

Senator Wayne A. Harper proposes the following substitute bill:

TRANSPORTATION GOVERNANCE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies governance of certain public transit districts, amends provisions related to registration fees, modifies taxes related to transportation, modifies the governance of the Department of Transportation, and makes other changes.

Highlighted Provisions:

This bill:

- ▶ amends and enacts provisions to allow local jurisdictions to share property tax revenue for transportation capital development projects;
- ▶ defines "large public transit district" and "small public transit district";
- ▶ vests in the Legislature the authority to name a large public transit district;
- ▶ modifies the makeup of the board of trustees of a large public transit district by:
 - reducing membership from 16 to three;
 - vesting nomination responsibilities in executives of local governments and appointment responsibilities in the governor; and
 - defining responsibilities of the members of the board of trustees;
- ▶ creates a local advisory board for a large public transit district and defines the membership and duties of a local advisory board;
- ▶ requires a large public transit district to transition retirement benefits to fall under



26 the provisions and oversight provided in the Utah State Retirement and Insurance Benefit Act;

27 ▶ exempts certain meetings of members of the board of trustees of a large public

28 transit district from the Open and Public Meetings Act;

29 ▶ defines "alternative fuel vehicle," "diesel fuel," "electric motor vehicle," "hybrid

30 electric motor vehicle," "motor fuel," "natural gas," and "plug-in hybrid electric

31 motor vehicle";

32 ▶ modifies provisions imposing registration fees on motor vehicles;

33 ▶ reduces funds allocated from the General Fund into the Transportation Investment

34 Fund of 2005 and deposits funds from the General Fund into the Transit

35 Transportation Investment Fund;

36 ▶ allocates revenue from increased vehicle registration fees to the Transportation

37 Investment Fund of 2005;

38 ▶ creates the "Transit Transportation Investment Fund" within the Transportation

39 Investment Fund of 2005;

40 ▶ imposes a deadline for a local government to impose certain local option sales and

41 use taxes;

42 ▶ authorizes a new local option sales and use tax for transportation;

43 ▶ allows a county, city, or town to impose certain local option sales and use taxes

44 without submitting the question to the county's, city's, or town's registered voters;

45 ▶ allows a city to impose certain local option sales and use taxes not imposed by the

46 county;

47 ▶ amends provisions related to the expenditure of certain local option sales and use

48 taxes;

49 ▶ modifies certain responsibilities of the Department of Transportation and the

50 executive director of the Department of Transportation related to supervision and

51 oversight of certain projects and cooperation with other entities involved in a

52 project;

53 ▶ modifies governance of the Department of Transportation, including:

54 • requiring a second deputy director;

55 • describing the qualifications for each deputy; and

56 • describing the responsibilities of each deputy director;

- 57 ▶ creates the Planning and Investment Division within the Department of
- 58 Transportation;
- 59 ▶ modifies requirements for the Department of Transportation to develop statewide
- 60 strategic initiatives for coordinating and planning multimodal transportation;
- 61 ▶ requires the Department of Transportation to study a road user charge and
- 62 implement a demonstration program;
- 63 ▶ requires the Transportation Commission to consider public transit projects in the
- 64 prioritization process to allocate funds;
- 65 ▶ modifies criteria for the Transportation Commission to consider while prioritizing
- 66 transportation and public transit projects;
- 67 ▶ allows corridor preservation funds to be used for public transit district corridors;
- 68 and
- 69 ▶ requires the Department of Transportation to assume responsibilities for review and
- 70 approval of projects under the requirements of the National Environmental Policy
- 71 Act of 1969.

72 **Money Appropriated in this Bill:**

73 None

74 **Other Special Clauses:**

75 This bill provides a special effective date.

76 **Utah Code Sections Affected:**

77 AMENDS:

- 78 **11-13-103**, as last amended by Laws of Utah 2016, Chapter 382
- 79 **11-13-202**, as last amended by Laws of Utah 2009, Chapter 218
- 80 **11-13-206**, as last amended by Laws of Utah 2015, Chapter 265
- 81 **11-13-207**, as last amended by Laws of Utah 2015, Chapter 265
- 82 **17B-1-301**, as last amended by Laws of Utah 2014, Chapter 362
- 83 **17B-1-702**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 84 **17B-1-703**, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 85 **17B-2a-802**, as last amended by Laws of Utah 2016, Chapter 387
- 86 **17B-2a-804**, as last amended by Laws of Utah 2017, Chapters 181 and 427
- 87 **17B-2a-807**, as last amended by Laws of Utah 2017, Chapter 70

- 88 [17B-2a-808](#), as last amended by Laws of Utah 2010, Chapter 281
- 89 [17B-2a-810](#), as last amended by Laws of Utah 2016, Chapter 56
- 90 [17B-2a-811](#), as last amended by Laws of Utah 2010, Chapter 281
- 91 [17B-2a-826](#), as enacted by Laws of Utah 2017, Chapter 427
- 92 [41-1a-102](#), as last amended by Laws of Utah 2016, Chapter 40
- 93 [41-1a-1201](#), as last amended by Laws of Utah 2017, Chapters 261 and 406
- 94 [41-1a-1206](#), as last amended by Laws of Utah 2017, Chapters 261, 406 and last
- 95 amended by Coordination Clause, Laws of Utah 2017, Chapter 261
- 96 [41-1a-1221](#), as last amended by Laws of Utah 2012, Chapter 397
- 97 [52-4-103](#), as last amended by Laws of Utah 2017, Chapters 196, 277, and 441
- 98 [59-12-102](#), as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 99 [59-12-103](#), as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
- 100 [59-12-2202](#), as enacted by Laws of Utah 2010, Chapter 263
- 101 [59-12-2203](#), as last amended by Laws of Utah 2015, Chapter 275
- 102 [59-12-2213](#), as last amended by Laws of Utah 2011, Chapter 223
- 103 [59-12-2214](#), as last amended by Laws of Utah 2015, Chapter 421
- 104 [59-12-2215](#), as enacted by Laws of Utah 2010, Chapter 263
- 105 [59-12-2216](#), as enacted by Laws of Utah 2010, Chapter 263
- 106 [59-12-2217](#), as last amended by Laws of Utah 2017, Chapter 240
- 107 [59-12-2218](#), as last amended by Laws of Utah 2017, Chapter 240
- 108 [59-12-2219](#), as last amended by Laws of Utah 2016, Chapter 373
- 109 [63G-6a-1402](#), as last amended by Laws of Utah 2017, Chapter 348
- 110 [72-1-102](#), as last amended by Laws of Utah 2001, Chapter 372
- 111 [72-1-202](#), as last amended by Laws of Utah 2013, Chapter 78
- 112 [72-1-203](#), as last amended by Laws of Utah 2006, Chapter 139
- 113 [72-1-204](#), as last amended by Laws of Utah 2017, Chapter 97
- 114 [72-1-208](#), as last amended by Laws of Utah 2016, Chapter 350
- 115 [72-1-211](#), as last amended by Laws of Utah 2008, Chapter 382
- 116 [72-1-213](#), as enacted by Laws of Utah 2015, Chapter 275
- 117 [72-1-214](#), as enacted by Laws of Utah 2017, Chapter 160
- 118 [72-1-303](#), as last amended by Laws of Utah 2011, Chapter 256

- 119 [72-1-304](#), as last amended by Laws of Utah 2008, Chapter 382
- 120 [72-1-305](#), as last amended by Laws of Utah 2009, Chapter 364
- 121 [72-2-117.5](#), as last amended by Laws of Utah 2017, Chapter 240
- 122 [72-2-121](#), as last amended by Laws of Utah 2017, Chapter 436
- 123 [72-2-124](#), as last amended by Laws of Utah 2017, Chapter 436
- 124 [72-5-401](#), as last amended by Laws of Utah 2005, Chapter 254
- 125 [72-6-120](#), as last amended by Laws of Utah 2015, Chapter 144

126 ENACTS:

- 127 [11-13-227](#), Utah Code Annotated 1953
- 128 [17B-2a-803.1](#), Utah Code Annotated 1953
- 129 [17B-2a-807.1](#), Utah Code Annotated 1953
- 130 [17B-2a-808.1](#), Utah Code Annotated 1953
- 131 [17B-2a-808.2](#), Utah Code Annotated 1953
- 132 [17B-2a-811.1](#), Utah Code Annotated 1953
- 133 [59-12-2220](#), Utah Code Annotated 1953
- 134 [59-12-2221](#), Utah Code Annotated 1953

135 REPEALS:

- 136 [17B-2a-807.5](#), as enacted by Laws of Utah 2009, Chapter 364

137

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

139 Section 1. Section **11-13-103** is amended to read:

140 **11-13-103. Definitions.**

141 As used in this chapter:

142 (1) (a) "Additional project capacity" means electric generating capacity provided by a
143 generating unit that first produces electricity on or after May 6, 2002, and that is constructed or
144 installed at or adjacent to the site of a project that first produced electricity before May 6, 2002,
145 regardless of whether:

146 (i) the owners of the new generating unit are the same as or different from the owner of
147 the project; and

148 (ii) the purchasers of electricity from the new generating unit are the same as or
149 different from the purchasers of electricity from the project.

150 (b) "Additional project capacity" does not mean or include replacement project
151 capacity.

152 (2) "Board" means the Permanent Community Impact Fund Board created by Section
153 35A-8-304, and its successors.

154 (3) "Candidate" means one or more of:

155 (a) the state;

156 (b) a county, municipality, school district, local district, special service district, or other
157 political subdivision of the state; and

158 (c) a prosecution district.

159 (4) "Commercial project entity" means a project entity, defined in Subsection (18),
160 that:

161 (a) has no taxing authority; and

162 (b) is not supported in whole or in part by and does not expend or disburse tax
163 revenues.

164 (5) "Direct impacts" means an increase in the need for public facilities or services that
165 is attributable to the project or facilities providing additional project capacity, except impacts
166 resulting from the construction or operation of a facility that is:

167 (a) owned by an owner other than the owner of the project or of the facilities providing
168 additional project capacity; and

169 (b) used to furnish fuel, construction, or operation materials for use in the project.

170 (6) "Electric interlocal entity" means an interlocal entity described in Subsection
171 11-13-203(3).

172 (7) "Energy services interlocal entity" means an interlocal entity that is described in
173 Subsection 11-13-203(4).

174 (8) (a) "Estimated electric requirements," when used with respect to a qualified energy
175 services interlocal entity, includes any of the following that meets the requirements of
176 Subsection (8)(b):

177 (i) generation capacity;

178 (ii) generation output; or

179 (iii) an electric energy production facility.

180 (b) An item listed in Subsection (8)(a) is included in "estimated electric requirements"

181 if it is needed by the qualified energy services interlocal entity to perform the qualified energy
182 services interlocal entity's contractual or legal obligations to any of its members.

183 (9) (a) "Facilities providing replacement project capacity" means facilities that have
184 been, are being, or are proposed to be constructed, reconstructed, converted, repowered,
185 acquired, leased, used, or installed to provide replacement project capacity.

186 (b) "Facilities providing replacement project capacity" includes facilities that have
187 been, are being, or are proposed to be constructed, reconstructed, converted, repowered,
188 acquired, leased, used, or installed:

189 (i) to support and facilitate the construction, reconstruction, conversion, repowering,
190 installation, financing, operation, management, or use of replacement project capacity; or

191 (ii) for the distribution of power generated from existing capacity or replacement
192 project capacity to facilities located on real property in which the project entity that owns the
193 project has an ownership, leasehold, right-of-way, or permitted interest.

194 (10) "Governing authority" means a governing board or joint administrator.

195 (11) (a) "Governing board" means the body established in reliance on the authority
196 provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

197 (b) "Governing board" includes a board of directors described in an agreement, as
198 amended, that creates a project entity.

199 (c) "Governing board" does not include a board as defined in Subsection (2).

200 (12) "Interlocal entity" means:

201 (a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal
202 entity; or

203 (b) a separate legal or administrative entity created under Section 11-13-205.

204 (13) "Joint administrator" means an administrator or joint board described in Section
205 11-13-207 to administer a joint or cooperative undertaking.

206 (14) "Joint or cooperative undertaking" means an undertaking described in Section
207 11-13-207 that is not conducted by an interlocal entity.

208 (15) "Member" means a public agency that, with another public agency, creates an
209 interlocal entity under Section 11-13-203.

210 (16) "Out-of-state public agency" means a public agency as defined in Subsection
211 (19)(c), (d), or (e).

212 (17) (a) "Project":

213 (i) means an electric generation and transmission facility owned by a Utah interlocal
214 entity or an electric interlocal entity; and

215 (ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah
216 interlocal entity or electric interlocal entity and required for the generation and transmission
217 facility.

218 (b) "Project" includes a project entity's ownership interest in:

219 (i) facilities that provide additional project capacity;

220 (ii) facilities providing replacement project capacity; and

221 (iii) additional generating, transmission, fuel, fuel transportation, water, or other
222 facilities added to a project.

223 (18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that
224 owns a project as defined in this section.

225 (19) "Public agency" means:

226 (a) a city, town, county, school district, local district, special service district, an
227 interlocal entity, or other political subdivision of the state;

228 (b) the state or any department, division, or agency of the state;

229 (c) any agency of the United States;

230 (d) any political subdivision or agency of another state or the District of Columbia
231 including any interlocal cooperation or joint powers agency formed under the authority of the
232 law of the other state or the District of Columbia; or

233 (e) any Indian tribe, band, nation, or other organized group or community which is
234 recognized as eligible for the special programs and services provided by the United States to
235 Indians because of their status as Indians.

236 (20) "Qualified energy services interlocal entity" means an energy services interlocal
237 entity that at the time that the energy services interlocal entity acquires its interest in facilities
238 providing additional project capacity has at least five members that are Utah public agencies.

239 (21) "Replacement project capacity" means electric generating capacity or transmission
240 capacity that:

241 (a) replaces all or a portion of the existing electric generating or transmission capacity
242 of a project; and

243 (b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected
244 with the site of a project, regardless of whether:

245 (i) the capacity replacing existing capacity is less than or exceeds the generating or
246 transmission capacity of the project existing before installation of the capacity replacing
247 existing capacity;

248 (ii) the capacity replacing existing capacity is owned by the project entity that is the
249 owner of the project, a segment established by the project entity, or a person with whom the
250 project entity or a segment established by the project entity has contracted; or

251 (iii) the facility that provides the capacity replacing existing capacity is constructed,
252 reconstructed, converted, repowered, acquired, leased, used, or installed before or after any
253 actual or anticipated reduction or modification to existing capacity of the project.

254 (22) "Transportation reinvestment zone" means an area created by two or more public
255 agencies by interlocal agreement to capture increased property or sales tax revenue generated
256 by a transportation infrastructure project as described in Section 11-13-227.

257 [~~22~~] (23) "Utah interlocal entity":

258 (a) means an interlocal entity described in Subsection 11-13-203(2); and

259 (b) includes a separate legal or administrative entity created under Laws of Utah 1977,
260 Chapter 47, Section 3, as amended.

261 [~~23~~] (24) "Utah public agency" means a public agency under Subsection (19)(a) or
262 (b).

263 Section 2. Section 11-13-202 is amended to read:

264 **11-13-202. Agreements for joint or cooperative undertaking, for providing or**
265 **exchanging services, or for law enforcement services -- Effective date of agreement --**
266 **Public agencies may restrict their authority or exempt each other regarding permits and**
267 **fees.**

268 (1) Any two or more public agencies may enter into an agreement with one another
269 under this chapter:

270 (a) for joint or cooperative action;

271 (b) to provide services that they are each authorized by statute to provide;

272 (c) to exchange services that they are each authorized by statute to provide;

273 (d) for a public agency to provide law enforcement services to one or more other public

274 agencies, if the public agency providing law enforcement services under the interlocal
275 agreement is authorized by law to provide those services, or to provide joint or cooperative law
276 enforcement services between or among public agencies that are each authorized by law to
277 provide those services; [or]

278 (e) to create a transportation reinvestment zone as defined in Section [11-13-103](#); or
279 [~~e~~] (f) to do anything else that they are each authorized by statute to do.

280 (2) An agreement under Subsection (1) does not take effect until it has been approved,
281 as provided in Section [11-13-202.5](#), by each public agency that is a party to it.

282 (3) (a) In an agreement under Subsection (1), a public agency that is a party to the
283 agreement may agree:

284 (i) to restrict its authority to issue permits to or assess fees from another public agency
285 that is a party to the agreement; and

286 (ii) to exempt another public agency that is a party to the agreement from permit or fee
287 requirements.

288 (b) A provision in an agreement under Subsection (1) whereby the parties agree as
289 provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement,
290 including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or
291 enforce the provision.

292 (4) An interlocal agreement between a county and one or more municipalities for law
293 enforcement service within an area that includes some or all of the unincorporated area of the
294 county shall require the law enforcement service provided under the agreement to be provided
295 by or under the direction of the county sheriff.

296 Section 3. Section **11-13-206** is amended to read:

297 **11-13-206. Requirements for agreements for joint or cooperative action.**

298 (1) Each agreement under Section [11-13-202](#), [11-13-203](#), [~~or~~] [11-13-205](#), or [11-13-227](#)
299 shall specify:

300 (a) its duration;

301 (b) if the agreement creates an interlocal entity:

302 (i) the precise organization, composition, and nature of the interlocal entity;

303 (ii) the powers delegated to the interlocal entity;

304 (iii) the manner in which the interlocal entity is to be governed; and

305 (iv) subject to Subsection (2), the manner in which the members of its governing board
306 are to be appointed or selected;

307 (c) its purpose or purposes;

308 (d) the manner of financing the joint or cooperative action and of establishing and
309 maintaining a budget for it;

310 (e) the permissible method or methods to be employed in accomplishing the partial or
311 complete termination of the agreement and for disposing of property upon such partial or
312 complete termination;

313 (f) the process, conditions, and terms for withdrawal of a participating public agency
314 from the interlocal entity or the joint or cooperative undertaking;

315 (g) (i) whether voting is based upon one vote per member or weighted; and

316 (ii) if weighted voting is allowed, the basis upon which the vote weight will be
317 determined; and

318 (h) any other necessary and proper matters.

319 (2) Each agreement under Section [11-13-203](#) or [11-13-205](#) that creates an interlocal
320 entity shall require that Utah public agencies that are parties to the agreement have the right to
321 appoint or select members of the interlocal entity's governing board with a majority of the
322 voting power.

323 Section 4. Section [11-13-207](#) is amended to read:

324 **11-13-207. Additional requirements for agreement not establishing interlocal**
325 **entity.**

326 (1) If an agreement under Section [11-13-202](#) or [11-13-227](#) does not establish an
327 interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in
328 addition to the items specified in Section [11-13-206](#), provide for:

329 (a) the joint or cooperative undertaking to be administered by:

330 (i) an administrator; or

331 (ii) a joint board with representation from the public agencies that are parties to the
332 agreement;

333 (b) the manner of acquiring, holding, and disposing of real and personal property used
334 in the joint or cooperative undertaking;

335 (c) the functions to be performed by the joint or cooperative undertaking; and

336 (d) the powers of the joint administrator.

337 (2) The creation, operation, governance, and fiscal procedures of a joint or cooperative
338 undertaking are governed by this chapter.

339 Section 5. Section **11-13-227** is enacted to read:

340 **11-13-227. Transportation reinvestment zones.**

341 (1) Subject to the provisions of this part, any two or more public agencies may enter
342 into an agreement with one another to create a transportation reinvestment zone as described in
343 this section.

344 (2) To create a transportation reinvestment zone, two or more public agencies, at least
345 one of which has land use authority over the transportation reinvestment zone area, shall:

346 (a) define the transportation infrastructure need and proposed improvement;

347 (b) define the boundaries of the zone;

348 (c) establish terms for sharing sales tax revenue among the members of the agreement;

349 (d) establish a base year to calculate the increase of property tax revenue within the
350 zone;

351 (e) establish terms for sharing any increase in property tax revenue within the zone;

352 and

353 (f) before an agreement is approved as required in Section [11-13-202.5](#), hold a public
354 hearing regarding the details of the proposed transportation reinvestment zone.

355 (3) Any agreement to establish a transportation reinvestment zone is subject to the
356 requirements of Sections [11-13-202](#), [11-13-202.5](#), [11-13-206](#), and [11-13-207](#).

357 (4) (a) Each public agency that is party to an agreement under this section shall
358 annually publish a report including a statement of the increased tax revenue and the
359 expenditures made in accordance with the agreement.

360 (b) Each public agency that is party to an agreement under this section shall transmit a
361 copy of the report described in Subsection (4)(a) to the state auditor.

362 (5) If any surplus revenue remains in a tax revenue account created as part of a
363 transportation reinvestment zone agreement, the parties may use the surplus for other purposes
364 as determined by agreement of the parties.

365 Section 6. Section **17B-1-301** is amended to read:

366 **17B-1-301. Board of trustees duties and powers.**

367 (1) (a) Each local district shall be governed by a board of trustees which shall manage
368 and conduct the business and affairs of the district and shall determine all questions of district
369 policy.

370 (b) All powers of a local district are exercised through the board of trustees.

371 (2) The board of trustees may:

372 (a) fix the location of the local district's principal place of business and the location of
373 all offices and departments, if any;

374 (b) fix the times of meetings of the board of trustees;

375 (c) select and use an official district seal;

376 (d) subject to Subsections (3) and (4), employ employees and agents, or delegate to
377 district officers power to employ employees and agents, for the operation of the local district
378 and its properties and prescribe or delegate to district officers the power to prescribe the duties,
379 compensation, and terms and conditions of employment of those employees and agents;

380 (e) require district officers and employees charged with the handling of district funds to
381 provide surety bonds in an amount set by the board or provide a blanket surety bond to cover
382 officers and employees;

383 (f) contract for or employ professionals to perform work or services for the local
384 district that cannot satisfactorily be performed by the officers or employees of the district;

385 (g) through counsel, prosecute on behalf of or defend the local district in all court
386 actions or other proceedings in which the district is a party or is otherwise involved;

387 (h) adopt bylaws for the orderly functioning of the board;

388 (i) adopt and enforce rules and regulations for the orderly operation of the local district
389 or for carrying out the district's purposes;

390 (j) prescribe a system of civil service for district employees;

391 (k) on behalf of the local district, enter into contracts that the board considers to be for
392 the benefit of the district;

393 (l) acquire, construct or cause to be constructed, operate, occupy, control, and use
394 buildings, works, or other facilities for carrying out the purposes of the local district;

395 (m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess
396 property necessary to carry out the purposes of the district, dispose of property when the board
397 considers it appropriate, and institute and maintain in the name of the district any action or

398 proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district
399 property;

400 (n) delegate to a district officer the exercise of a district duty; and

401 (o) exercise all powers and perform all functions in the operation of the local district
402 and its properties as are ordinarily exercised by the governing body of a political subdivision of
403 the state and as are necessary to accomplish the purposes of the district.

404 (3) (a) As used in this Subsection (3), "interim vacancy period" means:

405 (i) if any member of the local district board is elected, the period of time that:

406 (A) begins on the day on which an election is held to elect a local district board
407 member; and

408 (B) ends on the day on which the local district board member-elect begins the
409 member's term; or

410 (ii) if any member of the local district board is appointed, the period of time that:

411 (A) begins on the day on which an appointing authority posts a notice of vacancy in
412 accordance with Section [17B-1-304](#); and

413 (B) ends on the day on which the person who is appointed by the local district board to
414 fill the vacancy begins the person's term.

415 (b) (i) The local district may not hire during an interim vacancy period a manager, a
416 chief executive officer, a chief administrative officer, an executive director, or a similar
417 position to perform executive and administrative duties or functions.

418 (ii) Notwithstanding Subsection (3)(b)(i):

419 (A) the local district may hire an interim manager, a chief executive officer, a chief
420 administrative officer, an executive director, or a similar position during an interim vacancy
421 period; and

422 (B) the interim manager's, chief executive officer's, chief administrative officer's, or
423 similar position's employment shall terminate once a new manager, chief executive officer,
424 chief administrative officer, or similar position is hired by the new local district board after the
425 interim vacancy period has ended.

426 (c) Subsection (3)(b) does not apply if:

427 (i) all the elected local district board members who held office on the day of the
428 election for the local district board members, whose term of office was vacant for the election

429 are re-elected to the local district board; and

430 (ii) all the appointed local district board members who were appointed whose term of
431 appointment was expiring are re-appointed to the local district board.

432 (4) A local district board that hires an interim manager, a chief executive officer, a
433 chief administrative officer, an executive director, or a similar position in accordance with this
434 section may not, on or after May 10, 2011, enter into an employment contract that contains an
435 automatic renewal provision with the interim manager, chief executive officer, chief
436 administrative officer, executive director, or similar position.

437 Section 7. Section **17B-1-702** is amended to read:

438 **17B-1-702. Local districts to submit budgets.**

439 (1) (a) Except as provided in Subsection (1)(b), within 30 days after it is approved by
440 the board, and at least 30 days before the board adopts a final budget, the board of each local
441 district with an annual budget of \$50,000 or more shall send a copy of its tentative budget and
442 notice of the time and place for its budget hearing to:

443 (i) each of its constituent entities that has in writing requested a copy; and

444 (ii) to each of its customer agencies that has in writing requested a copy.

445 (b) Within 30 days after it is approved by the board, and at least 30 days before the
446 board adopts a final budget, the board of trustees of a large public transit district [~~servicing a~~
447 ~~population of more than 200,000 people~~] as defined in Section 17B-2a-802 shall send a copy of
448 its tentative budget and notice of the time and place for its budget hearing to:

449 (i) each of its constituent entities;

450 (ii) each of its customer agencies that has in writing requested a copy;

451 (iii) the governor; and

452 (iv) the Legislature.

453 (c) The local district shall include with the tentative budget a signature sheet that
454 includes:

455 (i) language that the constituent entity or customer agency received the tentative budget
456 and has no objection to it; and

457 (ii) a place for the chairperson or other designee of the constituent entity or customer
458 agency to sign.

459 (2) Each constituent entity and each customer agency that receives the tentative budget

460 shall review the tentative budget submitted by the district and either:

461 (a) sign the signature sheet and return it to the district; or

462 (b) attend the budget hearing or other meeting scheduled by the district to discuss the
463 objections to the proposed budget.

464 (3) (a) If any constituent entity or customer agency that received the tentative budget
465 has not returned the signature sheet to the local district within 15 calendar days after the
466 tentative budget was mailed, the local district shall send a written notice of the budget hearing
467 to each constituent entity or customer agency that did not return a signature sheet and invite
468 them to attend that hearing.

469 (b) If requested to do so by any constituent entity or customer agency, the local district
470 shall schedule a meeting to discuss the budget with the constituent entities and customer
471 agencies.

472 (c) At the budget hearing, the local district board shall:

473 (i) explain its budget and answer any questions about it;

474 (ii) specifically address any questions or objections raised by the constituent entity,
475 customer agency, or those attending the meeting; and

476 (iii) seek to resolve the objections.

477 (4) Nothing in this part prevents a local district board from approving or implementing
478 a budget over any or all constituent entity's or customer agency's protests, objections, or failure
479 to respond.

