal;
 - 415 (v) fuel oil; or
 - 416 (vi) other fuels;
 - 417 (d) sales of the following for residential use:
 - 418 (i) gas;
 - 419 (ii) electricity;
 - 420 (iii) heat;
 - 421 (iv) coal;
 - 422 (v) fuel oil; or
 - 423 (vi) other fuels;
 - 424 (e) sales of prepared food;
 - 425 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
 - 426 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
 - 427 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
 - 428 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
 - 429 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
 - 430 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,

431 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
432 horseback rides, sports activities, or any other amusement, entertainment, recreation,
433 exhibition, cultural, or athletic activity;

434 (g) amounts paid or charged for services for repairs or renovations of tangible personal
435 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

436 (i) the tangible personal property; and

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

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

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

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

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

447 (i) stored;

448 (ii) used; or

449 (iii) otherwise consumed;

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

452 (i) stored;

453 (ii) used; or

454 (iii) consumed; and

455 (m) amounts paid or charged for a sale:

456 (i) (A) of a product transferred electronically; or

457 (B) of a repair or renovation of a product transferred electronically; and

458 (ii) regardless of whether the sale provides:

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

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

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

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

463 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
464 is imposed on a transaction described in Subsection (1) equal to the sum of:

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

466 (A) subject to Section 59-12-103.1, 4.70%; and

467 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
468 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
469 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
470 State Sales and Use Tax Act; and

471 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
472 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
473 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
474 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

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

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

493 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
494 Sales and Use Tax Act, if the location of the transaction as determined under Sections
495 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
496 Additional State Sales and Use Tax Act; and

497 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
498 Sales and Use Tax Act, if the location of the transaction as determined under Sections
499 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
500 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

503 (ii) If an optional computer software maintenance contract is a bundled transaction that
504 consists of taxable and nontaxable products that are not separately itemized on an invoice or
505 similar billing document, the purchase of the optional computer software maintenance contract
506 is 40% taxable under this chapter and 60% nontaxable under this chapter.

507 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
508 transaction described in Subsection (2)(d)(i) or (ii):

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

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

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

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

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

524 (II) state or federal law provides otherwise.

525 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
526 seller's regular course of business includes books and records the seller keeps in the regular
527 course of business for nontax purposes.

528 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
529 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
530 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
531 of tangible personal property, other property, a product, or a service that is not subject to
532 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
533 the seller, at the time of the transaction:

534 (A) separately states the portion of the transaction that is not subject to taxation under
535 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

536 (B) is able to identify by reasonable and verifiable standards, from the books and
537 records the seller keeps in the seller's regular course of business, the portion of the transaction
538 that is not subject to taxation under this chapter.

539 (ii) A purchaser and a seller may correct the taxability of a transaction if:

540 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
541 the transaction that is not subject to taxation under this chapter was not separately stated on an
542 invoice, bill of sale, or similar document provided to the purchaser because of an error or
543 ignorance of the law; and

544 (B) the seller is able to identify by reasonable and verifiable standards, from the books
545 and records the seller keeps in the seller's regular course of business, the portion of the
546 transaction that is not subject to taxation under this chapter.

547 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
548 in the seller's regular course of business includes books and records the seller keeps in the
549 regular course of business for nontax purposes.

550 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
551 personal property, products, or services that are subject to taxation under this chapter at
552 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
553 unless the seller, at the time of the transaction:

554 (A) separately states the items subject to taxation under this chapter at each of the

555 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

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

559 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
560 seller's regular course of business includes books and records the seller keeps in the regular
561 course of business for nontax purposes.

562 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
563 rate imposed under the following shall take effect on the first day of a calendar quarter:

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

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

566 (iii) Subsection (2)(c)(i); or

567 (iv) Subsection (2)(d)(i)(A)(I).

568 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
569 begins on or after the effective date of the tax rate increase if the billing period for the
570 transaction begins before the effective date of a tax rate increase imposed under:

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

572 (B) Subsection (2)(b)(i);

573 (C) Subsection (2)(c)(i); or

574 (D) Subsection (2)(d)(i)(A)(I).

575 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
576 statement for the billing period is rendered on or after the effective date of the repeal of the tax
577 or the tax rate decrease imposed under:

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

579 (B) Subsection (2)(b)(i);

580 (C) Subsection (2)(c)(i); or

581 (D) Subsection (2)(d)(i)(A)(I).