480 Section 8. Section **17B-1-703** is amended to read:

481 **17B-1-703. Local districts to submit audit reports.**

482 (1) (a) Except as provided in Subsection (1)(b), within 30 days after it is presented to
483 the board, the board of each local district with an annual budget of \$50,000 or more shall send
484 a copy of any audit report to:

485 (i) each of its constituent entities that has in writing requested a copy; and

486 (ii) each of its customer agencies that has in writing requested a copy.

487 (b) Within 30 days after it is presented to the board, the board of a large public transit
488 district [~~servicing a population of more than 200,000 people~~] as defined in Section 17B-2a-802
489 shall send a copy of its annual audit report to:

490 (i) each of its constituent entities; and

491 (ii) each of its customer agencies that has in writing requested a copy.

492 (2) Each constituent entity and each customer agency that received the audit report
493 shall review the audit report submitted by the district and, if necessary, request a meeting with
494 the district board to discuss the audit report.

495 (3) At the meeting, the local district board shall:

496 (a) answer any questions about the audit report; and

497 (b) discuss their plans to implement suggestions made by the auditor.

498 Section 9. Section **17B-2a-802** is amended to read:

499 **17B-2a-802. Definitions.**

500 As used in this part:

501 (1) "Affordable housing" means housing occupied or reserved for occupancy by
502 households that meet certain gross household income requirements based on the area median
503 income for households of the same size.

504 (a) "Affordable housing" may include housing occupied or reserved for occupancy by
505 households that meet specific area median income targets or ranges of area median income
506 targets.

507 (b) "Affordable housing" does not include housing occupied or reserved for occupancy
508 by households with gross household incomes that are more than 60% of the area median
509 income for households of the same size.

510 (2) "Appointing entity" means the person, county, unincorporated area of a county, or
511 municipality appointing a member to a public transit district board of trustees.

512 (3) (a) "Chief executive officer" means a person appointed by the board of trustees of a
513 small public transit district to serve as chief executive officer.

514 (b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities
515 defined in Sections [17B-2a-810](#) and [17B-2a-811](#) and includes all rights, duties, and
516 responsibilities assigned to the general manager but prescribed by the board of trustees to be
517 fulfilled by the chief executive officer.

518 (4) "Council of governments" means a decision-making body in each county composed
519 of membership including the county governing body and the mayors of each municipality in the
520 county.

521 [~~4~~] (5) "Department" means the Department of Transportation created in Section

522 72-1-201.

523 (6) "Executive director" means a person appointed by the board of trustees of a large
524 public transit district to serve as executive director.

525 [~~5~~] (7) (a) "General manager" means a person appointed by the board of trustees of a
526 small public transit district to serve as general manager.

527 (b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in
528 Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public
529 transit district.

530 (8) "Large public transit district" means a public transit district that provides public
531 transit to an area that includes:

532 (a) more than 65% of the population of the state based on the most recent official
533 census or census estimate of the United States Census Bureau; and

534 (b) two or more counties.

535 [~~6~~] (9) (a) "Locally elected public official" means a person who holds an elected
536 position with a county or municipality.

537 (b) "Locally elected public official" does not include a person who holds an elected
538 position if the elected position is not with a county or municipality.

539 [~~7~~] (10) "Metropolitan planning organization" means the same as that term is defined
540 in Section 72-1-208.5.

541 [~~8~~] (11) "Multicounty district" means a public transit district located in more than one
542 county.

543 [~~9~~] (12) "Operator" means a public entity or other person engaged in the
544 transportation of passengers for hire.

545 [~~10~~] (13) "Public transit" means the transportation of passengers only and their
546 incidental baggage by means other than:

547 (a) chartered bus;

548 (b) sightseeing bus; or

549 (c) taxi.

550 (14) "Public transit district" means a local district that provides public transit services.

551 (15) "Small public transit district" means any public transit district that is not a large
552 public transit district.

553 ~~[(11)]~~ (16) "Transit facility" means a transit vehicle, transit station, depot, passenger
554 loading or unloading zone, parking lot, or other facility:

555 (a) leased by or operated by or on behalf of a public transit district; and

556 (b) related to the public transit services provided by the district, including:

557 (i) railway or other right-of-way;

558 (ii) railway line; and

559 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
560 a transit vehicle.

561 ~~[(14)]~~ (17) "Transit vehicle" means a passenger bus, coach, railcar, van, or other
562 vehicle operated as public transportation by a public transit district.

563 ~~[(12)]~~ (18) "Transit-oriented development" means a mixed use residential or
564 commercial area that is designed to maximize access to public transit and includes the
565 development of land owned by a public transit district that serves a county of the first class.

566 ~~[(13)]~~ (19) "Transit-supportive development" means a mixed use residential or
567 commercial area that is designed to maximize access to public transit and does not include the
568 development of land owned by a public transit district.

569 Section 10. Section **17B-2a-803.1** is enacted to read:

570 **17B-2a-803.1. Authority to name a large public transit district.**

571 (1) The authority to name any large public transit district is vested in the Legislature
572 and the name shall be codified in this section.

573 (2) For the large public transit district in existence and with a portion of the district
574 within a county of the first class as of May 8, 2018, the large public transit district shall be
575 called Transit District Utah.

576 Section 11. Section **17B-2a-804** is amended to read:

577 **17B-2a-804. Additional public transit district powers.**

578 (1) In addition to the powers conferred on a public transit district under Section
579 **17B-1-103**, a public transit district may:

580 (a) provide a public transit system for the transportation of passengers and their
581 incidental baggage;

582 (b) notwithstanding Subsection **17B-1-103(2)(g)** and subject to Section **17B-2a-817**,
583 levy and collect property taxes only for the purpose of paying:

- 584 (i) principal and interest of bonded indebtedness of the public transit district; or
- 585 (ii) a final judgment against the public transit district if:
 - 586 (A) the amount of the judgment exceeds the amount of any collectable insurance or
 - 587 indemnity policy; and
 - 588 (B) the district is required by a final court order to levy a tax to pay the judgment;
 - 589 (c) insure against:
 - 590 (i) loss of revenues from damage to or destruction of some or all of a public transit
 - 591 system from any cause;
 - 592 (ii) public liability;
 - 593 (iii) property damage; or
 - 594 (iv) any other type of event, act, or omission;
 - 595 (d) acquire, contract for, lease, construct, own, operate, control, or use:
 - 596 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,
 - 597 parking lot, or any other facility necessary or convenient for public transit service; or
 - 598 (ii) any structure necessary for access by persons and vehicles;
 - 599 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,
 - 600 equipment, service, employee, or management staff of an operator; and
 - 601 (ii) provide for a sublease or subcontract by the operator upon terms that are in the
 - 602 public interest;
 - 603 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
 - 604 (g) accept a grant, contribution, or loan, directly through the sale of securities or
 - 605 equipment trust certificates or otherwise, from the United States, or from a department,
 - 606 instrumentality, or agency of the United States;
 - 607 (h) study and plan transit facilities in accordance with any legislation passed by
 - 608 Congress;
 - 609 (i) cooperate with and enter into an agreement with the state or an agency of the state
 - 610 or otherwise contract to finance to establish transit facilities and equipment or to study or plan
 - 611 transit facilities;
 - 612 (j) subject to Subsection [17B-2a-808.1\(5\)](#), issue bonds as provided in and subject to
 - 613 Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
 - 614 (k) from bond proceeds or any other available funds, reimburse the state or an agency

615 of the state for an advance or contribution from the state or state agency;

616 (l) do anything necessary to avail itself of any aid, assistance, or cooperation available
617 under federal law, including complying with labor standards and making arrangements for
618 employees required by the United States or a department, instrumentality, or agency of the
619 United States;

620 (m) sell or lease property;

621 (n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or
622 transit-supportive developments;

623 (o) establish, finance, participate as a limited partner or member in a development with
624 limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or
625 operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented
626 developments or transit-supportive developments; and

627 (p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a
628 transit-oriented development or a transit-supportive development in connection with project
629 area development as defined in Section 17C-1-102 by:

630 (i) investing in a project as a limited partner or a member, with limited liabilities; or

631 (ii) subordinating an ownership interest in real property owned by the public transit
632 district.

633 (2) (a) A public transit district may only assist in the development of areas under
634 Subsection (1)(p):

635 (i) in the manner described in Subsection (1)(p)(i) or (ii); and

636 (ii) on no more than eight transit-oriented developments or transit-supportive
637 developments selected by the board of trustees.

638 (b) A public transit district may not invest in a transit-oriented development or
639 transit-supportive development as a limited partner or other limited liability entity under the
640 provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity,
641 makes an equity contribution equal to no less than 25% of the appraised value of the property
642 to be contributed by the public transit district.

643 (c) (i) For transit-oriented development projects, a public transit district shall adopt
644 transit-oriented development policies and guidelines that include provisions on affordable
645 housing.

646 (ii) For transit-supportive development projects, a public transit district shall work with
647 the metropolitan planning organization and city and county governments where the project is
648 located to collaboratively seek to create joint plans for the areas within one-half mile of transit
649 stations, including plans for affordable housing.

650 (d) A current board member of a public transit district to which the board member is
651 appointed may not have any interest in the transactions engaged in by the public transit district
652 pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's
653 fiduciary duty as a board member.

654 (3) For any transit-oriented development or transit-supportive development authorized
655 in this section, the public transit district shall:

656 (a) perform a cost-benefit analysis of the monetary investment and expenditures of the
657 development, including effect on:

- 658 (i) service and ridership;
- 659 (ii) regional plans made by the metropolitan planning agency;
- 660 (iii) the local economy;
- 661 (iv) the environment and air quality;
- 662 (v) affordable housing; and
- 663 (vi) integration with other modes of transportation; and

664 (b) provide evidence to the public of a quantifiable positive return on investment,
665 including improvements to public transit service.

666 (4) A public transit district may be funded from any combination of federal, state,
667 local, or private funds.

668 (5) A public transit district may not acquire property by eminent domain.

669 Section 12. Section **17B-2a-807** is amended to read:

670 **17B-2a-807. Small public transit district board of trustees -- Appointment --**
671 **Apportionment -- Qualifications -- Quorum -- Compensation -- Terms.**

672 (1) (a) [~~If 200,000 people or fewer reside within the boundaries of a~~] For a small public
673 transit district, the board of trustees shall consist of members appointed by the legislative
674 bodies of each municipality, county, or unincorporated area within any county on the basis of
675 one member for each full unit of regularly scheduled passenger routes proposed to be served by
676 the district in each municipality or unincorporated area within any county in the following

677 calendar year.

678 (b) For purposes of determining membership under Subsection (1)(a), the number of
679 service miles comprising a unit shall be determined jointly by the legislative bodies of the
680 municipalities or counties comprising the district.

681 (c) The board of trustees of a public transit district under this ~~[Subsection (1)]~~ section
682 may include a member that is a commissioner on the Transportation Commission created in
683 Section 72-1-301 and appointed as provided in Subsection ~~[(1)]~~ (8), who shall serve as a
684 nonvoting, ex officio member.

685 (d) Members appointed under this ~~[Subsection (1)]~~ section shall be appointed and
686 added to the board or omitted from the board at the time scheduled routes are changed, or as
687 municipalities, counties, or unincorporated areas of counties annex to or withdraw from the
688 district using the same appointment procedures.

689 (e) For purposes of appointing members under this ~~[Subsection (1)]~~ section,
690 municipalities, counties, and unincorporated areas of counties in which regularly scheduled
691 passenger routes proposed to be served by the district in the following calendar year is less than
692 a full unit, as defined in Subsection (1)(b), may combine with any other similarly situated
693 municipality or unincorporated area to form a whole unit and may appoint one member for
694 each whole unit formed.

695 ~~[(2)(a) Subject to Section 17B-2a-807.5, if more than 200,000 people reside within the
696 boundaries of a public transit district, the board of trustees shall consist of:]~~

697 ~~[(i) 11 members:]~~

698 ~~[(A) appointed as described under this Subsection (2); or]~~

699 ~~[(B) retained in accordance with Section 17B-2a-807.5;]~~

700 ~~[(ii) three members appointed as described in Subsection (4);]~~

701 ~~[(iii) one voting member appointed as provided in Subsection (11); and]~~

702 ~~[(iv) one nonvoting member appointed as provided in Subsection (12).]~~

703 ~~[(b) Except as provided in Subsections (2)(c) and (d), the board shall apportion voting
704 members to each county within the district using an average of:]~~

705 ~~[(i) the proportion of population included in the district and residing within each
706 county, rounded to the nearest 1/11 of the total transit district population; and]~~

707 ~~[(ii) the cumulative proportion of transit sales and use tax collected from areas~~

708 included in the district and within each county, rounded to the nearest 1/11 of the total
709 cumulative transit sales and use tax collected for the transit district.]

710 [~~(c) The board shall join an entire or partial county not apportioned a voting member
711 under this Subsection (2) with an adjacent county for representation. The combined
712 apportionment basis included in the district of both counties shall be used for the
713 apportionment.~~]

714 [~~(d) (i) If rounding to the nearest 1/11 of the total public transit district apportionment
715 basis under Subsection (2)(b) results in an apportionment of more than 11 members, the county
716 or combination of counties with the smallest additional fraction of a whole member proportion
717 shall have one less member apportioned to it.~~]

718 [~~(ii) If rounding to the nearest 1/11 of the total public transit district apportionment
719 basis under Subsection (2)(b) results in an apportionment of less than 11 members, the county
720 or combination of counties with the largest additional fraction of a whole member proportion
721 shall have one more member apportioned to it.~~]

722 [~~(e) If the population of a county is at least 750,000, the county executive, with the
723 advice and consent of the county legislative body, shall appoint one voting member to
724 represent the population of the county.~~]

725 [~~(f) If a municipality's population is at least 160,000, the chief municipal executive,
726 with the advice and consent of the municipal legislative body, shall appoint one voting member
727 to represent the population within a municipality.~~]

728 [~~(g) (i) The number of voting members appointed from a county and municipalities
729 within a county under Subsections (2)(e) and (f) shall be subtracted from the county's total
730 voting member apportionment under this Subsection (2).~~]

731 [~~(ii) Notwithstanding Subsections (2)(i) and (10), no more than one voting member
732 appointed by an appointing entity may be a locally elected public official.~~]

733 [~~(h) If the entire county is within the district, the remaining voting members for the
734 county shall represent the county or combination of counties, if Subsection (2)(c) applies, or
735 the municipalities within the county.~~]

736 [~~(i) If the entire county is not within the district, and the county is not joined with
737 another county under Subsection (2)(c), the remaining voting members for the county shall
738 represent a municipality or combination of municipalities.~~]

739 ~~[(j) (i) Except as provided under Subsections (2)(e) and (f), voting members~~
740 ~~representing counties, combinations of counties if Subsection (2)(c) applies, or municipalities~~
741 ~~within the county shall be designated and appointed by a simple majority of the chief~~
742 ~~executives of the municipalities within the county or combinations of counties if Subsection~~
743 ~~(2)(c) applies.]~~

744 ~~[(ii) The appointments shall be made by joint written agreement of the appointing~~
745 ~~municipalities, with the consent and approval of the county legislative body of the county that~~
746 ~~has at least 1/11 of the district's apportionment basis.]~~

747 ~~[(k) Voting members representing a municipality or combination of municipalities~~
748 ~~shall be designated and appointed by the chief executive officer of the municipality or simple~~
749 ~~majority of chief executive officers of municipalities with the consent of the legislative body of~~
750 ~~the municipality or municipalities.]~~

751 ~~[(l) The appointment of members shall be made without regard to partisan political~~
752 ~~affiliation from among citizens in the community.]~~

753 ~~[(m) Each member shall be a bona fide resident of the municipality, county, or~~
754 ~~unincorporated area or areas which the member is to represent for at least six months before the~~
755 ~~date of appointment, and shall continue in that residency to remain qualified to serve as a~~
756 ~~member.]~~

757 ~~[(n) (i) All population figures used under this section shall be derived from the most~~
758 ~~recent official census or census estimate of the United States Bureau of the Census.]~~

759 ~~[(ii) If population estimates are not available from the United States Bureau of Census,~~
760 ~~population figures shall be derived from the estimate from the Utah Population Estimates~~
761 ~~Committee.]~~

762 ~~[(iii) All transit sales and use tax totals shall be obtained from the State Tax~~
763 ~~Commission.]~~

764 ~~[(o) (i) The board shall be apportioned as provided under this section in conjunction~~
765 ~~with the decennial United States Census Bureau report every 10 years.]~~

766 ~~[(ii) Within 120 days following the receipt of the population estimates under this~~
767 ~~Subsection (2)(o), the district shall reapportion representation on the board of trustees in~~
768 ~~accordance with this section.]~~

769 ~~[(iii) The board shall adopt by resolution a schedule reflecting the current and proposed~~

770 apportionment.]

771 ~~[(iv) Upon adoption of the resolution, the board shall forward a copy of the resolution~~
772 ~~to each of its constituent entities as defined under Section 17B-1-701.]~~

773 ~~[(v) The appointing entities gaining a new board member shall appoint a new member~~
774 ~~within 30 days following receipt of the resolution.]~~

775 ~~[(vi) The appointing entities losing a board member shall inform the board of which~~
776 ~~member currently serving on the board will step down:]~~

777 ~~[(A) upon appointment of a new member under Subsection (2)(o)(v); or]~~

778 ~~[(B) in accordance with Section 17B-2a-807.5.]~~

779 ~~[(3)]~~ (2) Upon the completion of an annexation to a public transit district under
780 Chapter 1, Part 4, Annexation, the annexed area shall have a representative on the board of
781 trustees on the same basis as if the area had been included in the district as originally
782 organized.

783 ~~[(4) In addition to the voting members appointed in accordance with Subsection (2),~~
784 ~~the board shall consist of three voting members appointed as follows:]~~

785 ~~[(a) one member appointed by the speaker of the House of Representatives;]~~

786 ~~[(b) one member appointed by the president of the Senate; and]~~

787 ~~[(c) one member appointed by the governor:]~~

788 ~~[(5) Except as provided in Section 17B-2a-807.5, the terms of office of the members of~~
789 ~~the board shall be four years or until a successor is appointed, qualified, seated, and has taken~~
790 ~~the oath of office.]~~

791 ~~[(6)]~~ (3) (a) Vacancies for members shall be filled by the official appointing the
792 member creating the vacancy for the unexpired term, unless the official fails to fill the vacancy
793 within 90 days.

794 (b) If the appointing official under Subsection (1) does not fill the vacancy within 90
795 days, the board of trustees of the authority shall fill the vacancy.

796 ~~[(c) If the appointing official under Subsection (2) does not fill the vacancy within 90~~
797 ~~days, the governor, with the advice and consent of the Senate, shall fill the vacancy:]~~

798 ~~[(7)]~~ (4) (a) Each voting member may cast one vote on all questions, orders,
799 resolutions, and ordinances coming before the board of trustees.

800 (b) A majority of all voting members of the board of trustees are a quorum for the

801 transaction of business.

802 (c) The affirmative vote of a majority of all voting members present at any meeting at
803 which a quorum was initially present shall be necessary and, except as otherwise provided, is
804 sufficient to carry any order, resolution, ordinance, or proposition before the board of trustees.

805 ~~[(8)]~~ (5) Each public transit district shall pay to each member per diem and travel
806 expenses for meetings actually attended, in accordance with Section 11-55-103.

807 ~~[(9)]~~ (6) (a) Members of the initial board of trustees shall convene at the time and place
808 fixed by the chief executive officer of the entity initiating the proceedings.

809 (b) The board of trustees shall elect from its voting membership a chair, vice chair, and
810 secretary.

811 (c) The members elected under Subsection ~~[(9)]~~ (6)(b) shall serve for a period of two
812 years or until their successors shall be elected and qualified.

813 (d) On or after January 1, 2011, a locally elected public official is not eligible to serve
814 as the chair, vice chair, or secretary of the board of trustees.

815 ~~[(10)]~~ (7) (a) Except as otherwise authorized under ~~[Subsections (2)(g) and (10)(b) and~~
816 ~~Section 17B-2a-807.5]~~ Subsection (7)(b), at the time of a member's appointment or during a
817 member's tenure in office, a member may not hold any employment, except as an independent
818 contractor or locally elected public official, with a county or municipality within the district.

819 (b) A member appointed by a county or municipality may hold employment with the
820 county or municipality if the employment is disclosed in writing and the public transit district
821 board of trustees ratifies the appointment.

822 ~~[(11)]~~ (8) The Transportation Commission created in Section 72-1-301 ~~[-(a) for a~~
823 ~~public transit district serving a population of 200,000 people or fewer,]~~ may appoint a
824 commissioner of the Transportation Commission to serve on the board of trustees of a small
825 public transit district as a nonvoting, ex officio member ~~[-and].~~

826 ~~[(b) for a public transit district serving a population of more than 200,000 people, shall~~
827 ~~appoint a commissioner of the Transportation Commission to serve on the board of trustees as~~
828 ~~a voting member.]~~

829 ~~[(12) (a) The board of trustees of a public transit district serving a population of more~~
830 ~~than 200,000 people shall include a nonvoting member who represents all municipalities and~~
831 ~~unincorporated areas within the district that are located within a county that is not annexed into~~

832 the public transit district.]

833 ~~[(b) The nonvoting member representing the combination of municipalities and~~
834 ~~unincorporated areas described in Subsection (12)(a) shall be designated and appointed by a~~
835 ~~weighted vote of the majority of the chief executive officers of the municipalities described in~~
836 ~~Subsection (12)(a).]~~

837 ~~[(c) Each municipality's vote under Subsection (12)(b) shall be weighted using the~~
838 ~~proportion of the public transit district population that resides within that municipality and the~~
839 ~~adjacent unincorporated areas within the same county.]~~

840 [(13)] (9) (a) (i) Each member of the board of trustees of a public transit district is
841 subject to recall at any time by the legislative body of the county or municipality from which
842 the member is appointed.

843 (ii) Each recall of a board of trustees member shall be made in the same manner as the
844 original appointment.

845 (iii) The legislative body recalling a board of trustees member shall provide written
846 notice to the member being recalled.

847 (b) Upon providing written notice to the board of trustees, a member of the board may
848 resign from the board of trustees.

849 (c) ~~[Except as provided in Section 17B-2a-807.5, if]~~ If a board member is recalled or
850 resigns under this Subsection [(13)] (9), the vacancy shall be filled as provided in Subsection
851 [(6)] (3).

852 Section 13. Section 17B-2a-807.1 is enacted to read:

853 **17B-2a-807.1. Large public transit district board of trustees -- Appointment -- --**
854 **Quorum -- Compensation -- Terms.**

855 (1) (a) For a large public transit district, the board of trustees shall consist of three
856 members appointed as described in Subsection (1)(b).

857 (b) (i) The governor, with advice and consent of the Senate, shall appoint the members
858 of the board of trustees, making:

859 (A) one appointment from the nominees described in Subsection (1)(b)(ii);

860 (B) one appointment from the nominees described in Subsection (1)(b)(iii); and

861 (C) one appointment from the nominees described in Subsection (1)(b)(iv).

862 (ii) The chief executive officer of a county of the first class within a large public transit

863 district, with approval of the legislative body of the county, shall nominate two or more
864 individuals to the governor for appointment to the board of trustees.

865 (iii) (A) Subject to Subsection (1)(b)(iii)(B), the executive governing individuals or
866 bodies of a county or counties of the second class, with a population over 500,000, within a
867 large public transit district, shall nominate two or more individuals to the governor for
868 appointment to the board of trustees.

869 (B) To select individuals for nomination, the executive governing individuals or bodies
870 described in Subsection (1)(b)(iii)(A) shall consult with the executive governing individual or
871 body of a county of the third or smaller class within the large public transit district.

872 (iv) (A) Subject to Subsection (1)(b)(iv)(B), the executive governing individuals or
873 bodies of any county or counties of the second class, with a population of 500,000 or less,
874 within a large public transit district, shall jointly nominate two or more individuals to the
875 governor for appointment to the board of trustees.

876 (B) To select individuals for nomination, the executive governing individuals or bodies
877 described in Subsection (1)(b)(iv)(A) shall consult with the executive governing individual or
878 body of a county of the third or smaller class within the large public transit district different
879 from a third or smaller class county consulting with the county or counties described in
880 Subsection (1)(b)(iii).

881 (c) Each nominee shall be a qualified executive with technical and administrative
882 experience and training appropriate for the position.

883 (d) The board of trustees of a large public transit district shall be full-time employees
884 of the public transit district.

885 (e) The compensation package for the board of trustees shall be determined by the local
886 advisory board as described in Section [17B-2a-808.2](#).

887 (2) (a) Subject to Subsections (3) and (4), each member of the board of trustees of a
888 large public transit district shall serve for a term of three years.

889 (b) A member of the board of trustees may serve an unlimited number of terms.

890 (3) Each member of the board of trustees of a large public transit district shall serve at
891 the pleasure of the governor.

892 (4) The first time the board of trustees is appointed under this section, the governor
893 shall stagger the initial term of each of the members of the board of trustees as follows:

894 (a) one member of the board of trustees shall serve an initial term of two years;

895 (b) one member of the board of trustees shall serve an initial term of three years; and

896 (c) one member of the board of trustees shall serve an initial term of four years.

897 (5) The governor shall designate one member of the board of trustees as chair of the

898 board of trustees.

899 (6) (a) If a vacancy occurs, the nomination and appointment procedures to replace the
900 individual shall occur in the same manner described in Subsection (1) for the member creating
901 the vacancy.

902 (b) A replacement board member shall serve for the remainder of the unexpired term,
903 but may serve an unlimited number of terms as provided in Subsection (2)(b).

904 (c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy
905 within 60 days, the governor shall appoint an individual to fill the vacancy.

906 (7) For any large public transit district in existence as of May 8, 2018:

907 (a) the individuals or bodies providing nominations as described in this section shall
908 provide the nominations to the governor as described in this section before July 31, 2018;

909 (b) the governor shall appoint the members of the board of trustees before August 31,
910 2018; and

911 (c) the new board shall assume control of the large public transit district on or before
912 November 1, 2018.

913 Section 14. Section **17B-2a-808** is amended to read:

914 **17B-2a-808. Small public transit district board of trustees powers and duties --**
915 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

916 (1) The powers and duties of a board of trustees of a small public transit district stated
917 in this section are in addition to the powers and duties stated in Section **17B-1-301**.

918 (2) The board of trustees of each small public transit district shall:

919 (a) appoint and fix the salary of a general manager, a chief executive officer, or both, as
920 provided in Section **17B-2a-811**;

921 (b) determine the transit facilities that the district should acquire or construct;

922 (c) supervise and regulate each transit facility that the district owns and operates,
923 including:

924 (i) fixing rates, fares, rentals, and charges and any classifications of rates, fares, rentals,

925 and charges; and

926 (ii) making and enforcing rules, regulations, contracts, practices, and schedules for or
927 in connection with a transit facility that the district owns or controls;

928 (d) control the investment of all funds assigned to the district for investment, including
929 funds:

930 (i) held as part of a district's retirement system; and

931 (ii) invested in accordance with the participating employees' designation or direction
932 pursuant to an employee deferred compensation plan established and operated in compliance
933 with Section 457 of the Internal Revenue Code;

934 (e) invest all funds according to the procedures and requirements of Title 51, Chapter
935 7, State Money Management Act;

936 (f) if a custodian is appointed under Subsection (3)(d), pay the fees for the custodian's
937 services from the interest earnings of the investment fund for which the custodian is appointed;

938 (g) (i) cause an annual audit of all district books and accounts to be made by an
939 independent certified public accountant;

940 (ii) as soon as practicable after the close of each fiscal year, submit to the chief
941 administrative officer and legislative body of each county and municipality with territory
942 within the district a financial report showing:

943 (A) the result of district operations during the preceding fiscal year; and
944 (B) the district's financial status on the final day of the fiscal year; and

945 (iii) supply copies of the report under Subsection (2)(g)(ii) to the general public upon
946 request in a quantity that the board considers appropriate;

947 (h) report at least annually to the Transportation Commission created in Section
948 72-1-301 the district's short-term and long-range public transit plans, including the transit
949 portions of applicable regional transportation plans adopted by a metropolitan planning
950 organization established under 23 U.S.C. Sec. 134;

951 (i) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits
952 that the board of trustees determines to be the most critical to the success of the organization;
953 and

954 (j) hear audit reports for audits conducted in accordance with Subsection (2)(i).

955 (3) A board of trustees of a public transit district may:

956 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that
957 are:

958 (i) not repugnant to the United States Constitution, the Utah Constitution, or the
959 provisions of this part; and

960 (ii) necessary for:

961 (A) the government and management of the affairs of the district;

962 (B) the execution of district powers; and

963 (C) carrying into effect the provisions of this part;

964 (b) provide by resolution, under terms and conditions the board considers fit, for the
965 payment of demands against the district without prior specific approval by the board, if the
966 payment is:

967 (i) for a purpose for which the expenditure has been previously approved by the board;

968 (ii) in an amount no greater than the amount authorized; and

969 (iii) approved by the general manager or other officer or deputy as the board prescribes;

970 (c) (i) hold public hearings and subpoena witnesses; and

971 (ii) appoint district officers to conduct a hearing and require the officers to make
972 findings and conclusions and report them to the board; and

973 (d) appoint a custodian for the funds and securities under its control, subject to
974 Subsection (2)(f).

975 (4) A member of the board of trustees of a public transit district or a hearing officer
976 designated by the board may administer oaths and affirmations in a district investigation or
977 proceeding.

978 (5) (a) The vote of the board of trustees on each ordinance shall be by roll call vote
979 with each affirmative and negative vote recorded.

980 (b) (i) Subject to Subsection (5)(b)(ii), the board of trustees may adopt a resolution or
981 order by voice vote.

982 (ii) The vote of the board of trustees on a resolution or order shall be by roll call vote if
983 a member of the board so demands.

984 (c) (i) Except as provided in Subsection (5)(c)(ii), the board of trustees of a public
985 transit district may not adopt an ordinance unless it is:

986 (A) introduced at least a day before the board of trustees adopts it; or

987 (B) mailed by registered mail, postage prepaid, to each member of the board of trustees
988 at least five days before the day upon which the ordinance is presented for adoption.

989 (ii) Subsection (5)(c)(i) does not apply if the ordinance is adopted by a unanimous vote
990 of all board members present at a meeting at which at least 3/4 of all board members are
991 present.

992 (d) Each ordinance adopted by a public transit district's board of trustees shall take
993 effect upon adoption, unless the ordinance provides otherwise.

994 Section 15. Section **17B-2a-808.1** is enacted to read:

995 **17B-2a-808.1. Large public transit district board of trustees powers and duties --**
996 **Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.**

997 (1) The powers and duties of a board of trustees of a large public transit district stated
998 in this section are in addition to the powers and duties stated in Section [17B-1-301](#).

999 (2) The board of trustees of each large public transit district shall:

1000 (a) hold public meetings and receive public comment;

1001 (b) ensure that the policies, procedures, and management practices established by the
1002 public transit district meet state and federal regulatory requirements and federal grantee
1003 eligibility;

1004 (c) create and approve an annual budget, including the issuance of bonds and other
1005 financial instruments, after consultation with the local advisory board;

1006 (d) approve any interlocal agreement with a local jurisdiction;

1007 (e) in consultation with the local advisory board, approve contracts and overall
1008 property acquisitions and dispositions for transit-oriented development;

1009 (f) in consultation with constituent counties, municipalities, metropolitan planning
1010 organizations, and the local advisory board:

1011 (i) develop and approve a strategic plan for development and operations on at least a
1012 four-year basis; and

1013 (ii) create and pursue funding opportunities for transit capital and service initiatives to
1014 meet anticipated growth within the public transit district;

1015 (g) annually report the public transit district's long-term financial plan to the State
1016 Bonding Commission;

1017 (h) annually report the public transit district's progress and expenditures related to state

1018 resources to the Executive Appropriations Committee and the Infrastructure and General
1019 Government Appropriations Subcommittee;

1020 (i) (A) in partnership with the Department of Transportation, study and evaluate the
1021 feasibility of a strategic transition of a large public transit district into a state entity; and

1022 (B) in partnership with the Department of Transportation, before November 30 of each
1023 year, report on the progress of the study to the Transportation Interim Committee and the
1024 Infrastructure and General Government Appropriations Subcommittee;

1025 (j) hire, set salaries, and develop performance targets and evaluations for:

1026 (i) the executive director;

1027 (ii) the general counsel;

1028 (iii) the chief internal auditor;

1029 (iv) the chief people officer;

1030 (v) any vice president level officer; and

1031 (vi) the chief safety, security, and technology officer;

1032 (k) supervise and regulate each transit facility that the public transit district owns and
1033 operates, including:

1034 (i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and
1035 charges; and

1036 (ii) make and enforce rules, regulations, contracts, practices, and schedules for or in
1037 connection with a transit facility that the district owns or controls;

1038 (l) subject to Subsection (4), control the investment of all funds assigned to the district
1039 for investment, including funds:

1040 (i) held as part of a district's retirement system; and

1041 (ii) invested in accordance with the participating employees' designation or direction
1042 pursuant to an employee deferred compensation plan established and operated in compliance
1043 with Section 457 of the Internal Revenue Code;

1044 (m) in consultation with the local advisory board created under Section [17B-2a-808.2](#),
1045 invest all funds according to the procedures and requirements of Title 51, Chapter 7, State
1046 Money Management Act;

1047 (n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4),
1048 pay the fees for the custodian's services from the interest earnings of the investment fund for

1049 which the custodian is appointed;

1050 (o) (i) cause an annual audit of all public transit district books and accounts to be made
1051 by an independent certified public accountant;

1052 (ii) as soon as practicable after the close of each fiscal year, submit to each of the
1053 councils of governments within the public transit district a financial report showing:

1054 (A) the result of district operations during the preceding fiscal year;

1055 (B) an accounting of the expenditures of all local sales tax revenues generated under
1056 Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

1057 (C) the district's financial status on the final day of the fiscal year; and

1058 (D) the district's progress and efforts to improve efficiency relative to the previous
1059 fiscal year; and

1060 (iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon
1061 request;

1062 (p) report at least annually to the Transportation Commission created in Section
1063 72-1-301, which report shall include:

1064 (i) the district's short-term and long-range public transit plans, including the portions of
1065 applicable regional transportation plans adopted by a metropolitan planning organization
1066 established under 23 U.S.C. Sec. 134; and

1067 (ii) any transit capital development projects that the board of trustees would like the
1068 Transportation Commission to consider;

1069 (q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits
1070 that the board of trustees determines, in consultation with the local advisory board created in
1071 Section 17B-2a-808.2, to be the most critical to the success of the organization;

1072 (r) together with the local advisory board created in Section 17B-2a-808.2, hear audit
1073 reports for audits conducted in accordance with Subsection (2)(o);

1074 (s) negotiate all contracts pertaining to reduced fares, and evaluate existing contracts,
1075 including review of:

1076 (i) how negotiations occurred;

1077 (ii) the rationale for providing a reduced fare; and

1078 (iii) identification and evaluation of cost shifts to offset operational costs incurred and
1079 impacted by each contract offering a reduced fare;

1080 (t) in consultation with the local advisory board, develop and approve other board
1081 policies, ordinances, and bylaws; and
1082 (u) review and approve any:
1083 (i) contract or expense exceeding \$200,000; or
1084 (ii) proposed change order to an existing contract if the value of the change order
1085 exceeds:
1086 (A) 15% of the total contract; or
1087 (B) \$200,000.
1088 (3) A board of trustees of a large public transit district may:
1089 (a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that
1090 are:
1091 (i) not repugnant to the United States Constitution, the Utah Constitution, or the
1092 provisions of this part; and
1093 (ii) necessary for:
1094 (A) the governance and management of the affairs of the district;
1095 (B) the execution of district powers; and
1096 (C) carrying into effect the provisions of this part;
1097 (b) provide by resolution, under terms and conditions the board considers fit, for the
1098 payment of demands against the district without prior specific approval by the board, if the
1099 payment is:
1100 (i) for a purpose for which the expenditure has been previously approved by the board;
1101 (ii) in an amount no greater than the amount authorized; and
1102 (iii) approved by the executive director or other officer or deputy as the board
1103 prescribes;
1104 (c) in consultation with the local advisory board created in Section [17B-2a-808.2](#):
1105 (i) hold public hearings and subpoena witnesses; and
1106 (ii) appoint district officers to conduct a hearing and require the officers to make
1107 findings and conclusions and report them to the board; and
1108 (d) appoint a custodian for the funds and securities under its control, subject to
1109 Subsection (2)(n).
1110 (4) On or before September 30, 2019, the board of trustees of a large public transit

1111 district shall present a report to the Transportation Interim Committee regarding retirement
1112 benefits of the district, including:

1113 (a) the feasibility of becoming a participating employer and having retirement benefits
1114 of eligible employees and officials covered in applicable systems and plans administered under
1115 Title 49, Utah State Retirement and Insurance Benefit Act;

1116 (b) any legal or contractual restrictions on any employees that are party to a collectively
1117 bargained retirement plan; and

1118 (c) a comparison of retirement plans offered by the large public transit district and
1119 similarly situated public employees, including the costs of each plan and the value of the
1120 benefit offered.

1121 (5) The board of trustees may not issue a bond unless the board of trustees has
1122 consulted and received approval from the State Bonding Commission created in Section
1123 [63B-1-201](#).

1124 (6) A member of the board of trustees of a large public transit district or a hearing
1125 officer designated by the board may administer oaths and affirmations in a district investigation
1126 or proceeding.

1127 (7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll
1128 call vote with each affirmative and negative vote recorded.

1129 (b) The board of trustees of a large public transit district may not adopt an ordinance
1130 unless it is introduced at least 24 hours before the board of trustees adopts it.

1131 (c) Each ordinance adopted by a large public transit district's board of trustees shall
1132 take effect upon adoption, unless the ordinance provides otherwise.

1133 Section 16. Section **17B-2a-808.2** is enacted to read:

1134 **17B-2a-808.2. Large public transit district local advisory board -- Powers and**
1135 **duties.**

1136 (1) A large public transit district shall create and consult with a local advisory board.

1137 (2) (a) The local advisory board shall have membership selected as described in
1138 Subsection (2)(b).

1139 (b) (i) The council of governments of a county of the first class within a large public
1140 transit district shall appoint three members to the local advisory board.

1141 (ii) The chief executive officer of a city that is the county seat within a county of the

1142 first class within a large public transit district shall appoint one member to the local advisory
1143 board.

1144 (iii) The council of governments of a county of the second class with a population of
1145 500,000 or more within a large public transit district shall appoint two members to the local
1146 advisory board.

1147 (iv) The council of governments of a county of the second class with a population
1148 under 500,000 within a large public transit district shall each appoint one member to the local
1149 advisory board.

1150 (v) The councils of governments of any counties of the third or smaller class or smaller
1151 within a large public transit district shall jointly appoint one member to the local advisory
1152 board.

1153 (c) The population numbers used to apportion appointment powers described in
1154 Subsection (2)(b) shall be based on the most recent official census or census estimate of the
1155 United States Census Bureau.

1156 (3) The local advisory board shall meet at least quarterly in a meeting open to the
1157 public for comment to discuss the service, operations, and any concerns with the public transit
1158 district operations and functionality.

1159 (4) The duties of the local advisory board shall include:

1160 (a) setting the compensation packages of the board of trustees;

1161 (b) reviewing, approving, and recommending final adoption by the board of trustees of
1162 the large public transit district service plans at least every two and one-half years;

1163 (c) reviewing, approving, and recommending final adoption by the board of trustees of
1164 project development plans, including funding, of all new capital development projects;

1165 (d) reviewing, approving, and recommending final adoption by the board of trustees of
1166 any plan for a transit-oriented development where a large public transit district is involved;

1167 (e) at least annually, engaging with the safety and security team of the large public
1168 transit district to ensure coordination with local municipalities and counties;

1169 (f) assisting with coordinated mobility and constituent services provided by the public
1170 transit district;

1171 (g) representing and advocating the concerns of citizens within the public transit
1172 district to the board of trustees; and

1173 (h) other duties described in Section 17B-2a-808.1.

1174 (5) The local advisory board shall meet at least quarterly with and consult with the
1175 board of trustees and advise regarding the operation and management of the public transit
1176 district.

1177 Section 17. Section **17B-2a-810** is amended to read:

1178 **17B-2a-810. Officers of a public transit district.**

1179 (1) (a) The officers of a public transit district shall consist of:

1180 (i) the members of the board of trustees;

1181 (ii) for a small public transit district, a chair and vice chair, appointed by the board of
1182 trustees, subject to Subsection (1)(c);

1183 (iii) a secretary, appointed by the board of trustees;

1184 (iv) (A) for a small public transit district, a general manager, appointed by the board of
1185 trustees as provided in Section 17B-2a-811, whose duties may be allocated by the board of
1186 trustees, at the board of trustees' discretion, to a chief executive officer, or both; or

1187 (B) for a large public transit district, an executive director appointed by the board of
1188 trustees as provided in Section 17B-2a-811.1;

1189 (v) for a small public transit district, a chief executive officer appointed by the board of
1190 trustees, as provided in Section 17B-2a-811;

1191 (vi) a general counsel, appointed by the board of trustees, subject to Subsection (1)(d);

1192 (vii) a treasurer, appointed as provided in Section 17B-1-633;

1193 (viii) a comptroller, appointed by the board of trustees, subject to Subsection (1)(e);

1194 (ix) for a [~~public transit district with more than 200,000 people residing within the~~
1195 ~~boundaries of the~~] large public transit district, an internal auditor, appointed by the board of
1196 trustees, subject to Subsection (1)(f); and

1197 (x) other officers, assistants, and deputies that the board of trustees considers
1198 necessary.

1199 (b) The board of trustees of a small public transit district may, at its discretion, appoint
1200 a president, who shall also be considered an officer of a public transit district.

1201 (c) The district chair and vice chair of a small public transit district shall be members
1202 of the board of trustees.

1203 (d) The person appointed as general counsel shall:

1204 (i) be admitted to practice law in the state; and
1205 (ii) have been actively engaged in the practice of law for at least seven years next
1206 preceding the appointment.

1207 (e) The person appointed as comptroller shall have been actively engaged in the
1208 practice of accounting for at least seven years next preceding the appointment.

1209 (f) The person appointed as internal auditor shall be a licensed certified internal auditor
1210 or certified public accountant with at least five years experience in the auditing or public
1211 accounting profession, or the equivalent, prior to appointment.

1212 (2) (a) [~~The~~] For a small public transit district, the district's general manager or chief
1213 executive officer, as the board prescribes, or for a large public transit district, the executive
1214 director, shall appoint all officers and employees not specified in Subsection (1).

1215 (b) Each officer and employee appointed by the district's general manager or chief
1216 executive officer of a small public transit district, or the executive director of a large public
1217 transit district, serves at the pleasure of the appointing general manager [~~or~~], chief executive
1218 officer, or executive director.

1219 (3) The board of trustees shall by ordinance or resolution fix the compensation of all
1220 district officers and employees, except as otherwise provided in this part.

1221 (4) (a) Each officer appointed by the board of trustees or by the district's general
1222 manager [~~or~~], chief executive officer, or executive director shall take the oath of office
1223 specified in Utah Constitution, Article IV, Section 10.

1224 (b) Each oath under Subsection (4)(a) shall be subscribed and filed with the district
1225 secretary no later than 15 days after the commencement of the officer's term of office.

1226 Section 18. Section **17B-2a-811** is amended to read:

1227 **17B-2a-811. General manager or chief executive officer of a small public transit**
1228 **district.**

1229 (1) (a) The board of trustees of a small public transit district shall appoint a person as a
1230 general manager.

1231 (b) The board of trustees of a small public transit district may, at its discretion, appoint
1232 a person as a chief executive officer.

1233 (c) The board of trustees of a small public transit district shall allocate the
1234 responsibilities defined in Subsection (2) between the general manager and the chief executive

1235 officer, if the board of trustees appoints a chief executive officer.

1236 (d) The chief executive officer shall have the same rights allocated to the general
1237 manager under Subsections (3) and (4).

1238 (e) The appointment of a general manager, chief executive officer, or both, shall be by
1239 the affirmative vote of a majority of all members of the board of trustees.

1240 (f) The board's appointment of a person as general manager, chief executive officer, or
1241 both, shall be based on the person's qualifications, with special reference to the person's actual
1242 experience in or knowledge of accepted practices with respect to the duties of the office.

1243 (g) A person appointed as general manager or chief executive officer of a small public
1244 transit district is not required to be a resident of the state at the time of appointment.

1245 (2) A general manager or chief executive officer of a small public transit district shall
1246 have the following responsibilities as allocated by the board of trustees:

1247 (a) be a full-time officer and devote full time to the district's business;

1248 (b) ensure that all district ordinances are enforced;

1249 (c) prepare and submit to the board of trustees, as soon as practical but not less than 45
1250 days after the end of each fiscal year, a complete report on the district's finances and
1251 administrative activities for the preceding year;

1252 (d) keep the board of trustees advised as to the district's needs;

1253 (e) prepare or cause to be prepared all plans and specifications for the construction of
1254 district works;

1255 (f) cause to be installed and maintained a system of auditing and accounting that
1256 completely shows the district's financial condition at all times; and

1257 (g) attend meetings of the board of trustees.

1258 (3) A general manager of a small public transit district:

1259 (a) serves at the pleasure of the board of trustees;

1260 (b) holds office for an indefinite term;

1261 (c) may be removed by the board of trustees upon the adoption of a resolution by the
1262 affirmative vote of a majority of all members of the board, subject to Subsection (5);

1263 (d) has full charge of:

1264 (i) the acquisition, construction, maintenance, and operation of district facilities; and

1265 (ii) the administration of the district's business affairs;

1266 (e) is entitled to participate in the deliberations of the board of trustees as to any matter
1267 before the board; and

1268 (f) may not vote at a meeting of the board of trustees.

1269 (4) The board of trustees may not reduce the general manager's salary below the
1270 amount fixed at the time of original appointment unless:

1271 (a) the board adopts a resolution by a vote of a majority of all members; and

1272 (b) if the general manager demands in writing, the board gives the general manager the
1273 opportunity to be publicly heard at a meeting of the board before the final vote on the
1274 resolution reducing the general manager's salary.

1275 (5) (a) Before adopting a resolution providing for a general manager's removal as
1276 provided in Subsection (3)(c), the board shall, if the manager makes a written demand:

1277 (i) give the general manager a written statement of the reasons alleged for the general
1278 manager's removal; and

1279 (ii) allow the general manager to be publicly heard at a meeting of the board of
1280 trustees.

1281 (b) Notwithstanding Subsection (5)(a), the board of trustees of a public transit district
1282 may suspend a general manager from office pending and during a hearing under Subsection
1283 (5)(a)(ii).

1284 (6) The action of a board of trustees suspending or removing a general manager or
1285 reducing the general manager's salary is final.

1286 Section 19. Section **17B-2a-811.1** is enacted to read:

1287 **17B-2a-811.1. Executive director of a large public transit district.**

1288 (1) (a) The board of trustees of a large public transit district shall appoint a person as
1289 an executive director.

1290 (b) The appointment of an executive director shall be by the affirmative vote of a
1291 majority of the board of trustees.

1292 (c) The board's appointment of a person as executive director shall be based on the
1293 person's qualifications, with special reference to the person's actual experience in or knowledge
1294 of accepted practices with respect to the duties of the office.

1295 (d) A person appointed as executive director of a large public transit district is not
1296 required to be a resident of the state at the time of appointment.

- 1297 (2) An executive director of a large public transit district shall:
1298 (a) be a full-time officer and devote full time to the district's business;
1299 (b) serve at the pleasure of the board of trustees;
1300 (c) hold office for an indefinite term;
1301 (d) ensure that all district ordinances are enforced;
1302 (e) prepare and submit to the board of trustees, as soon as practical but not less than 45
1303 days after the end of each fiscal year, a complete report on the district's finances and
1304 administrative activities for the preceding year;
1305 (f) advise the board of trustees regarding the needs of the district;
1306 (g) in consultation with the board of trustees, prepare or cause to be prepared all plans
1307 and specifications for the construction of district works;
1308 (h) cause to be installed and maintained a system of auditing and accounting that
1309 completely shows the district's financial condition at all times;
1310 (i) attend meetings of the board of trustees;
1311 (j) in consultation with the board of trustees, have charge of:
1312 (i) the acquisition, construction, maintenance, and operation of district facilities; and
1313 (ii) the administration of the district's business affairs; and
1314 (k) be entitled to participate in the deliberations of the board of trustees as to any
1315 matter before the board.
1316 (3) The board of trustees may not remove the executive director or reduce the
1317 executive director's salary below the amount fixed at the time of original appointment unless:
1318 (a) the board adopts a resolution by a vote of a majority of all members; and
1319 (b) if the executive director demands in writing, the board gives the executive director
1320 the opportunity to be publicly heard at a meeting of the board before the final vote on the
1321 resolution removing the executive director or reducing the executive director's salary.
1322 (4) (a) Before adopting a resolution providing for the removal of the executive director
1323 or a reduction in the executive director's salary as provided in Subsection (3), the board shall, if
1324 the executive director makes a written demand:
1325 (i) give the executive director a written statement of the reasons alleged for the removal
1326 or reduction in salary; and
1327 (ii) allow the executive director to be publicly heard at a meeting of the board of

1328 trustees.

1329 (b) Notwithstanding Subsection (4)(a), the board of trustees of a public transit district
1330 may suspend an executive director from office pending and during a hearing under Subsection
1331 (4)(a)(ii).

1332 (5) The action of a board of trustees suspending or removing an executive director or
1333 reducing the executive director's salary is final.

1334 Section 20. Section **17B-2a-826** is amended to read:

1335 **17B-2a-826. Public transit district office of constituent services and office of**
1336 **coordinated mobility.**

1337 (1) (a) The board of trustees of a large public transit district [~~serving a population over~~
1338 ~~200,000 people~~] shall create and employ an office of constituent services.

1339 (b) The duties of the office of constituent services described in Subsection (1)(a) shall
1340 include:

1341 (i) establishing a central call number to hear and respond to complaints, requests,
1342 comments, concerns, and other communications from customers and citizens within the
1343 district;

1344 (ii) keeping a log of the complaints, comments, concerns, and other communications
1345 from customers and citizens within the district; and

1346 (iii) reporting complaints, comments, concerns, and other communications to
1347 management and to the [~~citizens'~~] local advisory board created in [~~Subsection (2)~~] Section
1348 [17B-2a-808.2](#).

1349 [~~(2) (a) A public transit district serving a population over 200,000 people shall create~~
1350 ~~and oversee a citizens' advisory board.~~]

1351 [~~(b) (i) The board of trustees of the public transit district shall select up to 12 members~~
1352 ~~for the public transit district citizens' advisory board with membership representing the~~
1353 ~~diversity of the public transit district area.~~]

1354 [~~(ii) The board of trustees shall ensure that each member of the citizens' advisory board~~
1355 ~~regularly uses the public transit district services.~~]

1356 [~~(c) The public transit district citizens' advisory board shall meet as needed or quarterly~~
1357 ~~in a meeting open to the public for comment, to discuss the service, operations, and any~~
1358 ~~concerns with the public transit district operations and functionality.~~]

1359 ~~[(d) The public transit district management shall meet at least quarterly with and~~
 1360 ~~consult with the citizens' advisory board and take into consideration the input of the citizens'~~
 1361 ~~advisory board in managing and operating the public transit district.]~~

1362 ~~[(3)]~~ (2) (a) A large public transit district ~~[serving a population over 200,000 people]~~
 1363 shall create and employ an office of coordinated mobility.

1364 (b) The duties of the office of coordinated mobility shall include:

1365 (i) establishing a central call number to facilitate human services transportation;

1366 (ii) coordinating all human services transportation needs within the public transit
 1367 district;

1368 (iii) receiving requests and other communications regarding human services
 1369 transportation;

1370 (iv) receiving requests and other communications regarding vans, buses, and other
 1371 vehicles available for use from the public transit district to maximize the utility of and
 1372 investment in those vehicles; and

1373 (v) supporting local efforts and applications for additional funding.

1374 Section 21. Section **41-1a-102** is amended to read:

1375 **41-1a-102. Definitions.**

1376 As used in this chapter:

1377 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

1378 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
 1379 vehicles as operated and certified to by a weighmaster.

1380 (3) "All-terrain type I vehicle" ~~[has the same meaning provided]~~ means the same as that
 1381 term is defined in Section [41-22-2](#).

1382 (4) "All-terrain type II vehicle" ~~[has the same meaning provided]~~ means the same as
 1383 that term is defined in Section [41-22-2](#).

1384 (5) "Alternative fuel vehicle" means:

1385 (a) an electric vehicle;

1386 (b) a hybrid electric vehicle;

1387 (c) a plug-in hybrid electric vehicle; or

1388 (d) a motor vehicle powered by a fuel other than:

1389 (i) motor fuel;

1390 (ii) diesel fuel;

1391 (iii) natural gas; or

1392 (iv) propane.

1393 [~~5~~] (6) "Amateur radio operator" means any person licensed by the Federal
1394 Communications Commission to engage in private and experimental two-way radio operation
1395 on the amateur band radio frequencies.

1396 [~~6~~] (7) "Autocycle" means the same as that term is defined in Section [53-3-102](#).

1397 [~~7~~] (8) "Branded title" means a title certificate that is labeled:

1398 (a) rebuilt and restored to operation;

1399 (b) flooded and restored to operation; or

1400 (c) not restored to operation.

1401 [~~8~~] (9) "Camper" means any structure designed, used, and maintained primarily to be
1402 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
1403 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
1404 camping.

1405 [~~9~~] (10) "Certificate of title" means a document issued by a jurisdiction to establish a
1406 record of ownership between an identified owner and the described vehicle, vessel, or outboard
1407 motor.

1408 [~~10~~] (11) "Certified scale weigh ticket" means a weigh ticket that has been issued by
1409 a weighmaster.

1410 [~~11~~] (12) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
1411 maintained for the transportation of persons or property that operates:

1412 (a) as a carrier for hire, compensation, or profit; or

1413 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
1414 owner's commercial enterprise.

1415 [~~12~~] (13) "Commission" means the State Tax Commission.

1416 (14) "Consumer price index" means the same as that term is defined in Section
1417 [59-13-102](#).

1418 [~~13~~] (15) "Dealer" means a person engaged or licensed to engage in the business of
1419 buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright
1420 or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an

1421 established place of business for the sale, lease, trade, or display of vehicles, vessels, or
1422 outboard motors.

1423 (16) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

1424 [~~(14)~~] (17) "Division" means the Motor Vehicle Division of the commission, created in
1425 Section 41-1a-106.