582 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
583 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
584 change in a tax rate takes effect:

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

- 586 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 587 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 588 (A) Subsection (2)(a)(i)(A);
- 589 (B) Subsection (2)(b)(i);
- 590 (C) Subsection (2)(c)(i); or
- 591 (D) Subsection (2)(d)(i)(A)(I).

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

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

- 595 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 596 (ii) the tax imposed by Subsection (2)(b)(i);
- 597 (iii) the tax imposed by Subsection (2)(c)(i); or
- 598 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

- 601 (i) the tax imposed by Subsection (2)(a)(ii);
- 602 (ii) the tax imposed by Subsection (2)(b)(ii);
- 603 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 604 (iv) the tax imposed by Subsection (2)(d)(i)(B).

605 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
606 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
607 through (g):

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

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

- 615 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
616 protect sensitive plant and animal species; or

617 (B) award grants, up to the amount authorized by the Legislature in an appropriations
618 act, to political subdivisions of the state to implement the measures described in Subsections
619 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

631 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
632 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
633 created in Section 4-18-106.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

668 (iii) develop surface water sources.

669 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
670 2006, the difference between the following amounts shall be expended as provided in this
671 Subsection (5), if that difference is greater than \$1:

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

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

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

676 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
677 credits; and

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

679 restoration.

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

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

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

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

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

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

696 (i) preconstruction costs:

697 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
698 26, Bear River Development Act; and

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

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

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

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

707 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
708 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
709 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

710 incurred for employing additional technical staff for the administration of water rights.

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

714 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
715 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
716 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
717 the Transportation Fund created by Section 72-2-102.

718 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
719 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
720 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
721 by a 1/64% tax rate on the taxable transactions under Subsection (1).

722 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
723 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
724 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
725 created by Section 72-2-124:

726 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
727 the revenues collected from the following taxes, which represents a portion of the
728 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
729 on vehicles and vehicle-related products:

- 730 (A) the tax imposed by Subsection (2)(a)(i)(A);
731 (B) the tax imposed by Subsection (2)(b)(i);
732 (C) the tax imposed by Subsection (2)(c)(i); and
733 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

734 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
735 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
736 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
737 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

738 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
739 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
740 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)

741 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
742 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
743 (8)(a) equal to the product of:

744 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
745 previous fiscal year; and

746 (B) the total sales and use tax revenue generated by the taxes described in Subsections
747 (8)(a)(i)(A) through (D) in the current fiscal year.

748 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
749 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
750 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
751 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
752 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

753 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
754 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
755 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
756 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
757 current fiscal year under Subsection (8)(a).

758 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
759 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
760 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
761 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
762 [72-2-124](#).

763 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
764 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
765 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

766 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
767 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
768 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
769 created by Section [72-2-124](#) the amount of tax revenue generated by a .025% tax rate on the
770 transactions described in Subsection (1).

771 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into

772 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
773 charged for food and food ingredients, except for tax revenue generated by a bundled
774 transaction attributable to food and food ingredients and tangible personal property other than
775 food and food ingredients described in Subsection (2)(d).

776 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
777 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
778 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
779 .025% tax rate on the transactions described in Subsection (1) to be expended to address
780 chokepoints in construction management.

781 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
782 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
783 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
784 and food ingredients and tangible personal property other than food and food ingredients
785 described in Subsection (2)(d).

786 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
787 or deposited in accordance with Subsections (4) through (12) may not include an amount the
788 Division of Finance deposits in accordance with Section 59-12-103.2.

789 Section 3. Section 59-12-103.1 is amended to read:

790 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
791 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
792 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**
793 **Committee -- Revenue and Taxation Interim Committee study -- Division of Finance**
794 **requirement to make certain deposits -- Reduction in state sales and use tax rate.**

795 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
796 commission as provided in Section 59-12-107 if:

797 (a) the Supreme Court of the United States issues a decision authorizing a state to
798 require the following sellers to collect a sales or use tax:

799 (i) a seller that does not meet one or more of the criteria described in Subsection
800 59-12-107(2)(a); or

801 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
802 under Subsection 59-12-107(2)(b); or

803 (b) Congress permits the state to require the following sellers to collect a sales or use
804 tax:

805 (i) a seller that does not meet one or more of the criteria described in Subsection
806 59-12-107(2)(a); or

807 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
808 under Subsection 59-12-107(2)(b).