1426 (18) "Electric motor vehicle" means a motor vehicle that is powered solely by an
1427 electric motor drawing current from a rechargeable energy storage system.

1428 [~~(15)~~] (19) "Essential parts" means all integral and body parts of a vehicle of a type
1429 required to be registered in this state, the removal, alteration, or substitution of which would
1430 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or
1431 mode of operation.

1432 [~~(16)~~] (20) "Farm tractor" means every motor vehicle designed and used primarily as a
1433 farm implement for drawing plows, mowing machines, and other implements of husbandry.

1434 [~~(17)~~] (21) (a) "Farm truck" means a truck used by the owner or operator of a farm
1435 solely for his own use in the transportation of:

1436 (i) farm products, including livestock and its products, poultry and its products,
1437 floricultural and horticultural products;

1438 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
1439 agricultural, floricultural, horticultural, livestock, and poultry production; and

1440 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or
1441 other purposes connected with the operation of a farm.

1442 (b) "Farm truck" does not include the operation of trucks by commercial processors of
1443 agricultural products.

1444 [~~(18)~~] (22) "Fleet" means one or more commercial vehicles.

1445 [~~(19)~~] (23) "Foreign vehicle" means a vehicle of a type required to be registered,
1446 brought into this state from another state, territory, or country other than in the ordinary course
1447 of business by or through a manufacturer or dealer, and not registered in this state.

1448 [~~(20)~~] (24) "Gross laden weight" means the actual weight of a vehicle or combination
1449 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

1450 [~~(21)~~] (25) "Highway" or "street" means the entire width between property lines of
1451 every way or place of whatever nature when any part of it is open to the public, as a matter of

1452 right, for purposes of vehicular traffic.

1453 (26) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion
1454 energy from onboard sources of stored energy that are both:

1455 (a) an internal combustion engine or heat engine using consumable fuel; and

1456 (b) a rechargeable energy storage system where energy for the storage system comes
1457 solely from sources onboard the vehicle.

1458 [~~22~~] (27) (a) "Identification number" means the identifying number assigned by the
1459 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
1460 motor.

1461 (b) "Identification number" includes a vehicle identification number, state assigned
1462 identification number, hull identification number, and motor serial number.

1463 [~~23~~] (28) "Implement of husbandry" means every vehicle designed or adapted and
1464 used exclusively for an agricultural operation and only incidentally operated or moved upon the
1465 highways.

1466 [~~24~~] (29) (a) "In-state miles" means the total number of miles operated in this state
1467 during the preceding year by fleet power units.

1468 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
1469 total number of miles that those vehicles were towed on Utah highways during the preceding
1470 year.

1471 [~~25~~] (30) "Interstate vehicle" means any commercial vehicle operated in more than
1472 one state, province, territory, or possession of the United States or foreign country.

1473 [~~26~~] (31) "Jurisdiction" means a state, district, province, political subdivision,
1474 territory, or possession of the United States or any foreign country.

1475 [~~27~~] (32) "Lienholder" means a person with a security interest in particular property.

1476 [~~28~~] (33) "Manufactured home" means a transportable factory built housing unit
1477 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety
1478 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
1479 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
1480 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
1481 dwelling with or without a permanent foundation when connected to the required utilities, and
1482 includes the plumbing, heating, air-conditioning, and electrical systems.

1483 ~~[(29)]~~ (34) "Manufacturer" means a person engaged in the business of constructing,
1484 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
1485 outboard motors for the purpose of sale or trade.

1486 ~~[(30)]~~ (35) "Mobile home" means a transportable factory built housing unit built prior
1487 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
1488 Federal Manufactured Housing and Safety Standards Act (HUD Code).

1489 (36) "Motor fuel" means the same as that term is defined in Section [59-13-102](#).

1490 ~~[(33)]~~ (37) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
1491 use and operation on the highways.

1492 (b) "Motor vehicle" does not include an off-highway vehicle.

1493 ~~[(31)]~~ (38) "Motorboat" ~~[has the same meaning as provided]~~ means the same as that
1494 term is defined in Section [73-18-2](#).

1495 ~~[(32)]~~ (39) "Motorcycle" means:

1496 (a) a motor vehicle having a saddle for the use of the rider and designed to travel on not
1497 more than three wheels in contact with the ground; or

1498 (b) an auticycle.

1499 (40) "Natural gas" means a fuel of which the primary constituent is methane.

1500 ~~[(34)]~~ (41) (a) "Nonresident" means a person who is not a resident of this state as
1501 defined by Section [41-1a-202](#), and who does not engage in intrastate business within this state
1502 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

1503 (b) A person who engages in intrastate business within this state and operates in that
1504 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
1505 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
1506 considered a resident of this state, insofar as that vehicle is concerned in administering this
1507 chapter.

1508 ~~[(35)]~~ (42) "Odometer" means a device for measuring and recording the actual distance
1509 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be
1510 periodically reset.

1511 ~~[(36)]~~ (43) "Off-highway implement of husbandry" ~~[has the same meaning as~~
1512 ~~provided]~~ means the same as that term is defined in Section [41-22-2](#).

1513 ~~[(37)]~~ (44) "Off-highway vehicle" ~~[has the same meaning as provided]~~ means the same

1514 as that term is defined in Section [41-22-2](#).

1515 ~~[(38)]~~ (45) "Operate" means to drive or be in actual physical control of a vehicle or to
1516 navigate a vessel.

1517 ~~[(39)]~~ (46) "Outboard motor" means a detachable self-contained propulsion unit,
1518 excluding fuel supply, used to propel a vessel.

1519 ~~[(40)]~~ (47) (a) "Owner" means a person, other than a lienholder, holding title to a
1520 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
1521 subject to a security interest.

1522 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
1523 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
1524 stated in the agreement and with an immediate right of possession vested in the conditional
1525 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
1526 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
1527 chapter.

1528 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the
1529 owner until the lessee exercises his option to purchase the vehicle.

1530 ~~[(41)]~~ (48) "Park model recreational vehicle" means a unit that:

1531 (a) is designed and marketed as temporary living quarters for recreational, camping,
1532 travel, or seasonal use;

1533 (b) is not permanently affixed to real property for use as a permanent dwelling;

1534 (c) requires a special highway movement permit for transit; and

1535 (d) is built on a single chassis mounted on wheels with a gross trailer area not
1536 exceeding 400 square feet in the setup mode.

1537 ~~[(42)]~~ (49) "Personalized license plate" means a license plate that has displayed on it a
1538 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
1539 to the vehicle by the division.

1540 ~~[(43)]~~ (50) (a) "Pickup truck" means a two-axle motor vehicle with motive power
1541 manufactured, remanufactured, or materially altered to provide an open cargo area.

1542 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
1543 camper, camper shell, tarp, removable top, or similar structure.

1544 (51) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that

1545 has the capability to charge the battery or batteries used for vehicle propulsion from an
1546 off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle
1547 while the vehicle is in motion.

1548 [(44)] (52) "Pneumatic tire" means every tire in which compressed air is designed to
1549 support the load.

1550 [(45)] (53) "Preceding year" means a period of 12 consecutive months fixed by the
1551 division that is within 16 months immediately preceding the commencement of the registration
1552 or license year in which proportional registration is sought. The division in fixing the period
1553 shall conform it to the terms, conditions, and requirements of any applicable agreement or
1554 arrangement for the proportional registration of vehicles.

1555 [(46)] (54) "Public garage" means every building or other place where vehicles or
1556 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
1557 and vessels.

1558 [(47)] (55) "Receipt of surrender of ownership documents" means the receipt of
1559 surrender of ownership documents described in Section 41-1a-503.

1560 [(48)] (56) "Reconstructed vehicle" means every vehicle of a type required to be
1561 registered in this state that is materially altered from its original construction by the removal,
1562 addition, or substitution of essential parts, new or used.

1563 [(49)] (57) "Recreational vehicle" [~~has the same meaning as provided~~] means the same
1564 as that term is defined in Section 13-14-102.

1565 [(50)] (58) "Registration" means a document issued by a jurisdiction that allows
1566 operation of a vehicle or vessel on the highways or waters of this state for the time period for
1567 which the registration is valid and that is evidence of compliance with the registration
1568 requirements of the jurisdiction.

1569 [(51)] (59) (a) "Registration year" means a 12 consecutive month period commencing
1570 with the completion of all applicable registration criteria.

1571 (b) For administration of a multistate agreement for proportional registration the
1572 division may prescribe a different 12-month period.

1573 [(52)] (60) "Repair or replacement" means the restoration of vehicles, vessels, or
1574 outboard motors to a sound working condition by substituting any inoperative part of the
1575 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

1576 [~~(53)~~] (61) "Replica vehicle" means:
1577 (a) a street rod that meets the requirements under Subsection [41-21-1\(3\)\(a\)\(i\)\(B\)](#); or
1578 (b) a custom vehicle that meets the requirements under Subsection
1579 [41-6a-1507\(1\)\(a\)\(i\)\(B\)](#).
1580 [~~(54)~~] (62) "Road tractor" means every motor vehicle designed and used for drawing
1581 other vehicles and constructed so it does not carry any load either independently or any part of
1582 the weight of a vehicle or load that is drawn.
1583 [~~(55)~~] (63) "Sailboat" means the same as that term is defined in Section [73-18-2](#).
1584 [~~(56)~~] (64) "Security interest" means an interest that is reserved or created by a security
1585 agreement to secure the payment or performance of an obligation and that is valid against third
1586 parties.
1587 [~~(57)~~] (65) "Semitrailer" means every vehicle without motive power designed for
1588 carrying persons or property and for being drawn by a motor vehicle and constructed so that
1589 some part of its weight and its load rests or is carried by another vehicle.
1590 [~~(58)~~] (66) "Special group license plate" means a type of license plate designed for a
1591 particular group of people or a license plate authorized and issued by the division in accordance
1592 with Section [41-1a-418](#).
1593 [~~(59)~~] (67) (a) "Special interest vehicle" means a vehicle used for general
1594 transportation purposes and that is:
1595 (i) 20 years or older from the current year; or
1596 (ii) a make or model of motor vehicle recognized by the division director as having
1597 unique interest or historic value.
1598 (b) In making a determination under Subsection [~~(59)~~] (67)(a), the division director
1599 shall give special consideration to:
1600 (i) a make of motor vehicle that is no longer manufactured;
1601 (ii) a make or model of motor vehicle produced in limited or token quantities;
1602 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
1603 designed exclusively for educational purposes or museum display; or
1604 (iv) a motor vehicle of any age or make that has not been substantially altered or
1605 modified from original specifications of the manufacturer and because of its significance is
1606 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a

1607 leisure pursuit.

1608 ~~[(60)]~~ (68) (a) "Special mobile equipment" means every vehicle:

1609 (i) not designed or used primarily for the transportation of persons or property;

1610 (ii) not designed to operate in traffic; and

1611 (iii) only incidentally operated or moved over the highways.

1612 (b) "Special mobile equipment" includes:

1613 (i) farm tractors;

1614 (ii) off-road motorized construction or maintenance equipment including backhoes,

1615 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

1616 (iii) ditch-digging apparatus.

1617 (c) "Special mobile equipment" does not include a commercial vehicle as defined

1618 under Section [72-9-102](#).

1619 ~~[(61)]~~ (69) "Specially constructed vehicle" means every vehicle of a type required to be

1620 registered in this state, not originally constructed under a distinctive name, make, model, or

1621 type by a generally recognized manufacturer of vehicles, and not materially altered from its

1622 original construction.

1623 ~~[(62)]~~ (70) "Title" means the right to or ownership of a vehicle, vessel, or outboard

1624 motor.

1625 ~~[(63)]~~ (71) (a) "Total fleet miles" means the total number of miles operated in all

1626 jurisdictions during the preceding year by power units.

1627 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means

1628 the number of miles that those vehicles were towed on the highways of all jurisdictions during

1629 the preceding year.

1630 ~~[(64)]~~ (72) "Trailer" means a vehicle without motive power designed for carrying

1631 persons or property and for being drawn by a motor vehicle and constructed so that no part of

1632 its weight rests upon the towing vehicle.

1633 ~~[(65)]~~ (73) "Transferee" means a person to whom the ownership of property is

1634 conveyed by sale, gift, or any other means except by the creation of a security interest.

1635 ~~[(66)]~~ (74) "Transferor" means a person who transfers his ownership in property by

1636 sale, gift, or any other means except by creation of a security interest.

1637 ~~[(67)]~~ (75) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable

1638 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
1639 vacation use that does not require a special highway movement permit when drawn by a
1640 self-propelled motor vehicle.

1641 ~~[(68)]~~ (76) "Truck tractor" means a motor vehicle designed and used primarily for
1642 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
1643 vehicle and load that is drawn.

1644 ~~[(69)]~~ (77) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,
1645 camper, park model recreational vehicle, manufactured home, and mobile home.

1646 ~~[(70)]~~ (78) "Vessel" means the same as that term is defined in Section 73-18-2.

1647 ~~[(71)]~~ (79) "Vintage vehicle" means the same as that term is defined in Section
1648 41-21-1.

1649 ~~[(72)]~~ (80) "Waters of this state" means the same as that term is defined in Section
1650 73-18-2.

1651 ~~[(73)]~~ (81) "Weighmaster" means a person, association of persons, or corporation
1652 permitted to weigh vehicles under this chapter.

1653 Section 22. Section 41-1a-1201 is amended to read:

1654 **41-1a-1201. Disposition of fees.**

1655 (1) All fees received and collected under this part shall be transmitted daily to the state
1656 treasurer.

1657 (2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422,
1658 41-1a-1220, 41-1a-1221, and 41-1a-1223 all fees collected under this part shall be deposited in
1659 the Transportation Fund.

1660 (3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and
1661 Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing
1662 license plates under Part 4, License Plates and Registration Indicia.

1663 (4) In accordance with Section 63J-1-602.2, all funds available to the commission for
1664 the purchase and distribution of license plates and decals are nonlapsing.

1665 (5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the
1666 expenses of the commission in enforcing and administering this part shall be provided for by
1667 legislative appropriation from the revenues of the Transportation Fund.

1668 (b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a)

1669 and (b) for each vehicle registered for a six-month registration period under Section
1670 [41-1a-215.5](#) may be used by the commission to cover the costs incurred in enforcing and
1671 administering this part.

1672 (6) (a) The following portions of the registration fees imposed under Section
1673 [41-1a-1206](#) for each vehicle shall be deposited in the Transportation Investment Fund of 2005
1674 created under Section [72-2-124](#):

1675 (i) [~~\$30~~] \$58 of the registration fees imposed under Subsections [41-1a-1206](#)(1)(a),
1676 (1)(b), (1)(f), [~~(3)~~, and ~~(6)~~] (4), and (7);

1677 (ii) [~~\$21~~] \$49 of the registration fees imposed under Subsections [41-1a-1206](#)(1)(c)(i)
1678 and (1)(c)(ii);

1679 (iii) \$2.50 of the registration fee imposed under Subsection [41-1a-1206](#)(1)(e)(ii);

1680 (iv) [~~\$23~~] \$51 of the registration fee imposed under Subsection [41-1a-1206](#)(1)(d)(i);

1681 (v) [~~\$24.50~~] \$52.50 of the registration fee imposed under Subsection
1682 [41-1a-1206](#)(1)(e)(i); and

1683 (vi) \$1 of the registration fee imposed under Subsection [41-1a-1206](#)(1)(d)(ii).

1684 (b) The following portions of the registration fees collected for each vehicle registered
1685 for a six-month registration period under Section [41-1a-215.5](#) shall be deposited in the
1686 Transportation Investment Fund of 2005 created by Section [72-2-124](#):

1687 (i) \$23.25 of each registration fee collected under Subsection [41-1a-1206](#)(2)(a); and

1688 (ii) \$23 of each registration fee collected under Subsection [41-1a-1206](#)(2)(b).

1689 (7) (a) Ninety-four cents of each registration fee imposed under Subsections
1690 [41-1a-1206](#)(1)(a) and (b) for each vehicle shall be deposited in the Public Safety Restricted
1691 Account created in Section [53-3-106](#).

1692 (b) Seventy-one cents of each registration fee imposed under Subsections
1693 [41-1a-1206](#)(2)(a) and (b) for each vehicle registered for a six-month registration period under
1694 Section [41-1a-215.5](#) shall be deposited in the Public Safety Restricted Account created in
1695 Section [53-3-106](#).

1696 (8) (a) One dollar of each registration fee imposed under Subsections [41-1a-1206](#)(1)(a)
1697 and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted
1698 Account created in Section [53-8-214](#).

1699 (b) One dollar of each registration fee imposed under Subsections [41-1a-1206](#)(2)(a)

1700 and (b) for each vehicle registered for a six-month registration period under Section
1701 [41-1a-215.5](#) shall be deposited into the Motor Vehicle Safety Impact Restricted Account
1702 created in Section [53-8-214](#).

1703 (9) Fifty cents of each registration fee imposed under Subsection [41-1a-1206\(1\)\(a\)](#) for
1704 each motorcycle shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund
1705 created in Section [26-54-102](#).

1706 Section 23. Section [41-1a-1206](#) is amended to read:

1707 **[41-1a-1206](#). Registration fees -- Fees by gross laden weight.**

1708 (1) Except as provided in Subsections (2) and (3), at the time application is made for
1709 registration or renewal of registration of a vehicle or combination of vehicles under this
1710 chapter, a registration fee shall be paid to the division as follows:

1711 (a) [~~\$46.00~~] \$74 for each motorcycle;

1712 (b) [~~\$44~~] \$72 for each motor vehicle of 12,000 pounds or less gross laden weight,
1713 excluding motorcycles;

1714 (c) unless the semitrailer or trailer is exempt from registration under Section [41-1a-202](#)
1715 or is registered under Section [41-1a-301](#):

1716 (i) [~~\$31~~] \$59 for each trailer or semitrailer over 750 pounds gross unladen weight; or

1717 (ii) [~~\$28.50~~] \$56.50 for each commercial trailer or commercial semitrailer of 750
1718 pounds or less gross unladen weight;

1719 (d) (i) [~~\$53~~] \$81 for each farm truck over 12,000 pounds, but not exceeding 14,000
1720 pounds gross laden weight; plus

1721 (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

1722 (e) (i) [~~\$69.50~~] \$97.50 for each motor vehicle or combination of motor vehicles,
1723 excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden
1724 weight; plus

1725 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

1726 (f) (i) [~~\$69.50~~] \$97.50 for each park model recreational vehicle over 12,000 pounds,
1727 but not exceeding 14,000 pounds gross laden weight; plus

1728 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; [~~and~~]

1729 (g) [~~\$45~~] \$73 for each vintage vehicle that is less than 40 years old[-]; and

1730 (h) in addition to the fee described in Subsection (1)(b):

- 1731 (i) \$122 for each electric motor vehicle;
1732 (ii) \$20 for each hybrid electric motor vehicle;
1733 (iii) \$52 for each plug-in hybrid electric motor vehicle; or
1734 (iv) \$122 for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that
1735 is fueled by a source other than:
1736 (A) motor fuel;
1737 (B) diesel fuel;
1738 (C) natural gas; or
1739 (D) propane.
- 1740 (2) (a) At the time application is made for registration or renewal of registration of a
1741 vehicle under this chapter for a six-month registration period under Section [41-1a-215.5](#), a
1742 registration fee shall be paid to the division as follows:
1743 ~~[(a) \$34.50]~~ (i) \$55.50 for each motorcycle; and
1744 ~~[(b) \$33.50]~~ (ii) \$55 for each motor vehicle of 12,000 pounds or less gross laden
1745 weight, excluding motorcycles.
- 1746 (b) In addition to the fee described in Subsection (2)(a), for registration or renewal of
1747 registration of a vehicle under this chapter for a six-month registration period under Section
1748 [41-1a-215.5](#) a registration fee shall be paid to the division as follows:
1749 (i) \$93 for each electric motor vehicle;
1750 (ii) \$15 for each hybrid electric motor vehicle;
1751 (iii) \$40 for each plug-in hybrid electric motor vehicle; or
1752 (iv) \$93 for each motor vehicle not described in Subsections (1)(h)(i) through (iii) that
1753 is fueled by a source other than:
1754 (A) motor fuel;
1755 (B) diesel fuel;
1756 (C) natural gas; or
1757 (D) propane.
- 1758 (3) (a) Beginning on January 1, 2020, the commission shall, on January 1, annually
1759 adjust the registration fee for each motor vehicle of 12,000 pounds or less gross laden weight,
1760 excluding motorcycles, by taking the registration fee rate for the previous year and adding an
1761 amount equal to the greater of:

1762 (i) an amount calculated by multiplying the registration fee of the previous year by the
1763 actual percentage change during the previous fiscal year in the Consumer Price Index; and

1764 (ii) 0.

1765 (b) The amount calculated as described in Subsection (3)(a) shall be rounded up to the
1766 nearest 25 cents.

1767 ~~[(3)]~~ (4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older
1768 is ~~[\$40]~~ \$68.

1769 (b) A vintage vehicle that is 40 years old or older is exempt from the renewal of
1770 registration fees under Subsection (1).

1771 (c) A vehicle with a Purple Heart special group license plate issued in accordance with
1772 Section 41-1a-421 is exempt from the registration fees under Subsection (1).

1773 (d) A camper is exempt from the registration fees under Subsection (1).

1774 ~~[(4)]~~ (5) If a motor vehicle is operated in combination with a semitrailer or trailer, each
1775 motor vehicle shall register for the total gross laden weight of all units of the combination if the
1776 total gross laden weight of the combination exceeds 12,000 pounds.

1777 ~~[(5)]~~ (6) (a) Registration fee categories under this section are based on the gross laden
1778 weight declared in the licensee's application for registration.

1779 (b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part
1780 of 2,000 pounds is a full unit.

1781 ~~[(6)]~~ (7) The owner of a commercial trailer or commercial semitrailer may, as an
1782 alternative to registering under Subsection (1)(c), apply for and obtain a special registration and
1783 license plate for a fee of ~~[\$130]~~ \$158.

1784 ~~[(7)]~~ (8) Except as provided in Section 41-6a-1642, a truck may not be registered as a
1785 farm truck unless:

1786 (a) the truck meets the definition of a farm truck under Section 41-1a-102; and

1787 (b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

1788 (ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner
1789 submits to the division a certificate of emissions inspection or a waiver in compliance with
1790 Section 41-6a-1642.

1791 ~~[(8)]~~ (9) A violation of Subsection ~~[(7)]~~ (8) is an infraction that shall be punished by a
1792 fine of not less than \$200.

1793 [~~(9)~~] (10) Trucks used exclusively to pump cement, bore wells, or perform crane
1794 services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of
1795 the fees required for those vehicles under this section.

1796 Section 24. Section **41-1a-1221** is amended to read:

1797 **41-1a-1221. Fees to cover the cost of electronic payments.**

1798 (1) As used in this section:

1799 (a) "Electronic payment" means use of any form of payment processed through
1800 electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

1801 (b) "Electronic payment fee" means the fee assessed to defray:

1802 (i) the charge, discount fee, or processing fee charged by credit card companies or
1803 processing agents to process an electronic payment; or

1804 (ii) costs associated with the purchase of equipment necessary for processing electronic
1805 payments.

1806 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all
1807 registrations and renewals of registration under Subsections **41-1a-1206**(1)(a), (1)(b), (2)(a),
1808 (2)(b), and [~~(3)~~] (4).

1809 (b) The fee described in Subsection (2)(a):

1810 (i) shall be imposed regardless of the method of payment for a particular transaction;

1811 and

1812 (ii) need not be separately identified from the fees imposed for registration and
1813 renewals of registration under Subsections **41-1a-1206**(1)(a), (1)(b), (2)(a), (2)(b), and [~~(3)~~] (4).

1814 (3) The division shall establish the fee according to the procedures and requirements of
1815 Section **63J-1-504**.

1816 (4) A fee imposed under this section:

1817 (a) shall be deposited in the Electronic Payment Fee Restricted Account created by
1818 Section **41-1a-121**; and

1819 (b) is not subject to Subsection **63J-2-202**(2).

1820 Section 25. Section **52-4-103** is amended to read:

1821 **52-4-103. Definitions.**

1822 As used in this chapter:

1823 (1) "Anchor location" means the physical location from which:

1824 (a) an electronic meeting originates; or

1825 (b) the participants are connected.

1826 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by

1827 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake

1828 City.

1829 (3) (a) "Convening" means the calling together of a public body by a person authorized

1830 to do so for the express purpose of discussing or acting upon a subject over which that public

1831 body has jurisdiction or advisory power.

1832 (b) "Convening" does not include the initiation of a routine conversation between

1833 members of a three-member public body if the members involved in the conversation do not,

1834 during the conversation, take a tentative or final vote on the matter that is the subject of the

1835 conversation.

1836 (4) "Electronic meeting" means a public meeting convened or conducted by means of a

1837 conference using electronic communications.

1838 (5) "Electronic message" means a communication transmitted electronically, including:

1839 (a) electronic mail;

1840 (b) instant messaging;

1841 (c) electronic chat;

1842 (d) text messaging as defined in Section 76-4-401; or

1843 (e) any other method that conveys a message or facilitates communication

1844 electronically.

1845 (6) (a) "Meeting" means the convening of a public body or a specified body, with a

1846 quorum present, including a workshop or an executive session, whether in person or by means

1847 of electronic communications, for the purpose of discussing, receiving comments from the

1848 public about, or acting upon a matter over which the public body or specific body has

1849 jurisdiction or advisory power.

1850 (b) "Meeting" does not mean:

1851 (i) a chance gathering or social gathering; [or]

1852 (ii) a convening of the State Tax Commission to consider a confidential tax matter in

1853 accordance with Section 59-1-405[?]; or

1854 (iii) a convening of a three-member board of trustees of a large public transit district as

1855 defined in Section [17B-2a-802](#) if:

1856 (A) the board members do not, during the conversation, take a tentative or final vote on
1857 the matter that is the subject of the conversation; or

1858 (B) the conversation pertains only to day-to-day management and operation of the
1859 public transit district.

1860 (c) "Meeting" does not mean the convening of a public body that has both legislative
1861 and executive responsibilities if:

1862 (i) no public funds are appropriated for expenditure during the time the public body is
1863 convened; and

1864 (ii) the public body is convened solely for the discussion or implementation of
1865 administrative or operational matters:

1866 (A) for which no formal action by the public body is required; or

1867 (B) that would not come before the public body for discussion or action.

1868 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
1869 public statements of each member of the public body who is participating in a meeting.

1870 (8) "Participate" means the ability to communicate with all of the members of a public
1871 body, either verbally or electronically, so that each member of the public body can hear or
1872 observe the communication.

1873 (9) (a) "Public body" means:

1874 (i) any administrative, advisory, executive, or legislative body of the state or its
1875 political subdivisions that:

1876 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

1877 (B) consists of two or more persons;

1878 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

1879 (D) is vested with the authority to make decisions regarding the public's business; or

1880 (ii) any administrative, advisory, executive, or policymaking body of an association, as
1881 defined in Section [53A-1-1601](#), that:

1882 (A) consists of two or more persons;

1883 (B) expends, disburses, or is supported in whole or in part by dues paid by a public

1884 school or whose employees participate in a benefit or program described in Title 49, Utah State

1885 Retirement and Insurance Benefit Act; and

1886 (C) is vested with authority to make decisions regarding the participation of a public
1887 school or student in an interscholastic activity as defined in Section 53A-1-1601.

1888 (b) "Public body" includes:

1889 (i) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
1890 undertaking; and

1891 (ii) as defined in Section 11-13a-102, a governmental nonprofit corporation.

1892 (c) "Public body" does not include:

1893 (i) a political party, a political group, or a political caucus;

1894 (ii) a conference committee, a rules committee, or a sifting committee of the
1895 Legislature;

1896 (iii) a school community council or charter trust land council as defined in Section
1897 53A-1a-108.1; or

1898 (iv) the Economic Development Legislative Liaison Committee created in Section
1899 36-30-201.

1900 (10) "Public statement" means a statement made in the ordinary course of business of
1901 the public body with the intent that all other members of the public body receive it.

1902 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
1903 otherwise defined by applicable law.

1904 (b) "Quorum" does not include a meeting of two elected officials by themselves when
1905 no action, either formal or informal, is taken on a subject over which these elected officials
1906 have advisory power.

1907 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
1908 meeting that can be used to review the proceedings of the meeting.

1909 (13) "Specified body":

1910 (a) means an administrative, advisory, executive, or legislative body that:

1911 (i) is not a public body;

1912 (ii) consists of three or more members; and

1913 (iii) includes at least one member who is:

1914 (A) a legislator; and

1915 (B) officially appointed to the body by the president of the Senate, speaker of the
1916 House of Representatives, or governor; and

1917 (b) does not include a body listed in Subsection (9)(c)(ii).

1918 (14) "Transmit" means to send, convey, or communicate an electronic message by
1919 electronic means.

1920 Section 26. Section **59-12-102** is amended to read:

1921 **59-12-102. Definitions.**

1922 As used in this chapter:

1923 (1) "800 service" means a telecommunications service that:

1924 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1925 (b) is typically marketed:

1926 (i) under the name 800 toll-free calling;

1927 (ii) under the name 855 toll-free calling;

1928 (iii) under the name 866 toll-free calling;

1929 (iv) under the name 877 toll-free calling;

1930 (v) under the name 888 toll-free calling; or

1931 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

1932 Federal Communications Commission.

1933 (2) (a) "900 service" means an inbound toll telecommunications service that:

1934 (i) a subscriber purchases;

1935 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1936 the subscriber's:

1937 (A) prerecorded announcement; or

1938 (B) live service; and

1939 (iii) is typically marketed:

1940 (A) under the name 900 service; or

1941 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

1942 Communications Commission.

1943 (b) "900 service" does not include a charge for:

1944 (i) a collection service a seller of a telecommunications service provides to a
1945 subscriber; or

1946 (ii) the following a subscriber sells to the subscriber's customer:

1947 (A) a product; or

- 1948 (B) a service.
- 1949 (3) (a) "Admission or user fees" includes season passes.
- 1950 (b) "Admission or user fees" does not include annual membership dues to private
- 1951 organizations.
- 1952 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1953 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1954 Agreement after November 12, 2002.
- 1955 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1956 (a) listed under Subsection (6); and
- 1957 (b) that are imposed within a local taxing jurisdiction.
- 1958 (6) "Agreement sales and use tax" means a tax imposed under:
- 1959 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
- 1960 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 1961 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 1962 (d) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)\(I\)](#);
- 1963 (e) Section [59-12-204](#);
- 1964 (f) Section [59-12-401](#);
- 1965 (g) Section [59-12-402](#);
- 1966 (h) Section [59-12-402.1](#);
- 1967 (i) Section [59-12-703](#);
- 1968 (j) Section [59-12-802](#);
- 1969 (k) Section [59-12-804](#);
- 1970 (l) Section [59-12-1102](#);
- 1971 (m) Section [59-12-1302](#);
- 1972 (n) Section [59-12-1402](#);
- 1973 (o) Section [59-12-1802](#);
- 1974 (p) Section [59-12-2003](#);
- 1975 (q) Section [59-12-2103](#);
- 1976 (r) Section [59-12-2213](#);
- 1977 (s) Section [59-12-2214](#);
- 1978 (t) Section [59-12-2215](#);

- 1979 (u) Section [59-12-2216](#);
- 1980 (v) Section [59-12-2217](#);
- 1981 (w) Section [59-12-2218](#); [~~or~~]
- 1982 (x) Section [59-12-2219](#)~~[-]~~; or
- 1983 (y) Section [59-12-2220](#).
- 1984 (7) "Aircraft" means the same as that term is defined in Section [72-10-102](#).
- 1985 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1986 (a) except for:
- 1987 (i) an airline as defined in Section [59-2-102](#); or
- 1988 (ii) an affiliated group, as defined in Section [59-7-101](#), except that "affiliated group"
- 1989 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1990 state, of an airline; and
- 1991 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1992 whether the business entity performs the following in this state:
- 1993 (i) check, diagnose, overhaul, and repair:
- 1994 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1995 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1996 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1997 engine;
- 1998 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1999 aircraft:
- 2000 (A) an inspection;
- 2001 (B) a repair, including a structural repair or modification;
- 2002 (C) changing landing gear; and
- 2003 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2004 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2005 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2006 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2007 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2008 authority that certifies the fixed wing turbine powered aircraft.
- 2009 (9) "Alcoholic beverage" means a beverage that:

- 2010 (a) is suitable for human consumption; and
- 2011 (b) contains .5% or more alcohol by volume.
- 2012 (10) "Alternative energy" means:
- 2013 (a) biomass energy;
- 2014 (b) geothermal energy;
- 2015 (c) hydroelectric energy;
- 2016 (d) solar energy;
- 2017 (e) wind energy; or
- 2018 (f) energy that is derived from:
- 2019 (i) coal-to-liquids;
- 2020 (ii) nuclear fuel;
- 2021 (iii) oil-impregnated diatomaceous earth;
- 2022 (iv) oil sands;
- 2023 (v) oil shale;
- 2024 (vi) petroleum coke; or
- 2025 (vii) waste heat from:
- 2026 (A) an industrial facility; or
- 2027 (B) a power station in which an electric generator is driven through a process in which
- 2028 water is heated, turns into steam, and spins a steam turbine.
- 2029 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 2030 facility" means a facility that:
- 2031 (i) uses alternative energy to produce electricity; and
- 2032 (ii) has a production capacity of two megawatts or greater.
- 2033 (b) A facility is an alternative energy electricity production facility regardless of
- 2034 whether the facility is:
- 2035 (i) connected to an electric grid; or
- 2036 (ii) located on the premises of an electricity consumer.
- 2037 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2038 provision of telecommunications service.
- 2039 (b) "Ancillary service" includes:
- 2040 (i) a conference bridging service;

2041 (ii) a detailed communications billing service;

2042 (iii) directory assistance;

2043 (iv) a vertical service; or

2044 (v) a voice mail service.

2045 (13) "Area agency on aging" means the same as that term is defined in Section

2046 [62A-3-101](#).

2047 (14) "Assisted amusement device" means an amusement device, skill device, or ride
2048 device that is started and stopped by an individual:

2049 (a) who is not the purchaser or renter of the right to use or operate the amusement
2050 device, skill device, or ride device; and

2051 (b) at the direction of the seller of the right to use the amusement device, skill device,
2052 or ride device.

2053 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
2054 washing of tangible personal property if the cleaning or washing labor is primarily performed
2055 by an individual:

2056 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2057 property; and

2058 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2059 property.

2060 (16) "Authorized carrier" means:

2061 (a) in the case of vehicles operated over public highways, the holder of credentials
2062 indicating that the vehicle is or will be operated pursuant to both the International Registration
2063 Plan and the International Fuel Tax Agreement;

2064 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2065 certificate or air carrier's operating certificate; or

2066 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2067 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2068 stock in more than one state.

2069 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
2070 following that is used as the primary source of energy to produce fuel or electricity:

2071 (i) material from a plant or tree; or

- 2072 (ii) other organic matter that is available on a renewable basis, including:
- 2073 (A) slash and brush from forests and woodlands;
- 2074 (B) animal waste;
- 2075 (C) waste vegetable oil;
- 2076 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 2077 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 2078 thermal conversion process;
- 2079 (E) aquatic plants; and
- 2080 (F) agricultural products.
- 2081 (b) "Biomass energy" does not include:
- 2082 (i) black liquor; or
- 2083 (ii) treated woods.
- 2084 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2085 property, products, or services if the tangible personal property, products, or services are:
- 2086 (i) distinct and identifiable; and
- 2087 (ii) sold for one nonitemized price.
- 2088 (b) "Bundled transaction" does not include:
- 2089 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 2090 the basis of the selection by the purchaser of the items of tangible personal property included in
- 2091 the transaction;
- 2092 (ii) the sale of real property;
- 2093 (iii) the sale of services to real property;
- 2094 (iv) the retail sale of tangible personal property and a service if:
- 2095 (A) the tangible personal property:
- 2096 (I) is essential to the use of the service; and
- 2097 (II) is provided exclusively in connection with the service; and
- 2098 (B) the service is the true object of the transaction;
- 2099 (v) the retail sale of two services if:
- 2100 (A) one service is provided that is essential to the use or receipt of a second service;
- 2101 (B) the first service is provided exclusively in connection with the second service; and
- 2102 (C) the second service is the true object of the transaction;

2103 (vi) a transaction that includes tangible personal property or a product subject to
2104 taxation under this chapter and tangible personal property or a product that is not subject to
2105 taxation under this chapter if the:

2106 (A) seller's purchase price of the tangible personal property or product subject to
2107 taxation under this chapter is de minimis; or

2108 (B) seller's sales price of the tangible personal property or product subject to taxation
2109 under this chapter is de minimis; and

2110 (vii) the retail sale of tangible personal property that is not subject to taxation under
2111 this chapter and tangible personal property that is subject to taxation under this chapter if:

2112 (A) that retail sale includes:

2113 (I) food and food ingredients;

2114 (II) a drug;

2115 (III) durable medical equipment;

2116 (IV) mobility enhancing equipment;

2117 (V) an over-the-counter drug;

2118 (VI) a prosthetic device; or

2119 (VII) a medical supply; and

2120 (B) subject to Subsection (18)(f):

2121 (I) the seller's purchase price of the tangible personal property subject to taxation under
2122 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2123 (II) the seller's sales price of the tangible personal property subject to taxation under
2124 this chapter is 50% or less of the seller's total sales price of that retail sale.

2125 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
2126 service that is distinct and identifiable does not include:

2127 (A) packaging that:

2128 (I) accompanies the sale of the tangible personal property, product, or service; and

2129 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2130 service;

2131 (B) tangible personal property, a product, or a service provided free of charge with the
2132 purchase of another item of tangible personal property, a product, or a service; or

2133 (C) an item of tangible personal property, a product, or a service included in the

2134 definition of "purchase price."

2135 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
2136 product, or a service is provided free of charge with the purchase of another item of tangible
2137 personal property, a product, or a service if the sales price of the purchased item of tangible
2138 personal property, product, or service does not vary depending on the inclusion of the tangible
2139 personal property, product, or service provided free of charge.

2140 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
2141 does not include a price that is separately identified by tangible personal property, product, or
2142 service on the following, regardless of whether the following is in paper format or electronic
2143 format:

2144 (A) a binding sales document; or

2145 (B) another supporting sales-related document that is available to a purchaser.

2146 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
2147 supporting sales-related document that is available to a purchaser includes:

2148 (A) a bill of sale;

2149 (B) a contract;

2150 (C) an invoice;

2151 (D) a lease agreement;

2152 (E) a periodic notice of rates and services;

2153 (F) a price list;

2154 (G) a rate card;

2155 (H) a receipt; or

2156 (I) a service agreement.

2157 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
2158 property or a product subject to taxation under this chapter is de minimis if:

2159 (A) the seller's purchase price of the tangible personal property or product is 10% or
2160 less of the seller's total purchase price of the bundled transaction; or

2161 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2162 the seller's total sales price of the bundled transaction.

2163 (ii) For purposes of Subsection (18)(b)(vi), a seller:

2164 (A) shall use the seller's purchase price or the seller's sales price to determine if the

2165 purchase price or sales price of the tangible personal property or product subject to taxation
2166 under this chapter is de minimis; and

2167 (B) may not use a combination of the seller's purchase price and the seller's sales price
2168 to determine if the purchase price or sales price of the tangible personal property or product
2169 subject to taxation under this chapter is de minimis.

2170 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
2171 contract to determine if the sales price of tangible personal property or a product is de minimis.

2172 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
2173 the seller's purchase price and the seller's sales price to determine if tangible personal property
2174 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2175 price of that retail sale.

2176 (19) "Certified automated system" means software certified by the governing board of
2177 the agreement that:

2178 (a) calculates the agreement sales and use tax imposed within a local taxing
2179 jurisdiction:

2180 (i) on a transaction; and

2181 (ii) in the states that are members of the agreement;

2182 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2183 member of the agreement; and

2184 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

2185 (20) "Certified service provider" means an agent certified:

2186 (a) by the governing board of the agreement; and

2187 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
2188 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
2189 own purchases.

2190 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
2191 suitable for general use.

2192 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2193 commission shall make rules:

2194 (i) listing the items that constitute "clothing"; and

2195 (ii) that are consistent with the list of items that constitute "clothing" under the

2196 agreement.

2197 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2198 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2199 fuels that does not constitute industrial use under Subsection (56) or residential use under
2200 Subsection (106).

2201 (24) (a) "Common carrier" means a person engaged in or transacting the business of
2202 transporting passengers, freight, merchandise, or other property for hire within this state.

2203 (b) (i) "Common carrier" does not include a person who, at the time the person is
2204 traveling to or from that person's place of employment, transports a passenger to or from the
2205 passenger's place of employment.

2206 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
2207 Utah Administrative Rulemaking Act, the commission may make rules defining what
2208 constitutes a person's place of employment.

2209 (c) "Common carrier" does not include a person that provides transportation network
2210 services, as defined in Section [13-51-102](#).

2211 (25) "Component part" includes:

2212 (a) poultry, dairy, and other livestock feed, and their components;

2213 (b) baling ties and twine used in the baling of hay and straw;

2214 (c) fuel used for providing temperature control of orchards and commercial
2215 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2216 off-highway type farm machinery; and

2217 (d) feed, seeds, and seedlings.

2218 (26) "Computer" means an electronic device that accepts information:

2219 (a) (i) in digital form; or

2220 (ii) in a form similar to digital form; and

2221 (b) manipulates that information for a result based on a sequence of instructions.

2222 (27) "Computer software" means a set of coded instructions designed to cause:

2223 (a) a computer to perform a task; or

2224 (b) automatic data processing equipment to perform a task.

2225 (28) "Computer software maintenance contract" means a contract that obligates a seller
2226 of computer software to provide a customer with:

- 2227 (a) future updates or upgrades to computer software;
- 2228 (b) support services with respect to computer software; or
- 2229 (c) a combination of Subsections (28)(a) and (b).
- 2230 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 2231 more participants of an audio conference call or video conference call.
- 2232 (b) "Conference bridging service" may include providing a telephone number as part of
- 2233 the ancillary service described in Subsection (29)(a).
- 2234 (c) "Conference bridging service" does not include a telecommunications service used
- 2235 to reach the ancillary service described in Subsection (29)(a).
- 2236 (30) "Construction materials" means any tangible personal property that will be
- 2237 converted into real property.
- 2238 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 2239 tangible storage media.
- 2240 (32) (a) "Delivery charge" means a charge:
- 2241 (i) by a seller of:
- 2242 (A) tangible personal property;
- 2243 (B) a product transferred electronically; or
- 2244 (C) services; and
- 2245 (ii) for preparation and delivery of the tangible personal property, product transferred
- 2246 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
- 2247 purchaser.
- 2248 (b) "Delivery charge" includes a charge for the following:
- 2249 (i) transportation;
- 2250 (ii) shipping;
- 2251 (iii) postage;
- 2252 (iv) handling;
- 2253 (v) crating; or
- 2254 (vi) packing.
- 2255 (33) "Detailed telecommunications billing service" means an ancillary service of
- 2256 separately stating information pertaining to individual calls on a customer's billing statement.
- 2257 (34) "Dietary supplement" means a product, other than tobacco, that:

- 2258 (a) is intended to supplement the diet;
- 2259 (b) contains one or more of the following dietary ingredients:
- 2260 (i) a vitamin;
- 2261 (ii) a mineral;
- 2262 (iii) an herb or other botanical;
- 2263 (iv) an amino acid;
- 2264 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2265 dietary intake; or
- 2266 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2267 described in Subsections (34)(b)(i) through (v);
- 2268 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 2269 (A) tablet form;
- 2270 (B) capsule form;
- 2271 (C) powder form;
- 2272 (D) softgel form;
- 2273 (E) gelcap form; or
- 2274 (F) liquid form; or
- 2275 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2276 (34)(c)(i)(A) through (F), is not represented:
- 2277 (A) as conventional food; and
- 2278 (B) for use as a sole item of:
- 2279 (I) a meal; or
- 2280 (II) the diet; and
- 2281 (d) is required to be labeled as a dietary supplement:
- 2282 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2283 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2284 (35) "Digital audio-visual work" means a series of related images which, when shown
- 2285 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2286 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2287 musical, spoken, or other sounds.
- 2288 (b) "Digital audio work" includes a ringtone.

2289 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
2290 sense as a book.

2291 (38) (a) "Direct mail" means printed material delivered or distributed by United States
2292 mail or other delivery service:

2293 (i) to:

2294 (A) a mass audience; or

2295 (B) addressees on a mailing list provided:

2296 (I) by a purchaser of the mailing list; or

2297 (II) at the discretion of the purchaser of the mailing list; and

2298 (ii) if the cost of the printed material is not billed directly to the recipients.

2299 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2300 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2301 (c) "Direct mail" does not include multiple items of printed material delivered to a
2302 single address.

2303 (39) "Directory assistance" means an ancillary service of providing:

2304 (a) address information; or

2305 (b) telephone number information.

2306 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
2307 or supplies that:

2308 (i) cannot withstand repeated use; and

2309 (ii) are purchased by, for, or on behalf of a person other than:

2310 (A) a health care facility as defined in Section [26-21-2](#);

2311 (B) a health care provider as defined in Section [78B-3-403](#);

2312 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

2313 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

2314 (b) "Disposable home medical equipment or supplies" does not include:

2315 (i) a drug;

2316 (ii) durable medical equipment;

2317 (iii) a hearing aid;

2318 (iv) a hearing aid accessory;

2319 (v) mobility enhancing equipment; or

- 2320 (vi) tangible personal property used to correct impaired vision, including:
- 2321 (A) eyeglasses; or
- 2322 (B) contact lenses.
- 2323 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2324 commission may by rule define what constitutes medical equipment or supplies.
- 2325 (41) "Drilling equipment manufacturer" means a facility:
- 2326 (a) located in the state;
- 2327 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2328 consist of manufacturing component parts of drilling equipment;
- 2329 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2330 manufacturing process; and
- 2331 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2332 manufacturing process.
- 2333 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2334 compound, substance, or preparation that is:
- 2335 (i) recognized in:
- 2336 (A) the official United States Pharmacopoeia;
- 2337 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2338 (C) the official National Formulary; or
- 2339 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 2340 (ii) intended for use in the:
- 2341 (A) diagnosis of disease;
- 2342 (B) cure of disease;
- 2343 (C) mitigation of disease;
- 2344 (D) treatment of disease; or
- 2345 (E) prevention of disease; or
- 2346 (iii) intended to affect:
- 2347 (A) the structure of the body; or
- 2348 (B) any function of the body.
- 2349 (b) "Drug" does not include:
- 2350 (i) food and food ingredients;

- 2351 (ii) a dietary supplement;
- 2352 (iii) an alcoholic beverage; or
- 2353 (iv) a prosthetic device.
- 2354 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 2355 equipment that:
 - 2356 (i) can withstand repeated use;
 - 2357 (ii) is primarily and customarily used to serve a medical purpose;
 - 2358 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 2359 (iv) is not worn in or on the body.
- 2360 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2361 equipment described in Subsection (43)(a).
 - 2362 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2363 (44) "Electronic" means:
 - 2364 (a) relating to technology; and
 - 2365 (b) having:
 - 2366 (i) electrical capabilities;
 - 2367 (ii) digital capabilities;
 - 2368 (iii) magnetic capabilities;
 - 2369 (iv) wireless capabilities;
 - 2370 (v) optical capabilities;
 - 2371 (vi) electromagnetic capabilities; or
 - 2372 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 2373 (45) "Electronic financial payment service" means an establishment:
 - 2374 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 2375 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 2376 federal Executive Office of the President, Office of Management and Budget; and
 - 2377 (b) that performs electronic financial payment services.
- 2378 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2379 (47) "Fixed guideway" means a public transit facility that uses and occupies:
 - 2380 (a) rail for the use of public transit; or
 - 2381 (b) a separate right-of-way for the use of public transit.

- 2382 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2383 (a) is powered by turbine engines;
- 2384 (b) operates on jet fuel; and
- 2385 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2386 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 2387 communication between fixed points.
- 2388 (50) (a) "Food and food ingredients" means substances:
- 2389 (i) regardless of whether the substances are in:
- 2390 (A) liquid form;
- 2391 (B) concentrated form;
- 2392 (C) solid form;
- 2393 (D) frozen form;
- 2394 (E) dried form; or
- 2395 (F) dehydrated form; and
- 2396 (ii) that are:
- 2397 (A) sold for:
- 2398 (I) ingestion by humans; or
- 2399 (II) chewing by humans; and
- 2400 (B) consumed for the substance's:
- 2401 (I) taste; or
- 2402 (II) nutritional value.
- 2403 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 2404 (c) "Food and food ingredients" does not include:
- 2405 (i) an alcoholic beverage;
- 2406 (ii) tobacco; or
- 2407 (iii) prepared food.
- 2408 (51) (a) "Fundraising sales" means sales:
- 2409 (i) (A) made by a school; or
- 2410 (B) made by a school student;
- 2411 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2412 materials, or provide transportation; and

2413 (iii) that are part of an officially sanctioned school activity.

2414 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"

2415 means a school activity:

2416 (i) that is conducted in accordance with a formal policy adopted by the school or school
2417 district governing the authorization and supervision of fundraising activities;

2418 (ii) that does not directly or indirectly compensate an individual teacher or other
2419 educational personnel by direct payment, commissions, or payment in kind; and

2420 (iii) the net or gross revenues from which are deposited in a dedicated account
2421 controlled by the school or school district.

2422 (52) "Geothermal energy" means energy contained in heat that continuously flows
2423 outward from the earth that is used as the sole source of energy to produce electricity.

2424 (53) "Governing board of the agreement" means the governing board of the agreement
2425 that is:

2426 (a) authorized to administer the agreement; and

2427 (b) established in accordance with the agreement.

2428 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2429 (i) the executive branch of the state, including all departments, institutions, boards,
2430 divisions, bureaus, offices, commissions, and committees;

2431 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2432 Office of the Court Administrator, and similar administrative units in the judicial branch;

2433 (iii) the legislative branch of the state, including the House of Representatives, the
2434 Senate, the Legislative Printing Office, the Office of Legislative Research and General

2435 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2436 Analyst;

2437 (iv) the National Guard;

2438 (v) an independent entity as defined in Section 63E-1-102; or

2439 (vi) a political subdivision as defined in Section 17B-1-102.

2440 (b) "Governmental entity" does not include the state systems of public and higher
2441 education, including:

2442 (i) a school;

2443 (ii) the State Board of Education;

- 2444 (iii) the State Board of Regents; or
- 2445 (iv) an institution of higher education described in Section [53B-1-102](#).
- 2446 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
- 2447 electricity.
- 2448 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 2449 other fuels:
- 2450 (a) in mining or extraction of minerals;
- 2451 (b) in agricultural operations to produce an agricultural product up to the time of
- 2452 harvest or placing the agricultural product into a storage facility, including:
- 2453 (i) commercial greenhouses;
- 2454 (ii) irrigation pumps;
- 2455 (iii) farm machinery;
- 2456 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 2457 under Title 41, Chapter 1a, Part 2, Registration; and
- 2458 (v) other farming activities;
- 2459 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2460 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2461 Executive Office of the President, Office of Management and Budget;
- 2462 (d) by a scrap recycler if:
- 2463 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2464 one or more of the following items into prepared grades of processed materials for use in new
- 2465 products:
- 2466 (A) iron;
- 2467 (B) steel;
- 2468 (C) nonferrous metal;
- 2469 (D) paper;
- 2470 (E) glass;
- 2471 (F) plastic;
- 2472 (G) textile; or
- 2473 (H) rubber; and
- 2474 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

2475 nonrecycled materials; or

2476 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2477 cogeneration facility as defined in Section 54-2-1.

2478 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
2479 for installing:

2480 (i) tangible personal property; or

2481 (ii) a product transferred electronically.

2482 (b) "Installation charge" does not include a charge for:

2483 (i) repairs or renovations of:

2484 (A) tangible personal property; or

2485 (B) a product transferred electronically; or

2486 (ii) attaching tangible personal property or a product transferred electronically:

2487 (A) to other tangible personal property; and

2488 (B) as part of a manufacturing or fabrication process.

2489 (58) "Institution of higher education" means an institution of higher education listed in
2490 Section 53B-2-101.

2491 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2492 personal property or a product transferred electronically for:

2493 (i) (A) a fixed term; or

2494 (B) an indeterminate term; and

2495 (ii) consideration.

2496 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2497 amount of consideration may be increased or decreased by reference to the amount realized
2498 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2499 Code.

2500 (c) "Lease" or "rental" does not include:

2501 (i) a transfer of possession or control of property under a security agreement or
2502 deferred payment plan that requires the transfer of title upon completion of the required
2503 payments;

2504 (ii) a transfer of possession or control of property under an agreement that requires the
2505 transfer of title:

- 2506 (A) upon completion of required payments; and
- 2507 (B) if the payment of an option price does not exceed the greater of:
- 2508 (I) \$100; or
- 2509 (II) 1% of the total required payments; or
- 2510 (iii) providing tangible personal property along with an operator for a fixed period of
- 2511 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 2512 designed.
- 2513 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
- 2514 perform as designed if the operator's duties exceed the:
- 2515 (i) set-up of tangible personal property;
- 2516 (ii) maintenance of tangible personal property; or
- 2517 (iii) inspection of tangible personal property.
- 2518 (60) "Life science establishment" means an establishment in this state that is classified
- 2519 under the following NAICS codes of the 2007 North American Industry Classification System
- 2520 of the federal Executive Office of the President, Office of Management and Budget:
- 2521 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 2522 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 2523 Manufacturing; or
- 2524 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 2525 (61) "Life science research and development facility" means a facility owned, leased,
- 2526 or rented by a life science establishment if research and development is performed in 51% or
- 2527 more of the total area of the facility.
- 2528 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 2529 if the tangible storage media is not physically transferred to the purchaser.
- 2530 (63) "Local taxing jurisdiction" means a:
- 2531 (a) county that is authorized to impose an agreement sales and use tax;
- 2532 (b) city that is authorized to impose an agreement sales and use tax; or
- 2533 (c) town that is authorized to impose an agreement sales and use tax.
- 2534 (64) "Manufactured home" means the same as that term is defined in Section
- 2535 [15A-1-302](#).
- 2536 (65) "Manufacturing facility" means:

- 2537 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2538 Industrial Classification Manual of the federal Executive Office of the President, Office of
2539 Management and Budget;
- 2540 (b) a scrap recycler if:
- 2541 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2542 one or more of the following items into prepared grades of processed materials for use in new
2543 products:
- 2544 (A) iron;
 - 2545 (B) steel;
 - 2546 (C) nonferrous metal;
 - 2547 (D) paper;
 - 2548 (E) glass;
 - 2549 (F) plastic;
 - 2550 (G) textile; or
 - 2551 (H) rubber; and
- 2552 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
2553 nonrecycled materials; or
- 2554 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
2555 placed in service on or after May 1, 2006.
- 2556 (66) "Member of the immediate family of the producer" means a person who is related
2557 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 2558 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 2559 (i) an adopted child or adopted stepchild; or
 - 2560 (ii) a foster child or foster stepchild;
 - 2561 (b) grandchild or stepgrandchild;
 - 2562 (c) grandparent or stepgrandparent;
 - 2563 (d) nephew or stepnephew;
 - 2564 (e) niece or stepniece;
 - 2565 (f) parent or stepparent;
 - 2566 (g) sibling or stepsibling;
 - 2567 (h) spouse;

2568 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

2569 or

2570 (j) person similar to a person described in Subsections (66)(a) through (i) as
2571 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2572 Administrative Rulemaking Act.