809 (2) The commission shall:

810 (a) collect the tax described in Subsection (1) from the seller:

811 (i) to the extent:

812 (A) authorized by the Supreme Court of the United States; or

813 (B) permitted by Congress; and

814 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and
815 Taxation Interim Committee; and

816 (b) make a report to the Revenue and Taxation Interim Committee:

817 (i) regarding the actions taken by:

818 (A) the Supreme Court of the United States; or

819 (B) Congress;

820 (ii) (A) stating the amount of state revenue collected at the time of the report, if any;

821 and

822 (B) estimating the state sales and use tax rate reduction that would offset the amount of
823 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

824 (iii) (A) at the Revenue and Taxation Interim Committee meeting immediately

825 following the day on which the actions of the Supreme Court of the United States or Congress
826 become effective; and

827 (B) any other meeting of the Revenue and Taxation Interim Committee as requested by
828 the chairs of the committee.

829 (3) The Revenue and Taxation Interim Committee shall after hearing the commission's
830 report under Subsection (2)(b):

831 (a) review the actions taken by:

832 (i) the Supreme Court of the United States; or

833 (ii) Congress;

834 (b) direct the commission regarding the day on which the commission is required to
835 collect the tax described in Subsection (1); and

836 (c) make recommendations to the Legislative Management Committee:

837 (i) regarding whether as a result of the actions of the Supreme Court of the United
838 States or Congress any provisions of this chapter should be amended or repealed, including
839 whether the state sales and use tax rate reduction required by Subsection (4) should be
840 amended; and

841 (ii) within a one-year period after the day on which the commission makes a report
842 under Subsection (2)(b).

843 (4) The Division of Finance shall deposit a portion of the revenue collected under this
844 section into the Remote Sales Restricted Account as required by Section 59-12-103.2.

845 (5) Beginning on the date the commission collects the tax described in Subsection (1),
846 the state sales and use tax rate described in Subsection 59-12-103(2)(a)(i)(A) is
846a H→ [4.45] 4.50 ←H %.

847 Section 4. Section 59-12-103.2 is amended to read:

848 **59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation --**
849 **Funding for account -- Interest -- Division of Finance accounting.**

850 (1) As used in this section[:(a) "~~Qualified~~], "qualified local revenue collected from
851 remote sellers" means the local revenue the commission collects under Section 59-12-103.1 for
852 a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or
853 after the earlier of:

854 [(i)] (a) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final,
855 unappealable decision; or

856 [(ii)] (b) the effective date of the action by Congress described in Subsection
857 59-12-103.1(1)(b).

858 [~~(b) "Qualified state revenue collected from remote sellers" means the state revenue the~~
859 ~~commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a~~
860 ~~license under Section 59-12-106 for the first time on or after the earlier of:]~~

861 [(i) ~~the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final,~~
862 ~~unappealable decision; or]~~

863 [(ii) ~~the effective date of the action by Congress described in Subsection~~
864 ~~59-12-103.1(1)(b).]~~

865 (2) There is created within the General Fund a restricted account known as the
866 "Remote Sales Restricted Account."

867 (3) The account shall be funded by~~[(a)]~~ the qualified local revenue collected from
868 remote sellers~~[, and]~~.

869 ~~[(b) the qualified state revenue collected from remote sellers.]~~

870 (4) (a) The account shall earn interest.

871 (b) The interest described in Subsection (4)(a) shall be deposited into the account.

872 (5) The Division of Finance shall deposit the revenue described in Subsection (3) into
873 the account.

874 (6) The Division of Finance shall separately account for:

875 (a) ~~[(i)]~~ the qualified local revenue collected from remote sellers; and

876 ~~[(ii)]~~ (b) interest earned on the amount described in Subsection (6)(a)~~[(i); and]~~.

877 ~~[(b) (i) the qualified state revenue collected from remote sellers; and]~~

878 ~~[(ii) interest earned on the amount described in Subsection (6)(b)(i).]~~

879 (7) ~~[(a)]~~ The revenue and interest described in Subsection (6)~~[(a)]~~ may be used to lower
880 local sales and use tax rates as the Legislature may provide by statute.

881 ~~[(b) The revenue and interest described in Subsection (6)(b) may be used to lower state~~
882 ~~sales and use tax rates as the Legislature may provide by statute.]~~

883 Section 5. **Effective date.**

884 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

885 (2) The actions affecting Section [59-12-103](#) (Effective 07/01/14) take effect on July 1,
886 2014.

Legislative Review Note
as of 9-12-13 1:48 PM

Office of Legislative Research and General Counsel