2573 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

2574 (68) "Mobile telecommunications service" is as defined in the Mobile
2575 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2576 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
2577 the technology used, if:

2578 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2579 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2580 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
2581 described in Subsection (69)(a)(ii) are not fixed.

2582 (b) "Mobile wireless service" includes a telecommunications service that is provided
2583 by a commercial mobile radio service provider.

2584 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2585 commission may by rule define "commercial mobile radio service provider."

2586 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
2587 means equipment that is:

2588 (i) primarily and customarily used to provide or increase the ability to move from one
2589 place to another;

2590 (ii) appropriate for use in a:

2591 (A) home; or

2592 (B) motor vehicle; and

2593 (iii) not generally used by persons with normal mobility.

2594 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2595 the equipment described in Subsection (70)(a).

2596 (c) "Mobility enhancing equipment" does not include:

2597 (i) a motor vehicle;

2598 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

2599 vehicle manufacturer;

2600 (iii) durable medical equipment; or

2601 (iv) a prosthetic device.

2602 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
2603 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2604 functions for agreement sales and use taxes other than the seller's obligation under Section
2605 [59-12-124](#) to remit a tax on the seller's own purchases.

2606 (72) "Model 2 seller" means a seller registered under the agreement that:

2607 (a) except as provided in Subsection (72)(b), has selected a certified automated system
2608 to perform the seller's sales tax functions for agreement sales and use taxes; and

2609 (b) retains responsibility for remitting all of the sales tax:

2610 (i) collected by the seller; and

2611 (ii) to the appropriate local taxing jurisdiction.

2612 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
2613 the agreement that has:

2614 (i) sales in at least five states that are members of the agreement;

2615 (ii) total annual sales revenues of at least \$500,000,000;

2616 (iii) a proprietary system that calculates the amount of tax:

2617 (A) for an agreement sales and use tax; and

2618 (B) due to each local taxing jurisdiction; and

2619 (iv) entered into a performance agreement with the governing board of the agreement.

2620 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
2621 sellers using the same proprietary system.

2622 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
2623 model 1 seller, model 2 seller, or model 3 seller.

2624 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2625 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

2626 (77) "Oil sands" means impregnated bituminous sands that:

2627 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2628 other hydrocarbons, or otherwise treated;

2629 (b) yield mixtures of liquid hydrocarbon; and

2630 (c) require further processing other than mechanical blending before becoming finished
2631 petroleum products.

2632 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2633 material that yields petroleum upon heating and distillation.

2634 (79) "Optional computer software maintenance contract" means a computer software
2635 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2636 sale of computer software.

2637 (80) (a) "Other fuels" means products that burn independently to produce heat or
2638 energy.

2639 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2640 personal property.

2641 (81) (a) "Paging service" means a telecommunications service that provides
2642 transmission of a coded radio signal for the purpose of activating a specific pager.

2643 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
2644 includes a transmission by message or sound.

2645 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

2646 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2647 (84) (a) "Permanently attached to real property" means that for tangible personal
2648 property attached to real property:

2649 (i) the attachment of the tangible personal property to the real property:

2650 (A) is essential to the use of the tangible personal property; and

2651 (B) suggests that the tangible personal property will remain attached to the real
2652 property in the same place over the useful life of the tangible personal property; or

2653 (ii) if the tangible personal property is detached from the real property, the detachment
2654 would:

2655 (A) cause substantial damage to the tangible personal property; or

2656 (B) require substantial alteration or repair of the real property to which the tangible
2657 personal property is attached.

2658 (b) "Permanently attached to real property" includes:

2659 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2660 (A) essential to the operation of the tangible personal property; and

- 2661 (B) attached only to facilitate the operation of the tangible personal property;
- 2662 (ii) a temporary detachment of tangible personal property from real property for a
- 2663 repair or renovation if the repair or renovation is performed where the tangible personal
- 2664 property and real property are located; or
- 2665 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2666 Subsection (84)(c)(iii) or (iv).
- 2667 (c) "Permanently attached to real property" does not include:
- 2668 (i) the attachment of portable or movable tangible personal property to real property if
- 2669 that portable or movable tangible personal property is attached to real property only for:
- 2670 (A) convenience;
- 2671 (B) stability; or
- 2672 (C) for an obvious temporary purpose;
- 2673 (ii) the detachment of tangible personal property from real property except for the
- 2674 detachment described in Subsection (84)(b)(ii);
- 2675 (iii) an attachment of the following tangible personal property to real property if the
- 2676 attachment to real property is only through a line that supplies water, electricity, gas,
- 2677 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2678 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2679 (A) a computer;
- 2680 (B) a telephone;
- 2681 (C) a television; or
- 2682 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
- 2683 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2684 Administrative Rulemaking Act; or
- 2685 (iv) an item listed in Subsection (125)(c).
- 2686 (85) "Person" includes any individual, firm, partnership, joint venture, association,
- 2687 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 2688 municipality, district, or other local governmental entity of the state, or any group or
- 2689 combination acting as a unit.
- 2690 (86) "Place of primary use":
- 2691 (a) for telecommunications service other than mobile telecommunications service,

2692 means the street address representative of where the customer's use of the telecommunications
2693 service primarily occurs, which shall be:

- 2694 (i) the residential street address of the customer; or
- 2695 (ii) the primary business street address of the customer; or
- 2696 (b) for mobile telecommunications service, is as defined in the Mobile
2697 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2698 (87) (a) "Postpaid calling service" means a telecommunications service a person
2699 obtains by making a payment on a call-by-call basis:

- 2700 (i) through the use of a:
 - 2701 (A) bank card;
 - 2702 (B) credit card;
 - 2703 (C) debit card; or
 - 2704 (D) travel card; or
- 2705 (ii) by a charge made to a telephone number that is not associated with the origination
2706 or termination of the telecommunications service.

2707 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2708 service, that would be a prepaid wireless calling service if the service were exclusively a
2709 telecommunications service.

2710 (88) "Postproduction" means an activity related to the finishing or duplication of a
2711 medium described in Subsection [59-12-104\(54\)\(a\)](#).

2712 (89) "Prepaid calling service" means a telecommunications service:

- 2713 (a) that allows a purchaser access to telecommunications service that is exclusively
2714 telecommunications service;
- 2715 (b) that:
 - 2716 (i) is paid for in advance; and
 - 2717 (ii) enables the origination of a call using an:
 - 2718 (A) access number; or
 - 2719 (B) authorization code;
 - 2720 (c) that is dialed:
 - 2721 (i) manually; or
 - 2722 (ii) electronically; and

- 2723 (d) sold in predetermined units or dollars that decline:
- 2724 (i) by a known amount; and
- 2725 (ii) with use.
- 2726 (90) "Prepaid wireless calling service" means a telecommunications service:
- 2727 (a) that provides the right to utilize:
- 2728 (i) mobile wireless service; and
- 2729 (ii) other service that is not a telecommunications service, including:
- 2730 (A) the download of a product transferred electronically;
- 2731 (B) a content service; or
- 2732 (C) an ancillary service;
- 2733 (b) that:
- 2734 (i) is paid for in advance; and
- 2735 (ii) enables the origination of a call using an:
- 2736 (A) access number; or
- 2737 (B) authorization code;
- 2738 (c) that is dialed:
- 2739 (i) manually; or
- 2740 (ii) electronically; and
- 2741 (d) sold in predetermined units or dollars that decline:
- 2742 (i) by a known amount; and
- 2743 (ii) with use.
- 2744 (91) (a) "Prepared food" means:
- 2745 (i) food:
- 2746 (A) sold in a heated state; or
- 2747 (B) heated by a seller;
- 2748 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2749 item; or
- 2750 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 2751 by the seller, including a:
- 2752 (A) plate;
- 2753 (B) knife;

- 2754 (C) fork;
- 2755 (D) spoon;
- 2756 (E) glass;
- 2757 (F) cup;
- 2758 (G) napkin; or
- 2759 (H) straw.
- 2760 (b) "Prepared food" does not include:
- 2761 (i) food that a seller only:
- 2762 (A) cuts;
- 2763 (B) repackages; or
- 2764 (C) pasteurizes; or
- 2765 (ii) (A) the following:
- 2766 (I) raw egg;
- 2767 (II) raw fish;
- 2768 (III) raw meat;
- 2769 (IV) raw poultry; or
- 2770 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 2771 and
- 2772 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2773 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2774 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 2775 (iii) the following if sold without eating utensils provided by the seller:
- 2776 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2777 classification under the 2002 North American Industry Classification System of the federal
- 2778 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2779 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2780 Manufacturing;
- 2781 (B) food and food ingredients sold in an unheated state:
- 2782 (I) by weight or volume; and
- 2783 (II) as a single item; or
- 2784 (C) a bakery item, including:

- 2785 (I) a bagel;
- 2786 (II) a bar;
- 2787 (III) a biscuit;
- 2788 (IV) bread;
- 2789 (V) a bun;
- 2790 (VI) a cake;
- 2791 (VII) a cookie;
- 2792 (VIII) a croissant;
- 2793 (IX) a danish;
- 2794 (X) a donut;
- 2795 (XI) a muffin;
- 2796 (XII) a pastry;
- 2797 (XIII) a pie;
- 2798 (XIV) a roll;
- 2799 (XV) a tart;
- 2800 (XVI) a torte; or
- 2801 (XVII) a tortilla.
- 2802 (c) An eating utensil provided by the seller does not include the following used to
- 2803 transport the food:
 - 2804 (i) a container; or
 - 2805 (ii) packaging.
- 2806 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 2807 (a) (i) orally;
 - 2808 (ii) in writing;
 - 2809 (iii) electronically; or
 - 2810 (iv) by any other manner of transmission; and
 - 2811 (b) by a licensed practitioner authorized by the laws of a state.
- 2812 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 2813 software" means computer software that is not designed and developed:
 - 2814 (i) by the author or other creator of the computer software; and
 - 2815 (ii) to the specifications of a specific purchaser.

- 2816 (b) "Prewritten computer software" includes:
- 2817 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 2818 software is not designed and developed:
- 2819 (A) by the author or other creator of the computer software; and
- 2820 (B) to the specifications of a specific purchaser;
- 2821 (ii) computer software designed and developed by the author or other creator of the
- 2822 computer software to the specifications of a specific purchaser if the computer software is sold
- 2823 to a person other than the purchaser; or
- 2824 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 2825 prewritten portion of prewritten computer software:
- 2826 (A) that is modified or enhanced to any degree; and
- 2827 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 2828 designed and developed to the specifications of a specific purchaser.
- 2829 (c) "Prewritten computer software" does not include a modification or enhancement
- 2830 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 2831 (i) reasonable; and
- 2832 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 2833 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 2834 demonstrated by:
- 2835 (A) the books and records the seller keeps at the time of the transaction in the regular
- 2836 course of business, including books and records the seller keeps at the time of the transaction in
- 2837 the regular course of business for nontax purposes;
- 2838 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 2839 (C) the understanding of all of the parties to the transaction.
- 2840 (94) (a) "Private communications service" means a telecommunications service:
- 2841 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2842 channels between or among termination points; and
- 2843 (ii) regardless of the manner in which the one or more communications channels are
- 2844 connected.
- 2845 (b) "Private communications service" includes the following provided in connection
- 2846 with the use of one or more communications channels:

- 2847 (i) an extension line;
- 2848 (ii) a station;
- 2849 (iii) switching capacity; or
- 2850 (iv) another associated service that is provided in connection with the use of one or
- 2851 more communications channels as defined in Section 59-12-215.
- 2852 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
- 2853 means a product transferred electronically that would be subject to a tax under this chapter if
- 2854 that product was transferred in a manner other than electronically.
- 2855 (b) "Product transferred electronically" does not include:
- 2856 (i) an ancillary service;
- 2857 (ii) computer software; or
- 2858 (iii) a telecommunications service.
- 2859 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2860 (i) artificially replace a missing portion of the body;
- 2861 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2862 (iii) support a weak or deformed portion of the body.
- 2863 (b) "Prosthetic device" includes:
- 2864 (i) parts used in the repairs or renovation of a prosthetic device;
- 2865 (ii) replacement parts for a prosthetic device;
- 2866 (iii) a dental prosthesis; or
- 2867 (iv) a hearing aid.
- 2868 (c) "Prosthetic device" does not include:
- 2869 (i) corrective eyeglasses; or
- 2870 (ii) contact lenses.
- 2871 (97) (a) "Protective equipment" means an item:
- 2872 (i) for human wear; and
- 2873 (ii) that is:
- 2874 (A) designed as protection:
- 2875 (I) to the wearer against injury or disease; or
- 2876 (II) against damage or injury of other persons or property; and
- 2877 (B) not suitable for general use.

2878 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2879 commission shall make rules:

2880 (i) listing the items that constitute "protective equipment"; and

2881 (ii) that are consistent with the list of items that constitute "protective equipment"

2882 under the agreement.

2883 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2884 printed matter, other than a photocopy:

2885 (i) regardless of:

2886 (A) characteristics;

2887 (B) copyright;

2888 (C) form;

2889 (D) format;

2890 (E) method of reproduction; or

2891 (F) source; and

2892 (ii) made available in printed or electronic format.

2893 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2894 commission may by rule define the term "photocopy."

2895 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

2896 (i) valued in money; and

2897 (ii) for which tangible personal property, a product transferred electronically, or

2898 services are:

2899 (A) sold;

2900 (B) leased; or

2901 (C) rented.

2902 (b) "Purchase price" and "sales price" include:

2903 (i) the seller's cost of the tangible personal property, a product transferred

2904 electronically, or services sold;

2905 (ii) expenses of the seller, including:

2906 (A) the cost of materials used;

2907 (B) a labor cost;

2908 (C) a service cost;

- 2909 (D) interest;
- 2910 (E) a loss;
- 2911 (F) the cost of transportation to the seller; or
- 2912 (G) a tax imposed on the seller;
- 2913 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2914 (iv) consideration a seller receives from a person other than the purchaser if:
- 2915 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2916 and
- 2917 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 2918 price reduction or discount on the sale;
- 2919 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2920 purchaser;
- 2921 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2922 the seller at the time of the sale to the purchaser; and
- 2923 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2924 seller to claim a price reduction or discount; and
- 2925 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2926 coupon, or other documentation with the understanding that the person other than the seller
- 2927 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2928 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2929 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2930 available to any patron of a seller does not constitute membership in a group or organization
- 2931 allowed a price reduction or discount; or
- 2932 (III) the price reduction or discount is identified as a third party price reduction or
- 2933 discount on the:
- 2934 (Aa) invoice the purchaser receives; or
- 2935 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2936 (c) "Purchase price" and "sales price" do not include:
- 2937 (i) a discount:
- 2938 (A) in a form including:
- 2939 (I) cash;

- 2940 (II) term; or
- 2941 (III) coupon;
- 2942 (B) that is allowed by a seller;
- 2943 (C) taken by a purchaser on a sale; and
- 2944 (D) that is not reimbursed by a third party; or
- 2945 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 2946 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 2947 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 2948 transaction in the regular course of business, including books and records the seller keeps at the
- 2949 time of the transaction in the regular course of business for nontax purposes, by a
- 2950 preponderance of the facts and circumstances at the time of the transaction, and by the
- 2951 understanding of all of the parties to the transaction:
 - 2952 (A) the following from credit extended on the sale of tangible personal property or
 - 2953 services:
 - 2954 (I) a carrying charge;
 - 2955 (II) a financing charge; or
 - 2956 (III) an interest charge;
 - 2957 (B) a delivery charge;
 - 2958 (C) an installation charge;
 - 2959 (D) a manufacturer rebate on a motor vehicle; or
 - 2960 (E) a tax or fee legally imposed directly on the consumer.
 - 2961 (100) "Purchaser" means a person to whom:
 - 2962 (a) a sale of tangible personal property is made;
 - 2963 (b) a product is transferred electronically; or
 - 2964 (c) a service is furnished.
 - 2965 (101) "Qualifying enterprise data center" means an establishment that will:
 - 2966 (a) own and operate a data center facility that will house a group of networked server
 - 2967 computers in one physical location in order to centralize the dissemination, management, and
 - 2968 storage of data and information;
 - 2969 (b) be located in the state;
 - 2970 (c) be a new operation constructed on or after July 1, 2016;

- 2971 (d) consist of one or more buildings that total 150,000 or more square feet;
- 2972 (e) be owned or leased by:
 - 2973 (i) the establishment; or
 - 2974 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 2975 establishment; and
- 2976 (f) be located on one or more parcels of land that are owned or leased by:
 - 2977 (i) the establishment; or
 - 2978 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 2979 establishment.
- 2980 (102) "Regularly rented" means:
 - 2981 (a) rented to a guest for value three or more times during a calendar year; or
 - 2982 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 2983 value.
- 2984 (103) "Rental" means the same as that term is defined in Subsection (59).
- 2985 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 2986 personal property" means:
 - 2987 (i) a repair or renovation of tangible personal property that is not permanently attached
 - 2988 to real property; or
 - 2989 (ii) attaching tangible personal property or a product transferred electronically to other
 - 2990 tangible personal property or detaching tangible personal property or a product transferred
 - 2991 electronically from other tangible personal property if:
 - 2992 (A) the other tangible personal property to which the tangible personal property or
 - 2993 product transferred electronically is attached or from which the tangible personal property or
 - 2994 product transferred electronically is detached is not permanently attached to real property; and
 - 2995 (B) the attachment of tangible personal property or a product transferred electronically
 - 2996 to other tangible personal property or detachment of tangible personal property or a product
 - 2997 transferred electronically from other tangible personal property is made in conjunction with a
 - 2998 repair or replacement of tangible personal property or a product transferred electronically.
 - 2999 (b) "Repairs or renovations of tangible personal property" does not include:
 - 3000 (i) attaching prewritten computer software to other tangible personal property if the
 - 3001 other tangible personal property to which the prewritten computer software is attached is not

3002 permanently attached to real property; or

3003 (ii) detaching prewritten computer software from other tangible personal property if the
3004 other tangible personal property from which the prewritten computer software is detached is
3005 not permanently attached to real property.

3006 (105) "Research and development" means the process of inquiry or experimentation
3007 aimed at the discovery of facts, devices, technologies, or applications and the process of
3008 preparing those devices, technologies, or applications for marketing.

3009 (106) (a) "Residential telecommunications services" means a telecommunications
3010 service or an ancillary service that is provided to an individual for personal use:

3011 (i) at a residential address; or

3012 (ii) at an institution, including a nursing home or a school, if the telecommunications
3013 service or ancillary service is provided to and paid for by the individual residing at the
3014 institution rather than the institution.

3015 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

3016 (i) apartment; or

3017 (ii) other individual dwelling unit.

3018 (107) "Residential use" means the use in or around a home, apartment building,
3019 sleeping quarters, and similar facilities or accommodations.

3020 (108) (a) "Retailer" means any person engaged in a regularly organized business in
3021 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
3022 who is selling to the user or consumer and not for resale.

3023 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3024 engaged in the business of selling to users or consumers within the state.

3025 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
3026 than:

3027 (a) resale;

3028 (b) sublease; or

3029 (c) subrent.

3030 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3031 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3032 Subsection 59-12-103(1), for consideration.

- 3033 (b) "Sale" includes:
- 3034 (i) installment and credit sales;
- 3035 (ii) any closed transaction constituting a sale;
- 3036 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 3037 chapter;
- 3038 (iv) any transaction if the possession of property is transferred but the seller retains the
- 3039 title as security for the payment of the price; and
- 3040 (v) any transaction under which right to possession, operation, or use of any article of
- 3041 tangible personal property is granted under a lease or contract and the transfer of possession
- 3042 would be taxable if an outright sale were made.
- 3043 (111) "Sale at retail" means the same as that term is defined in Subsection (109).
- 3044 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
- 3045 personal property or a product transferred electronically that is subject to a tax under this
- 3046 chapter is transferred:
- 3047 (a) by a purchaser-lessee;
- 3048 (b) to a lessor;
- 3049 (c) for consideration; and
- 3050 (d) if:
- 3051 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 3052 of the tangible personal property or product transferred electronically;
- 3053 (ii) the sale of the tangible personal property or product transferred electronically to the
- 3054 lessor is intended as a form of financing:
- 3055 (A) for the tangible personal property or product transferred electronically; and
- 3056 (B) to the purchaser-lessee; and
- 3057 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 3058 is required to:
- 3059 (A) capitalize the tangible personal property or product transferred electronically for
- 3060 financial reporting purposes; and
- 3061 (B) account for the lease payments as payments made under a financing arrangement.
- 3062 (113) "Sales price" means the same as that term is defined in Subsection (99).
- 3063 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

3064 amounts charged by a school:

3065 (i) sales that are directly related to the school's educational functions or activities

3066 including:

3067 (A) the sale of:

3068 (I) textbooks;

3069 (II) textbook fees;

3070 (III) laboratory fees;

3071 (IV) laboratory supplies; or

3072 (V) safety equipment;

3073 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3074 that:

3075 (I) a student is specifically required to wear as a condition of participation in a

3076 school-related event or school-related activity; and

3077 (II) is not readily adaptable to general or continued usage to the extent that it takes the

3078 place of ordinary clothing;

3079 (C) sales of the following if the net or gross revenues generated by the sales are

3080 deposited into a school district fund or school fund dedicated to school meals:

3081 (I) food and food ingredients; or

3082 (II) prepared food; or

3083 (III) transportation charges for official school activities; or

3084 (ii) amounts paid to or amounts charged by a school for admission to a school-related

3085 event or school-related activity.

3086 (b) "Sales relating to schools" does not include:

3087 (i) bookstore sales of items that are not educational materials or supplies;

3088 (ii) except as provided in Subsection (114)(a)(i)(B):

3089 (A) clothing;

3090 (B) clothing accessories or equipment;

3091 (C) protective equipment; or

3092 (D) sports or recreational equipment; or

3093 (iii) amounts paid to or amounts charged by a school for admission to a school-related

3094 event or school-related activity if the amounts paid or charged are passed through to a person:

- 3095 (A) other than a:
- 3096 (I) school;
- 3097 (II) nonprofit organization authorized by a school board or a governing body of a
- 3098 private school to organize and direct a competitive secondary school activity; or
- 3099 (III) nonprofit association authorized by a school board or a governing body of a
- 3100 private school to organize and direct a competitive secondary school activity; and
- 3101 (B) that is required to collect sales and use taxes under this chapter.
- 3102 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3103 commission may make rules defining the term "passed through."
- 3104 (115) For purposes of this section and Section [59-12-104](#), "school":
- 3105 (a) means:
- 3106 (i) an elementary school or a secondary school that:
- 3107 (A) is a:
- 3108 (I) public school; or
- 3109 (II) private school; and
- 3110 (B) provides instruction for one or more grades kindergarten through 12; or
- 3111 (ii) a public school district; and
- 3112 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 3113 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 3114 (a) tangible personal property;
- 3115 (b) a product transferred electronically; or
- 3116 (c) a service.
- 3117 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3118 means tangible personal property or a product transferred electronically if the tangible personal
- 3119 property or product transferred electronically is:
- 3120 (i) used primarily in the process of:
- 3121 (A) (I) manufacturing a semiconductor;
- 3122 (II) fabricating a semiconductor; or
- 3123 (III) research or development of a:
- 3124 (Aa) semiconductor; or
- 3125 (Bb) semiconductor manufacturing process; or

- 3126 (B) maintaining an environment suitable for a semiconductor; or
- 3127 (ii) consumed primarily in the process of:
- 3128 (A) (I) manufacturing a semiconductor;
- 3129 (II) fabricating a semiconductor; or
- 3130 (III) research or development of a:
- 3131 (Aa) semiconductor; or
- 3132 (Bb) semiconductor manufacturing process; or
- 3133 (B) maintaining an environment suitable for a semiconductor.
- 3134 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3135 includes:
- 3136 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3137 transferred electronically described in Subsection (117)(a); or
- 3138 (ii) a chemical, catalyst, or other material used to:
- 3139 (A) produce or induce in a semiconductor a:
- 3140 (I) chemical change; or
- 3141 (II) physical change;
- 3142 (B) remove impurities from a semiconductor; or
- 3143 (C) improve the marketable condition of a semiconductor.
- 3144 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 3145 services to the aged as defined in Section [62A-3-101](#).
- 3146 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 3147 means tangible personal property that:
- 3148 (i) a business that provides accommodations and services described in Subsection
- 3149 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 3150 to a purchaser;
- 3151 (ii) is intended to be consumed by the purchaser; and
- 3152 (iii) is:
- 3153 (A) included in the purchase price of the accommodations and services; and
- 3154 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 3155 to the purchaser.
- 3156 (b) "Short-term lodging consumable" includes:

- 3157 (i) a beverage;
- 3158 (ii) a brush or comb;
- 3159 (iii) a cosmetic;
- 3160 (iv) a hair care product;
- 3161 (v) lotion;
- 3162 (vi) a magazine;
- 3163 (vii) makeup;
- 3164 (viii) a meal;
- 3165 (ix) mouthwash;
- 3166 (x) nail polish remover;
- 3167 (xi) a newspaper;
- 3168 (xii) a notepad;
- 3169 (xiii) a pen;
- 3170 (xiv) a pencil;
- 3171 (xv) a razor;
- 3172 (xvi) saline solution;
- 3173 (xvii) a sewing kit;
- 3174 (xviii) shaving cream;
- 3175 (xix) a shoe shine kit;
- 3176 (xx) a shower cap;
- 3177 (xxi) a snack item;
- 3178 (xxii) soap;
- 3179 (xxiii) toilet paper;
- 3180 (xxiv) a toothbrush;
- 3181 (xxv) toothpaste; or
- 3182 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 3183 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3184 Rulemaking Act.
- 3185 (c) "Short-term lodging consumable" does not include:
- 3186 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3187 property to be reused; or

- 3188 (ii) a product transferred electronically.
- 3189 (120) "Simplified electronic return" means the electronic return:
- 3190 (a) described in Section 318(C) of the agreement; and
- 3191 (b) approved by the governing board of the agreement.
- 3192 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 3193 electricity.
- 3194 (122) (a) "Sports or recreational equipment" means an item:
- 3195 (i) designed for human use; and
- 3196 (ii) that is:
- 3197 (A) worn in conjunction with:
- 3198 (I) an athletic activity; or
- 3199 (II) a recreational activity; and
- 3200 (B) not suitable for general use.
- 3201 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3202 commission shall make rules:
- 3203 (i) listing the items that constitute "sports or recreational equipment"; and
- 3204 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3205 equipment" under the agreement.
- 3206 (123) "State" means the state of Utah, its departments, and agencies.
- 3207 (124) "Storage" means any keeping or retention of tangible personal property or any
- 3208 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 3209 sale in the regular course of business.
- 3210 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 3211 means personal property that:
- 3212 (i) may be:
- 3213 (A) seen;
- 3214 (B) weighed;
- 3215 (C) measured;
- 3216 (D) felt; or
- 3217 (E) touched; or
- 3218 (ii) is in any manner perceptible to the senses.

3219 (b) "Tangible personal property" includes:

3220 (i) electricity;

3221 (ii) water;

3222 (iii) gas;

3223 (iv) steam; or

3224 (v) prewritten computer software, regardless of the manner in which the prewritten
3225 computer software is transferred.

3226 (c) "Tangible personal property" includes the following regardless of whether the item
3227 is attached to real property:

3228 (i) a dishwasher;

3229 (ii) a dryer;

3230 (iii) a freezer;

3231 (iv) a microwave;

3232 (v) a refrigerator;

3233 (vi) a stove;

3234 (vii) a washer; or

3235 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
3236 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3237 Rulemaking Act.

3238 (d) "Tangible personal property" does not include a product that is transferred
3239 electronically.

3240 (e) "Tangible personal property" does not include the following if attached to real
3241 property, regardless of whether the attachment to real property is only through a line that
3242 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3243 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3244 Rulemaking Act:

3245 (i) a hot water heater;

3246 (ii) a water filtration system; or

3247 (iii) a water softener system.

3248 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3249 software" means an item listed in Subsection (126)(b) if that item is purchased or leased

3250 primarily to enable or facilitate one or more of the following to function:

3251 (i) telecommunications switching or routing equipment, machinery, or software; or

3252 (ii) telecommunications transmission equipment, machinery, or software.

3253 (b) The following apply to Subsection (126)(a):

3254 (i) a pole;

3255 (ii) software;

3256 (iii) a supplementary power supply;

3257 (iv) temperature or environmental equipment or machinery;

3258 (v) test equipment;

3259 (vi) a tower; or

3260 (vii) equipment, machinery, or software that functions similarly to an item listed in

3261 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in

3262 accordance with Subsection (126)(c).

3263 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3264 commission may by rule define what constitutes equipment, machinery, or software that

3265 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

3266 (127) "Telecommunications equipment, machinery, or software required for 911

3267 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

3268 Sec. 20.18.

3269 (128) "Telecommunications maintenance or repair equipment, machinery, or software"

3270 means equipment, machinery, or software purchased or leased primarily to maintain or repair

3271 one or more of the following, regardless of whether the equipment, machinery, or software is

3272 purchased or leased as a spare part or as an upgrade or modification to one or more of the

3273 following:

3274 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3275 (b) telecommunications switching or routing equipment, machinery, or software; or

3276 (c) telecommunications transmission equipment, machinery, or software.

3277 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or

3278 transmission of audio, data, video, voice, or any other information or signal to a point, or

3279 among or between points.

3280 (b) "Telecommunications service" includes:

- 3281 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3282 processing application is used to act:
- 3283 (A) on the code, form, or protocol of the content;
3284 (B) for the purpose of electronic conveyance, routing, or transmission; and
3285 (C) regardless of whether the service:
3286 (I) is referred to as voice over Internet protocol service; or
3287 (II) is classified by the Federal Communications Commission as enhanced or value
3288 added;
- 3289 (ii) an 800 service;
3290 (iii) a 900 service;
3291 (iv) a fixed wireless service;
3292 (v) a mobile wireless service;
3293 (vi) a postpaid calling service;
3294 (vii) a prepaid calling service;
3295 (viii) a prepaid wireless calling service; or
3296 (ix) a private communications service.
- 3297 (c) "Telecommunications service" does not include:
3298 (i) advertising, including directory advertising;
3299 (ii) an ancillary service;
3300 (iii) a billing and collection service provided to a third party;
3301 (iv) a data processing and information service if:
3302 (A) the data processing and information service allows data to be:
3303 (I) (Aa) acquired;
3304 (Bb) generated;
3305 (Cc) processed;
3306 (Dd) retrieved; or
3307 (Ee) stored; and
3308 (II) delivered by an electronic transmission to a purchaser; and
3309 (B) the purchaser's primary purpose for the underlying transaction is the processed data
3310 or information;
3311 (v) installation or maintenance of the following on a customer's premises:

- 3312 (A) equipment; or
- 3313 (B) wiring;
- 3314 (vi) Internet access service;
- 3315 (vii) a paging service;
- 3316 (viii) a product transferred electronically, including:
 - 3317 (A) music;
 - 3318 (B) reading material;
 - 3319 (C) a ring tone;
 - 3320 (D) software; or
 - 3321 (E) video;
 - 3322 (ix) a radio and television audio and video programming service:
 - 3323 (A) regardless of the medium; and
 - 3324 (B) including:
 - 3325 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 3326 programming service by a programming service provider;
 - 3327 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 3328 (III) audio and video programming services delivered by a commercial mobile radio
 - 3329 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 3330 (x) a value-added nonvoice data service; or
 - 3331 (xi) tangible personal property.
 - 3332 (130) (a) "Telecommunications service provider" means a person that:
 - 3333 (i) owns, controls, operates, or manages a telecommunications service; and
 - 3334 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 - 3335 resale to any person of the telecommunications service.
 - 3336 (b) A person described in Subsection (130)(a) is a telecommunications service provider
 - 3337 whether or not the Public Service Commission of Utah regulates:
 - 3338 (i) that person; or
 - 3339 (ii) the telecommunications service that the person owns, controls, operates, or
 - 3340 manages.
 - 3341 (131) (a) "Telecommunications switching or routing equipment, machinery, or
 - 3342 software" means an item listed in Subsection (131)(b) if that item is purchased or leased

3343 primarily for switching or routing:

- 3344 (i) an ancillary service;
- 3345 (ii) data communications;
- 3346 (iii) voice communications; or
- 3347 (iv) telecommunications service.

3348 (b) The following apply to Subsection (131)(a):

- 3349 (i) a bridge;
- 3350 (ii) a computer;
- 3351 (iii) a cross connect;
- 3352 (iv) a modem;
- 3353 (v) a multiplexer;
- 3354 (vi) plug in circuitry;
- 3355 (vii) a router;
- 3356 (viii) software;
- 3357 (ix) a switch; or
- 3358 (x) equipment, machinery, or software that functions similarly to an item listed in

3359 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
3360 accordance with Subsection (131)(c).

3361 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3362 commission may by rule define what constitutes equipment, machinery, or software that
3363 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

3364 (132) (a) "Telecommunications transmission equipment, machinery, or software"
3365 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
3366 sending, receiving, or transporting:

- 3367 (i) an ancillary service;
- 3368 (ii) data communications;
- 3369 (iii) voice communications; or
- 3370 (iv) telecommunications service.

3371 (b) The following apply to Subsection (132)(a):

- 3372 (i) an amplifier;
- 3373 (ii) a cable;

- 3374 (iii) a closure;
- 3375 (iv) a conduit;
- 3376 (v) a controller;
- 3377 (vi) a duplexer;
- 3378 (vii) a filter;
- 3379 (viii) an input device;
- 3380 (ix) an input/output device;
- 3381 (x) an insulator;
- 3382 (xi) microwave machinery or equipment;
- 3383 (xii) an oscillator;
- 3384 (xiii) an output device;
- 3385 (xiv) a pedestal;
- 3386 (xv) a power converter;
- 3387 (xvi) a power supply;
- 3388 (xvii) a radio channel;
- 3389 (xviii) a radio receiver;
- 3390 (xix) a radio transmitter;
- 3391 (xx) a repeater;
- 3392 (xxi) software;
- 3393 (xxii) a terminal;
- 3394 (xxiii) a timing unit;
- 3395 (xxiv) a transformer;
- 3396 (xxv) a wire; or
- 3397 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3398 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 3399 accordance with Subsection (132)(c).

3400 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3401 commission may by rule define what constitutes equipment, machinery, or software that

3402 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

3403 (133) (a) "Textbook for a higher education course" means a textbook or other printed

3404 material that is required for a course:

- 3405 (i) offered by an institution of higher education; and
- 3406 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 3407 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3408 (134) "Tobacco" means:

- 3409 (a) a cigarette;
- 3410 (b) a cigar;
- 3411 (c) chewing tobacco;
- 3412 (d) pipe tobacco; or
- 3413 (e) any other item that contains tobacco.

3414 (135) "Unassisted amusement device" means an amusement device, skill device, or
3415 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3416 the amusement device, skill device, or ride device.

3417 (136) (a) "Use" means the exercise of any right or power over tangible personal
3418 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3419 incident to the ownership or the leasing of that tangible personal property, product transferred
3420 electronically, or service.

3421 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3422 property, a product transferred electronically, or a service in the regular course of business and
3423 held for resale.

3424 (137) "Value-added nonvoice data service" means a service:

3425 (a) that otherwise meets the definition of a telecommunications service except that a
3426 computer processing application is used to act primarily for a purpose other than conveyance,
3427 routing, or transmission; and

3428 (b) with respect to which a computer processing application is used to act on data or
3429 information:

- 3430 (i) code;
- 3431 (ii) content;
- 3432 (iii) form; or
- 3433 (iv) protocol.

3434 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
3435 required to be titled, registered, or titled and registered:

- 3436 (i) an aircraft as defined in Section 72-10-102;
- 3437 (ii) a vehicle as defined in Section 41-1a-102;
- 3438 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3439 (iv) a vessel as defined in Section 41-1a-102.
- 3440 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 3441 (i) a vehicle described in Subsection (138)(a); or
- 3442 (ii) (A) a locomotive;
- 3443 (B) a freight car;
- 3444 (C) railroad work equipment; or
- 3445 (D) other railroad rolling stock.
- 3446 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 3447 exchanging a vehicle as defined in Subsection (138).
- 3448 (140) (a) "Vertical service" means an ancillary service that:
- 3449 (i) is offered in connection with one or more telecommunications services; and
- 3450 (ii) offers an advanced calling feature that allows a customer to:
- 3451 (A) identify a caller; and
- 3452 (B) manage multiple calls and call connections.
- 3453 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 3454 conference bridging service.
- 3455 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 3456 receive, send, or store a recorded message.
- 3457 (b) "Voice mail service" does not include a vertical service that a customer is required
- 3458 to have in order to utilize a voice mail service.
- 3459 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 3460 facility that generates electricity:
- 3461 (i) using as the primary source of energy waste materials that would be placed in a
- 3462 landfill or refuse pit if it were not used to generate electricity, including:
- 3463 (A) tires;
- 3464 (B) waste coal;
- 3465 (C) oil shale; or
- 3466 (D) municipal solid waste; and

- 3467 (ii) in amounts greater than actually required for the operation of the facility.
- 3468 (b) "Waste energy facility" does not include a facility that incinerates:
- 3469 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3470 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3471 (143) "Watercraft" means a vessel as defined in Section 73-18-2.
- 3472 (144) "Wind energy" means wind used as the sole source of energy to produce
- 3473 electricity.
- 3474 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 3475 location by the United States Postal Service.
- 3476 Section 27. Section **59-12-103** is amended to read:
- 3477 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 3478 **tax revenues.**
- 3479 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 3480 sales price for amounts paid or charged for the following transactions:
- 3481 (a) retail sales of tangible personal property made within the state;
- 3482 (b) amounts paid for:
- 3483 (i) telecommunications service, other than mobile telecommunications service, that
- 3484 originates and terminates within the boundaries of this state;
- 3485 (ii) mobile telecommunications service that originates and terminates within the
- 3486 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 3487 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 3488 (iii) an ancillary service associated with a:
- 3489 (A) telecommunications service described in Subsection (1)(b)(i); or
- 3490 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3491 (c) sales of the following for commercial use:
- 3492 (i) gas;
- 3493 (ii) electricity;
- 3494 (iii) heat;
- 3495 (iv) coal;
- 3496 (v) fuel oil; or
- 3497 (vi) other fuels;

- 3498 (d) sales of the following for residential use:
- 3499 (i) gas;
- 3500 (ii) electricity;
- 3501 (iii) heat;
- 3502 (iv) coal;
- 3503 (v) fuel oil; or
- 3504 (vi) other fuels;
- 3505 (e) sales of prepared food;
- 3506 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3507 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3508 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3509 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3510 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3511 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3512 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3513 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3514 exhibition, cultural, or athletic activity;
- 3515 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3516 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3517 (i) the tangible personal property; and
- 3518 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3519 in Subsection (1)(g)(i), regardless of whether:
- 3520 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 3521 property; or
- 3522 (B) the particular parts used in the repairs or renovations of that tangible personal
- 3523 property are exempt from a tax under this chapter;
- 3524 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3525 assisted cleaning or washing of tangible personal property;
- 3526 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3527 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3528 (j) amounts paid or charged for laundry or dry cleaning services;

3529 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3530 this state the tangible personal property is:

3531 (i) stored;

3532 (ii) used; or

3533 (iii) otherwise consumed;

3534 (l) amounts paid or charged for tangible personal property if within this state the
3535 tangible personal property is:

3536 (i) stored;

3537 (ii) used; or

3538 (iii) consumed; and

3539 (m) amounts paid or charged for a sale:

3540 (i) (A) of a product transferred electronically; or

3541 (B) of a repair or renovation of a product transferred electronically; and

3542 (ii) regardless of whether the sale provides:

3543 (A) a right of permanent use of the product; or

3544 (B) a right to use the product that is less than a permanent use, including a right:

3545 (I) for a definite or specified length of time; and

3546 (II) that terminates upon the occurrence of a condition.

3547 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
3548 is imposed on a transaction described in Subsection (1) equal to the sum of:

3549 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3550 (A) 4.70%; and

3551 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3552 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3553 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3554 State Sales and Use Tax Act; and

3555 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3556 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3557 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3558 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3559 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3560 transaction under this chapter other than this part.

3561 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3562 on a transaction described in Subsection (1)(d) equal to the sum of:

3563 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3564 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3565 transaction under this chapter other than this part.

3566 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3567 on amounts paid or charged for food and food ingredients equal to the sum of:

3568 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3569 a tax rate of 1.75%; and

3570 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3571 amounts paid or charged for food and food ingredients under this chapter other than this part.

3572 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3573 tangible personal property other than food and food ingredients, a state tax and a local tax is
3574 imposed on the entire bundled transaction equal to the sum of:

3575 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3576 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3577 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3578 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3579 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3580 Additional State Sales and Use Tax Act; and

3581 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3582 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3583 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3584 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3585 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3586 described in Subsection (2)(a)(ii).

3587 (ii) If an optional computer software maintenance contract is a bundled transaction that
3588 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3589 similar billing document, the purchase of the optional computer software maintenance contract
3590 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3591 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3592 transaction described in Subsection (2)(d)(i) or (ii):

3593 (A) if the sales price of the bundled transaction is attributable to tangible personal
3594 property, a product, or a service that is subject to taxation under this chapter and tangible
3595 personal property, a product, or service that is not subject to taxation under this chapter, the
3596 entire bundled transaction is subject to taxation under this chapter unless:

3597 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3598 personal property, product, or service that is not subject to taxation under this chapter from the
3599 books and records the seller keeps in the seller's regular course of business; or

3600 (II) state or federal law provides otherwise; or

3601 (B) if the sales price of a bundled transaction is attributable to two or more items of
3602 tangible personal property, products, or services that are subject to taxation under this chapter
3603 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3604 higher tax rate unless:

3605 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3606 personal property, product, or service that is subject to taxation under this chapter at the lower
3607 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3608 (II) state or federal law provides otherwise.

3609 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3610 seller's regular course of business includes books and records the seller keeps in the regular
3611 course of business for nontax purposes.

3612 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3613 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3614 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3615 of tangible personal property, other property, a product, or a service that is not subject to
3616 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3617 the seller, at the time of the transaction:

3618 (A) separately states the portion of the transaction that is not subject to taxation under
3619 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3620 (B) is able to identify by reasonable and verifiable standards, from the books and
3621 records the seller keeps in the seller's regular course of business, the portion of the transaction

3622 that is not subject to taxation under this chapter.

3623 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3624 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3625 the transaction that is not subject to taxation under this chapter was not separately stated on an
3626 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3627 ignorance of the law; and

3628 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3629 and records the seller keeps in the seller's regular course of business, the portion of the
3630 transaction that is not subject to taxation under this chapter.

3631 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3632 in the seller's regular course of business includes books and records the seller keeps in the
3633 regular course of business for nontax purposes.

3634 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3635 personal property, products, or services that are subject to taxation under this chapter at
3636 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3637 unless the seller, at the time of the transaction:

3638 (A) separately states the items subject to taxation under this chapter at each of the
3639 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3640 (B) is able to identify by reasonable and verifiable standards the tangible personal
3641 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3642 from the books and records the seller keeps in the seller's regular course of business.

3643 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3644 seller's regular course of business includes books and records the seller keeps in the regular
3645 course of business for nontax purposes.

3646 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3647 rate imposed under the following shall take effect on the first day of a calendar quarter:

3648 (i) Subsection (2)(a)(i)(A);

3649 (ii) Subsection (2)(b)(i);

3650 (iii) Subsection (2)(c)(i); or

3651 (iv) Subsection (2)(d)(i)(A)(I).

3652 (h) (i) A tax rate increase takes effect on the first day of the first billing period that

- 3653 begins on or after the effective date of the tax rate increase if the billing period for the
3654 transaction begins before the effective date of a tax rate increase imposed under:
- 3655 (A) Subsection (2)(a)(i)(A);
 - 3656 (B) Subsection (2)(b)(i);
 - 3657 (C) Subsection (2)(c)(i); or
 - 3658 (D) Subsection (2)(d)(i)(A)(I).
- 3659 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3660 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3661 or the tax rate decrease imposed under:
- 3662 (A) Subsection (2)(a)(i)(A);
 - 3663 (B) Subsection (2)(b)(i);
 - 3664 (C) Subsection (2)(c)(i); or
 - 3665 (D) Subsection (2)(d)(i)(A)(I).
- 3666 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3667 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3668 change in a tax rate takes effect:
- 3669 (A) on the first day of a calendar quarter; and
 - 3670 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3671 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 3672 (A) Subsection (2)(a)(i)(A);
 - 3673 (B) Subsection (2)(b)(i);
 - 3674 (C) Subsection (2)(c)(i); or
 - 3675 (D) Subsection (2)(d)(i)(A)(I).
- 3676 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3677 the commission may by rule define the term "catalogue sale."
- 3678 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3679 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 3680 (ii) the tax imposed by Subsection (2)(b)(i);
 - 3681 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 3682 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 3683 (b) The following local taxes shall be distributed to a county, city, or town as provided

3684 in this chapter:

3685 (i) the tax imposed by Subsection (2)(a)(ii);

3686 (ii) the tax imposed by Subsection (2)(b)(ii);

3687 (iii) the tax imposed by Subsection (2)(c)(ii); and

3688 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3689 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3690 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
3691 through (g):

3692 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3693 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3694 (B) for the fiscal year; or

3695 (ii) \$17,500,000.

3696 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3697 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3698 Department of Natural Resources to:

3699 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3700 protect sensitive plant and animal species; or

3701 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3702 act, to political subdivisions of the state to implement the measures described in Subsections
3703 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3704 (ii) Money transferred to the Department of Natural Resources under Subsection
3705 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3706 person to list or attempt to have listed a species as threatened or endangered under the
3707 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3708 (iii) At the end of each fiscal year:

3709 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3710 Conservation and Development Fund created in Section 73-10-24;

3711 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3712 Program Subaccount created in Section 73-10c-5; and

3713 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3714 Program Subaccount created in Section 73-10c-5.

3715 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3716 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3717 created in Section 4-18-106.

3718 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3719 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3720 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3721 water rights.

3722 (ii) At the end of each fiscal year:

3723 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3724 Conservation and Development Fund created in Section 73-10-24;

3725 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3726 Program Subaccount created in Section 73-10c-5; and

3727 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3728 Program Subaccount created in Section 73-10c-5.

3729 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3730 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
3731 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3732 (ii) In addition to the uses allowed of the Water Resources Conservation and
3733 Development Fund under Section 73-10-24, the Water Resources Conservation and
3734 Development Fund may also be used to:

3735 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3736 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3737 quantifying surface and ground water resources and describing the hydrologic systems of an
3738 area in sufficient detail so as to enable local and state resource managers to plan for and
3739 accommodate growth in water use without jeopardizing the resource;

3740 (B) fund state required dam safety improvements; and

3741 (C) protect the state's interest in interstate water compact allocations, including the
3742 hiring of technical and legal staff.

3743 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3744 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
3745 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3746 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3747 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
3748 created in Section 73-10c-5 for use by the Division of Drinking Water to:

- 3749 (i) provide for the installation and repair of collection, treatment, storage, and
3750 distribution facilities for any public water system, as defined in Section 19-4-102;
- 3751 (ii) develop underground sources of water, including springs and wells; and
- 3752 (iii) develop surface water sources.

3753 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3754 2006, the difference between the following amounts shall be expended as provided in this
3755 Subsection (5), if that difference is greater than \$1:

3756 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3757 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3758 (ii) \$17,500,000.

3759 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3760 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3761 credits; and

3762 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3763 restoration.

3764 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3765 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3766 created in Section 73-10-24.

3767 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3768 remaining difference described in Subsection (5)(a) shall be:

3769 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3770 credits; and

3771 (B) expended by the Division of Water Resources for cloud-seeding projects
3772 authorized by Title 73, Chapter 15, Modification of Weather.

3773 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3774 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3775 created in Section 73-10-24.

3776 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the

3777 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3778 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3779 Division of Water Resources for:

3780 (i) preconstruction costs:

3781 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3782 26, Bear River Development Act; and

3783 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3784 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3785 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3786 Chapter 26, Bear River Development Act;

3787 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3788 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3789 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
3790 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3791 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3792 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
3793 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3794 incurred for employing additional technical staff for the administration of water rights.

3795 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3796 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3797 Fund created in Section 73-10-24.

3798 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
3799 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
3800 (1) for the fiscal year shall be deposited as follows:

3801 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
3802 shall be deposited into the Transportation Investment Fund of 2005 created by Section
3803 72-2-124;

3804 (b) for fiscal year 2017-18 only:

3805 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
3806 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3807 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the

3808 Water Infrastructure Restricted Account created by Section 73-10g-103;

3809 (c) for fiscal year 2018-19 only:

3810 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the

3811 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3812 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the

3813 Water Infrastructure Restricted Account created by Section 73-10g-103;

3814 (d) for fiscal year 2019-20 only:

3815 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the

3816 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3817 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the

3818 Water Infrastructure Restricted Account created by Section 73-10g-103;

3819 (e) for fiscal year 2020-21 only:

3820 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the

3821 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3822 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the

3823 Water Infrastructure Restricted Account created by Section 73-10g-103; and

3824 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described

3825 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account

3826 created by Section 73-10g-103.

3827 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

3828 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,

3829 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005

3830 created by Section 72-2-124:

3831 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

3832 the revenues collected from the following taxes, which represents a portion of the

3833 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

3834 on vehicles and vehicle-related products:

3835 (A) the tax imposed by Subsection (2)(a)(i)(A);

3836 (B) the tax imposed by Subsection (2)(b)(i);

3837 (C) the tax imposed by Subsection (2)(c)(i); and

3838 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3839 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3840 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
3841 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3842 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3843 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
3844 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
3845 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
3846 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3847 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3848 (7)(a) equal to the product of:

3849 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
3850 previous fiscal year; and

3851 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3852 (7)(a)(i)(A) through (D) in the current fiscal year.

3853 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3854 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
3855 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
3856 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3857 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

3858 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3859 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
3860 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
3861 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
3862 current fiscal year under Subsection (7)(a).

3863 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
3864 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
3865 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
3866 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

3867 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3868 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
3869 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

3870 Transportation Investment Fund of 2005 created by Section 72-2-124.

3871 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
3872 Subsections (6) and (7), [~~and subject to Subsection (8)(c)(ii), for a fiscal year~~] beginning on or
3873 after [~~July 1, 2018~~] January 1, 2019, the commission shall annually deposit into the
3874 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
3875 listed under Subsection (3)(a) in an amount equal to [~~3.68%~~] 0.62% of the revenues collected
3876 from the following taxes:

3877 (A) the tax imposed by Subsection (2)(a)(i)(A);

3878 (B) the tax imposed by Subsection (2)(b)(i);

3879 (C) the tax imposed by Subsection (2)(c)(i); and

3880 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3881 [~~(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
3882 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
3883 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
3884 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
3885 sale or use in this state that exceeds 29.4 cents per gallon.]~~

3886 (ii) Notwithstanding Subsection (3)(a), beginning on or after January 1, 2019, the
3887 commission shall annually deposit into the Transit Transportation Investment Fund created in
3888 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to
3889 3.06% of the revenues collected from the following taxes:

3890 (A) the tax imposed by Subsection (2)(a)(i)(A);

3891 (B) the tax imposed by Subsection (2)(b)(i);

3892 (C) the tax imposed by Subsection (2)(c)(i); and

3893 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3894 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3895 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3896 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3897 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
3898 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
3899 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
3900 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on

3901 the transactions described in Subsection (1).

3902 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
3903 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
3904 shall deposit into the Transportation Investment Fund of 2005 created by Section [72-2-124](#) the
3905 amount of revenue described as follows:

3906 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
3907 tax rate on the transactions described in Subsection (1);

3908 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
3909 tax rate on the transactions described in Subsection (1);

3910 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
3911 tax rate on the transactions described in Subsection (1);

3912 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
3913 .05% tax rate on the transactions described in Subsection (1); and

3914 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
3915 tax rate on the transactions described in Subsection (1).

3916 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
3917 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
3918 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
3919 transaction attributable to food and food ingredients and tangible personal property other than
3920 food and food ingredients described in Subsection (2)(d).

3921 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
3922 fiscal year during which the Division of Finance receives notice under Section [63N-2-510](#) that
3923 construction on a qualified hotel, as defined in Section [63N-2-502](#), has begun, the Division of
3924 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
3925 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
3926 created in Section [63N-2-512](#).

3927 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
3928 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
3929 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

3930 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
3931 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under

3932 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

3933 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
3934 or deposited in accordance with Subsections (4) through (12) may not include an amount the
3935 Division of Finance deposits in accordance with Section [59-12-103.2](#).

3936 Section 28. Section **59-12-2202** is amended to read:

3937 **59-12-2202. Definitions.**

3938 As used in this part:

3939 (1) "Airline" [~~is as~~] means the same as that term is defined in Section [59-2-102](#).

3940 (2) "Airport facility" [~~is as~~] means the same as that term is defined in Section
3941 [59-12-602](#).

3942 (3) "Airport of regional significance" means an airport identified by the Federal
3943 Aviation Administration in the most current National Plan of Integrated Airport Systems or an
3944 update to the National Plan of Integrated Airport Systems.

3945 (4) "Annexation" means an annexation to:

3946 (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

3947 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3948 (5) "Annexing area" means an area that is annexed into a county, city, or town.

3949 (6) "Council of governments" [~~is as~~] means the same as that term is defined in Section
3950 [72-2-117.5](#).

3951 (7) "Fixed guideway" [~~is as~~] means the same as that term is defined in Section
3952 [59-12-102](#).

3953 (8) "Large public transit district" means the same as that term is defined in Section
3954 [17B-2a-802](#).

3955 [~~(8)~~] (9) "Major collector highway" [~~is as~~] means the same as that term is defined in
3956 Section [72-4-102.5](#).

3957 [~~(9)~~] (10) "Metropolitan planning organization" [~~is as~~] means the same as that term is
3958 defined in Section [72-1-208.5](#).

3959 [~~(10)~~] (11) "Minor arterial highway" [~~is as~~] means the same as that term is defined in
3960 Section [72-4-102.5](#).

3961 [~~(11)~~] (12) "Minor collector road" [~~is as~~] means the same as that term is defined in
3962 Section [72-4-102.5](#).

3963 [(12)] (13) "Principal arterial highway" [~~is as~~] means the same as that term is defined
3964 in Section [72-4-102.5](#).

3965 [(13)] (14) "Regionally significant transportation facility" means:

3966 (a) in a county of the first or second class:

3967 (i) a principal arterial highway;

3968 (ii) a minor arterial highway;

3969 (iii) a fixed guideway that:

3970 (A) extends across two or more cities or unincorporated areas; or

3971 (B) is an extension to an existing fixed guideway; or

3972 (iv) an airport of regional significance; or

3973 (b) in a county of the third, fourth, fifth, or sixth class:

3974 (i) a principal arterial highway;

3975 (ii) a minor arterial highway;

3976 (iii) a major collector highway;

3977 (iv) a minor collector road; or

3978 (v) an airport of regional significance.

3979 [(14)] (15) "State highway" means a highway designated as a state highway under Title
3980 72, Chapter 4, Designation of State Highways Act.

3981 [(15)] (16) (a) Subject to Subsection [(15)] (16)(b), "system for public transit" [~~has the~~
3982 ~~same meaning as~~] means the same as the term "public transit" [~~as~~] is defined in Section
3983 [17B-2a-802](#).

3984 (b) "System for public transit" includes:

3985 (i) the following costs related to public transit:

3986 (A) maintenance costs; or

3987 (B) operating costs;

3988 (ii) a fixed guideway;

3989 (iii) a park and ride facility;

3990 (iv) a passenger station or passenger terminal;

3991 (v) a right-of-way for public transit; or

3992 (vi) the following that serve a public transit facility:

3993 (A) a maintenance facility;

- 3994 (B) a platform;
- 3995 (C) a repair facility;
- 3996 (D) a roadway;
- 3997 (E) a storage facility;
- 3998 (F) a utility line; or
- 3999 (G) a facility or item similar to Subsections [~~(15)~~] (16)(b)(vi)(A) through (F).

4000 Section 29. Section **59-12-2203** is amended to read:

4001 **59-12-2203. Authority to impose a sales and use tax under this part --**

4002 **Restrictions on expenditure of revenue.**

4003 (1) As provided in this Subsection (1), one of the following sales and use taxes may be
4004 imposed within the boundaries of a local taxing jurisdiction:

4005 (a) a county, city, or town may impose the sales and use tax authorized by Section
4006 [59-12-2213](#) in accordance with Section [59-12-2213](#); or

4007 (b) a city or town may impose the sales and use tax authorized by Section [59-12-2215](#)
4008 in accordance with Section [59-12-2215](#).

4009 (2) As provided in this Subsection (2), one of the following sales and use taxes may be
4010 imposed within the boundaries of a local taxing jurisdiction:

4011 (a) a county, city, or town may impose the sales and use tax authorized by Section
4012 [59-12-2214](#) in accordance with Section [59-12-2214](#); or

4013 (b) a county may impose the sales and use tax authorized by Section [59-12-2216](#) in
4014 accordance with Section [59-12-2216](#).

4015 (3) As provided in this Subsection (3), one of the following sales and use taxes may be
4016 imposed within the boundaries of a local taxing jurisdiction:

4017 (a) a county may impose the sales and use tax authorized by Section [59-12-2217](#) in
4018 accordance with Section [59-12-2217](#); or

4019 (b) a county, city, or town may impose the sales and use tax authorized by Section
4020 [59-12-2218](#) in accordance with Section [59-12-2218](#).

4021 (4) A county may impose the sales and use tax authorized by Section [59-12-2219](#) in
4022 accordance with Section [59-12-2219](#).

4023 (5) A county, city, or town may impose the sales and use tax authorized by Section
4024 [59-12-2220](#) in accordance with Section [59-12-2220](#).

4025 (6) (a) A large public transit district that receives revenue from a sales and use tax
4026 imposed by a county, city, or town authorized by one or more of the following sections is
4027 subject to the restriction in Subsection (6)(b):

- 4028 (i) Section 59-12-2213;
4029 (ii) Section 59-12-2214;
4030 (iii) Section 59-12-2215;
4031 (iv) Section 59-12-2216;
4032 (v) Section 59-12-2217;
4033 (vi) Section 59-12-2218;
4034 (vii) Section 59-12-2219; and
4035 (viii) Section 59-12-2220.

4036 (b) A large public transit district may not expend more than an amount equal to the
4037 revenue generated by a .7% tax rate on the transactions described in Subsection 59-12-103(1)
4038 of the sales and use tax imposed by each county, city, or town described in Subsection (6)(a) to
4039 pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve
4040 requirements for any bonds issued by the large public transit district on or before June 30,
4041 2018, if any portion of the county, city, or town is annexed into a large public transit district.

4042 Section 30. Section 59-12-2213 is amended to read:

4043 **59-12-2213. County, city, or town option sales and use tax to fund a system for**
4044 **public transit -- Base -- Rate.**

4045 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a
4046 county, city, or town may impose a sales and use tax under this section of up to:

4047 (a) for a county, city, or town other than a county, city, or town described in Subsection
4048 (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the
4049 county, city, or town to fund a system for public transit; or

4050 (b) for a county, city, or town within which a tax is not imposed under Section
4051 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the
4052 county, city, or town, to fund a system for public transit.

4053 (2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not
4054 required to submit an opinion question to the county's, city's, or town's registered voters in
4055 accordance with Section 59-12-2208 to impose a sales and use tax under this section if the

4056 county, city, or town imposes the sales and use tax under Section [59-12-2216](#) on or before July
4057 1, 2011.

4058 (3) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4059 this section before July 1, 2022, may remain in effect.

4060 Section 31. Section **59-12-2214** is amended to read:

4061 **59-12-2214. County, city, or town option sales and use tax to fund a system for**
4062 **public transit, an airport facility, a water conservation project, or to be deposited into the**
4063 **County of the First Class Highway Projects Fund -- Base -- Rate -- Voter approval**
4064 **exception.**

4065 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a
4066 county, city, or town may impose a sales and use tax of .25% on the transactions described in
4067 Subsection [59-12-103](#)(1) located within the county, city, or town.

4068 (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax
4069 under this section shall expend the revenues collected from the sales and use tax:

4070 (a) to fund a system for public transit;

4071 (b) to fund a project or service related to an airport facility for the portion of the project
4072 or service that is performed within the county, city, or town within which the sales and use tax
4073 is imposed:

4074 (i) for a county that imposes the sales and use tax, if the airport facility is part of the
4075 regional transportation plan of the area metropolitan planning organization if a metropolitan
4076 planning organization exists for the area; or

4077 (ii) for a city or town that imposes the sales and use tax, if:

4078 (A) that city or town is located within a county of the second class;

4079 (B) that city or town owns or operates the airport facility; and

4080 (C) an airline is headquartered in that city or town; or

4081 (c) for a combination of Subsections (2)(a) and (b).

4082 (3) A county of the first class that imposes a sales and use tax under this section shall
4083 expend the revenues collected from the sales and use tax as follows:

4084 (a) 80% of the revenues collected from the sales and use tax shall be expended to fund
4085 a system for public transit; and

4086 (b) 20% of the revenues collected from the sales and use tax shall be deposited into the

4087 County of the First Class Highway Projects Fund created by Section [72-2-121](#).

4088 (4) Notwithstanding Section [59-12-2208](#), a county, city, or town legislative body is not
4089 required to submit an opinion question to the county's, city's, or town's registered voters in
4090 accordance with Section [59-12-2208](#) to impose a sales and use tax under this section if:

4091 (a) the county, city, or town imposes the sales and use tax under this section on or after
4092 July 1, 2010, but on or before July 1, 2011;

4093 (b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

4094 (i) Section [59-12-2213](#); or

4095 (ii) Section [59-12-2215](#); and

4096 (c) the county, city, or town obtained voter approval to impose the sales and use tax
4097 under:

4098 (i) Section [59-12-2213](#); or

4099 (ii) Section [59-12-2215](#).

4100 (5) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4101 this section before July 1, 2022, may remain in effect.

4102 Section 32. Section [59-12-2215](#) is amended to read:

4103 **59-12-2215. City or town option sales and use tax for highways or to fund a**
4104 **system for public transit -- Base -- Rate.**

4105 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a city or
4106 town may impose a sales and use tax of up to .30% on the transactions described in Subsection
4107 [59-12-103](#)(1) located within the city or town.

4108 (2) A city or town imposing a sales and use tax under this section shall expend the
4109 revenues collected from the sales and use tax:

4110 (a) for the construction and maintenance of highways under the jurisdiction of the city
4111 or town imposing the tax;

4112 (b) to fund a system for public transit; or

4113 (c) for a combination of Subsections (2)(a) and (b).

4114 (3) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4115 this section before July 1, 2022, may remain in effect.

4116 Section 33. Section [59-12-2216](#) is amended to read:

4117 **59-12-2216. County option sales and use tax for a fixed guideway, to fund a**

4118 **system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of**
4119 **revenues.**

4120 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a county
4121 legislative body may impose a sales and use tax of up to .30% on the transactions described in
4122 Subsection [59-12-103](#)(1) within the county, including the cities and towns within the county.

4123 (2) Subject to Subsection (3), before obtaining voter approval in accordance with
4124 Section [59-12-2208](#), a county legislative body shall adopt a resolution specifying the
4125 percentage of revenues the county will receive from the sales and use tax under this section that
4126 will be allocated to fund one or more of the following:

4127 (a) a project or service relating to a fixed guideway for the portion of the project or
4128 service that is performed within the county;

4129 (b) a project or service relating to a system for public transit, except for a fixed
4130 guideway, for the portion of the project or service that is performed within the county;

4131 (c) the following relating to a state highway within the county:

4132 (i) a project within the county if the project:

4133 (A) begins on or after the day on which a county legislative body imposes a tax under
4134 this section; and

4135 (B) involves an environmental study, an improvement, new construction, or a
4136 renovation;

4137 (ii) debt service on a project described in Subsection (2)(c)(i); or

4138 (iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

4139 (d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating
4140 to a highway that is:

4141 (i) a principal arterial highway or minor arterial highway;

4142 (ii) included in a metropolitan planning organization's regional transportation plan; and

4143 (iii) not a state highway.

4144 (3) A county legislative body shall in the resolution described in Subsection (2)
4145 allocate 100% of the revenues the county will receive from the sales and use tax under this
4146 section for one or more of the purposes described in Subsection (2).

4147 (4) Notwithstanding Section [59-12-2208](#), the opinion question required by Section
4148 [59-12-2208](#) shall state the allocations the county legislative body makes in accordance with this

4149 section.

4150 (5) The revenues collected from a sales and use tax under this section shall be:

4151 (a) allocated in accordance with the allocations specified in the resolution under
4152 Subsection (2); and

4153 (b) expended as provided in this section.

4154 (6) If a county legislative body allocates revenues collected from a sales and use tax
4155 under this section for a state highway project described in Subsection (2)(c)(i), before
4156 beginning the state highway project within the county, the county legislative body shall:

4157 (a) obtain approval from the Transportation Commission to complete the project; and

4158 (b) enter into an interlocal agreement established in accordance with Title 11, Chapter
4159 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

4160 (7) If after a county legislative body imposes a sales and use tax under this section the
4161 county legislative body seeks to change an allocation specified in the resolution under
4162 Subsection (2), the county legislative body may change the allocation by:

4163 (a) adopting a resolution in accordance with Subsection (2) specifying the percentage
4164 of revenues the county will receive from the sales and use tax under this section that will be
4165 allocated to fund one or more of the items described in Subsection (2);

4166 (b) obtaining approval to change the allocation of the sales and use tax by a majority of
4167 all of the members of the county legislative body; and

4168 (c) subject to Subsection (8):

4169 (i) in accordance with Section [59-12-2208](#), submitting an opinion question to the
4170 county's registered voters voting on changing the allocation so that each registered voter has the
4171 opportunity to express the registered voter's opinion on whether the allocation should be
4172 changed; and

4173 (ii) in accordance with Section [59-12-2208](#), obtaining approval to change the allocation
4174 from a majority of the county's registered voters voting on changing the allocation.

4175 (8) Notwithstanding Section [59-12-2208](#), the opinion question required by Subsection
4176 (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
4177 Subsection (7)(a) and approved by the county legislative body in accordance with Subsection
4178 (7)(b).

4179 (9) Revenues collected from a sales and use tax under this section that a county

4180 allocates for a purpose described in Subsection (2)(c) shall be:

4181 (a) deposited into the Highway Projects Within Counties Fund created by Section
4182 [72-2-121.1](#); and

4183 (b) expended as provided in Section [72-2-121.1](#).

4184 (10) (a) Notwithstanding Section [59-12-2206](#) and subject to Subsection (10)(b),
4185 revenues collected from a sales and use tax under this section that a county allocates for a
4186 purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation
4187 if the transfer of the revenues is required under an interlocal agreement:

4188 (i) entered into on or before January 1, 2010; and

4189 (ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

4190 (b) The Department of Transportation shall expend the revenues described in
4191 Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

4192 (11) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4193 this section before July 1, 2022, may remain in effect.

4194 Section 34. Section [59-12-2217](#) is amended to read:

4195 **59-12-2217. County option sales and use tax for transportation -- Base -- Rate --**
4196 **Written prioritization process -- Approval by county legislative body.**

4197 (1) Subject to the other provisions of this part, but no later than June 30, 2022, a county
4198 legislative body may impose a sales and use tax of up to .25% on the transactions described in
4199 Subsection [59-12-103](#)(1) within the county, including the cities and towns within the county.

4200 (2) Subject to Subsections (3) through (8) and Section [59-12-2207](#), the revenues
4201 collected from a sales and use tax under this section may only be expended for:

4202 (a) a project or service:

4203 (i) relating to a regionally significant transportation facility for the portion of the
4204 project or service that is performed within the county;

4205 (ii) for new capacity or congestion mitigation if the project or service is performed
4206 within a county:

4207 (A) of the first or second class; or

4208 (B) if that county is part of an area metropolitan planning organization; and

4209 (iii) that is on a priority list:

4210 (A) created by the county's council of governments in accordance with Subsection (7);

4211 and

4212 (B) approved by the county legislative body in accordance with Subsection (7);

4213 (b) corridor preservation for a project or service described in Subsection (2)(a) [~~as~~
4214 ~~provided in Subsection (8)~~]; or

4215 (c) debt service or bond issuance costs related to a project or service described in
4216 Subsection (2)(a)(i) or (ii).

4217 (3) If a project or service described in Subsection (2) is for:

4218 (a) a principal arterial highway or a minor arterial highway in a county of the first or
4219 second class or a collector road in a county of the second class, that project or service shall be
4220 part of the:

4221 (i) county and municipal master plan; and

4222 (ii) (A) statewide long-range plan; or

4223 (B) regional transportation plan of the area metropolitan planning organization if a
4224 metropolitan planning organization exists for the area; or

4225 (b) a fixed guideway or an airport, that project or service shall be part of the regional
4226 transportation plan of the area metropolitan planning organization if a metropolitan planning
4227 organization exists for the area.

4228 (4) In a county of the first or second class, a regionally significant transportation
4229 facility project or service described in Subsection (2)(a)(i) shall have a funded year priority
4230 designation on a Statewide Transportation Improvement Program and Transportation
4231 Improvement Program if the project or service described in Subsection (2)(a)(i) is:

4232 (a) a principal arterial highway;

4233 (b) a minor arterial highway;

4234 (c) a collector road in a county of the second class; or

4235 (d) a major collector highway in a rural area.

4236 (5) Of the revenues collected from a sales and use tax imposed under this section
4237 within a county of the first [~~or second~~] class, 25% or more shall be expended for the purpose
4238 described in Subsection (2)(b).

4239 (6) (a) As provided in this Subsection (6), a council of governments shall:

4240 (i) develop a written prioritization process for the prioritization of projects to be funded
4241 by revenues collected from a sales and use tax under this section;

4242 (ii) create a priority list of regionally significant transportation facility projects or
4243 services described in Subsection (2)(a)(i) in accordance with Subsection (7); and
4244 (iii) present the priority list to the county legislative body for approval in accordance
4245 with Subsection (7).

4246 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:
4247 (i) a definition of the type of projects to which the written prioritization process
4248 applies;
4249 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the
4250 council of governments will use to rank proposed projects and how that weighted criteria
4251 system will be used to determine which proposed projects will be prioritized;
4252 (iii) the specification of data that is necessary to apply the weighted criteria system;
4253 (iv) application procedures for a project to be considered for prioritization by the
4254 council of governments; and
4255 (v) any other provision the council of governments considers appropriate.

4256 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the
4257 following:
4258 (i) the cost effectiveness of a project;
4259 (ii) the degree to which a project will mitigate regional congestion;
4260 (iii) the compliance requirements of applicable federal laws or regulations;
4261 (iv) the economic impact of a project;
4262 (v) the degree to which a project will require tax revenues to fund maintenance and
4263 operation expenses; and
4264 (vi) any other provision the council of governments considers appropriate.

4265 (d) A council of governments of a county of the first or second class shall submit the
4266 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations
4267 Committee for approval prior to taking final action on:
4268 (i) the written prioritization process; or
4269 (ii) any proposed amendment to the written prioritization process.

4270 (7) (a) A council of governments shall use the weighted criteria system adopted in the
4271 written prioritization process developed in accordance with Subsection (6) to create a priority
4272 list of regionally significant transportation facility projects or services for which revenues

4273 collected from a sales and use tax under this section may be expended.

4274 (b) Before a council of governments may finalize a priority list or the funding level of a
4275 project, the council of governments shall conduct a public meeting on:

4276 (i) the written prioritization process; and

4277 (ii) the merits of the projects that are prioritized as part of the written prioritization
4278 process.

4279 (c) A council of governments shall make the weighted criteria system ranking for each
4280 project prioritized as part of the written prioritization process publicly available before the
4281 public meeting required by Subsection (7)(b) is held.

4282 (d) If a council of governments prioritizes a project over another project with a higher
4283 rank under the weighted criteria system, the council of governments shall:

4284 (i) identify the reasons for prioritizing the project over another project with a higher
4285 rank under the weighted criteria system at the public meeting required by Subsection (7)(b);
4286 and

4287 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.

4288 (e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a
4289 priority list in accordance with this Subsection (7), the council of governments shall:

4290 (i) submit the priority list to the county legislative body for approval; and

4291 (ii) obtain approval of the priority list from a majority of the members of the county
4292 legislative body.

4293 (f) A council of governments may only submit one priority list per calendar year to the
4294 county legislative body.

4295 (g) A county legislative body may only consider and approve one priority list submitted
4296 under Subsection (7)(e) per calendar year.

4297 ~~[(8)(a) Except as provided in Subsection (8)(b), revenues collected from a sales and~~
4298 ~~use tax under this section that a county allocates for a purpose described in Subsection (2)(b)~~
4299 ~~shall be:]~~

4300 ~~[(i) deposited in or transferred to the Local Highway and Transportation Corridor~~
4301 ~~Preservation Fund created by Section 72-2-117.5; and]~~

4302 ~~[(ii) expended as provided in Section 72-2-117.5:]~~

4303 ~~[(b)]~~ (8) In a county of the first class, revenues collected from a sales and use tax under

4304 this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

4305 [(†)] (a) deposited in or transferred to the County of the First Class Highway Projects
4306 Fund created by Section 72-2-121; and

4307 [(†)] (b) expended as provided in Section 72-2-121.

4308 (9) Notwithstanding Section 59-12-2208, a county legislative body may, but is not
4309 required to, submit an opinion question to the county's registered voters in accordance with
4310 Section 59-12-2208 to impose a sales and use tax under this section.

4311 (10) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4312 this section before July 1, 2022, may remain in effect.

4313 Section 35. Section 59-12-2218 is amended to read:

4314 **59-12-2218. County, city, or town option sales and use tax for airports, highways,**
4315 **and systems for public transit -- Base -- Rate -- Administration of sales and use tax --**
4316 **Voter approval exception.**

4317 (1) Subject to the other provisions of this part, but no later than June 30, 2022, the
4318 following may impose a sales and use tax under this section:

4319 (a) if, on April 1, 2009, a county legislative body of a county of the second class
4320 imposes a sales and use tax under this section, the county legislative body of the county of the
4321 second class may impose the sales and use tax on the transactions:

4322 (i) described in Subsection 59-12-103(1); and

4323 (ii) within the county, including the cities and towns within the county; or

4324 (b) if, on April 1, 2009, a county legislative body of a county of the second class does
4325 not impose a sales and use tax under this section:

4326 (i) a city legislative body of a city within the county of the second class may impose a
4327 sales and use tax under this section on the transactions described in Subsection 59-12-103(1)
4328 within that city;

4329 (ii) a town legislative body of a town within the county of the second class may impose
4330 a sales and use tax under this section on the transactions described in Subsection 59-12-103(1)
4331 within that town; and

4332 (iii) the county legislative body of the county of the second class may impose a sales
4333 and use tax on the transactions described in Subsection 59-12-103(1):

4334 (A) within the county, including the cities and towns within the county, if on the date

4335 the county legislative body provides the notice described in Section 59-12-2209 to the
4336 commission stating that the county will enact a sales and use tax under this section, no city or
4337 town within that county imposes a sales and use tax under this section or has provided the
4338 notice described in Section 59-12-2209 to the commission stating that the city or town will
4339 enact a sales and use tax under this section; or

4340 (B) within the county, except for within a city or town within that county, if, on the
4341 date the county legislative body provides the notice described in Section 59-12-2209 to the
4342 commission stating that the county will enact a sales and use tax under this section, that city or
4343 town imposes a sales and use tax under this section or has provided the notice described in
4344 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
4345 tax under this section.

4346 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4347 county, city, or town legislative body that imposes a sales and use tax under this section may
4348 impose the tax at a rate of:

4349 (a) .10%; or

4350 (b) .25%.

4351 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
4352 expended as determined by the county, city, or town legislative body as follows:

4353 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4354 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4355 Section 72-2-121.2;

4356 (b) expended for a project or service relating to an airport facility for the portion of the
4357 project or service that is performed within the county, city, or town within which the tax is
4358 imposed:

4359 (i) for a county legislative body that imposes the sales and use tax, if that airport
4360 facility is part of the regional transportation plan of the area metropolitan planning organization
4361 if a metropolitan planning organization exists for the area; or

4362 (ii) for a city or town legislative body that imposes the sales and use tax, if:

4363 (A) that city or town owns or operates the airport facility; and

4364 (B) an airline is headquartered in that city or town; or

4365 (c) deposited or expended for a combination of Subsections (3)(a) and (b).

4366 (4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate
4367 described in Subsection (2)(b) shall be expended as determined by the county, city, or town
4368 legislative body as follows:

4369 (a) deposited as provided in Subsection (9)(b) into the County of the Second Class
4370 State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
4371 Section 72-2-121.2;

4372 (b) expended for:

4373 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

4374 (ii) a local highway that is a principal arterial highway, minor arterial highway, major
4375 collector highway, or minor collector road; or

4376 (iii) a combination of Subsections (4)(b)(i) and (ii);

4377 (c) expended for a project or service relating to a system for public transit for the
4378 portion of the project or service that is performed within the county, city, or town within which
4379 the sales and use tax is imposed;

4380 (d) expended for a project or service relating to an airport facility for the portion of the
4381 project or service that is performed within the county, city, or town within which the sales and
4382 use tax is imposed:

4383 (i) for a county legislative body that imposes the sales and use tax, if that airport
4384 facility is part of the regional transportation plan of the area metropolitan planning organization
4385 if a metropolitan planning organization exists for the area; or

4386 (ii) for a city or town legislative body that imposes the sales and use tax, if:

4387 (A) that city or town owns or operates the airport facility; and

4388 (B) an airline is headquartered in that city or town;

4389 (e) expended for:

4390 (i) a class B road, as defined in Section 72-3-103;

4391 (ii) a class C road, as defined in Section 72-3-104; or

4392 (iii) a combination of Subsections (4)(e)(i) and (ii);

4393 (f) expended for traffic and pedestrian safety, including:

4394 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
4395 Section 72-3-104, for:

4396 (A) a sidewalk;

- 4397 (B) curb and gutter;
- 4398 (C) a safety feature;
- 4399 (D) a traffic sign;
- 4400 (E) a traffic signal;
- 4401 (F) street lighting; or
- 4402 (G) a combination of Subsections (4)(f)(i)(A) through (F);
- 4403 (ii) the construction of an active transportation facility that:
- 4404 (A) is for nonmotorized vehicles and multimodal transportation; and
- 4405 (B) connects an origin with a destination; or
- 4406 (iii) a combination of Subsections (4)(f)(i) and (ii); or
- 4407 (g) deposited or expended for a combination of Subsections (4)(a) through (f).
- 4408 (5) A county, city, or town legislative body may not expend revenue collected within a
- 4409 county, city, or town from a tax under this section for a purpose described in Subsections (4)(b)
- 4410 through (f) unless the purpose is recommended by:
- 4411 (a) for a county that is part of a metropolitan planning organization, the metropolitan
- 4412 planning organization of which the county is a part; or
- 4413 (b) for a county that is not part of a metropolitan planning organization, the council of
- 4414 governments of which the county is a part.
- 4415 (6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes
- 4416 a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05%
- 4417 as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor
- 4418 Preservation Fund created by Section [72-2-117.5](#).
- 4419 (ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and
- 4420 distributed in accordance with Section [72-2-117.5](#).
- 4421 (b) A county, city, or town is not required to make the deposit required by Subsection
- 4422 (6)(a)(i) if the county, city, or town:
- 4423 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
- 4424 (ii) has continuously imposed a tax described in Subsection (2)(b):
- 4425 (A) beginning after July 1, 2010; and
- 4426 (B) for a five-year period.
- 4427 (7) (a) Subject to the other provisions of this Subsection (7), a city or town within

4428 which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

4429 (i) expend the revenues in accordance with Subsection (4); or

4430 (ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:

4431 (A) that city or town owns or operates an airport facility; and

4432 (B) an airline is headquartered in that city or town.

4433 (b) (i) A city or town legislative body of a city or town within which a sales and use tax

4434 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected

4435 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of

4436 .25% for a purpose described in Subsection (7)(b)(ii) if:

4437 (A) that city or town owns or operates an airport facility; and

4438 (B) an airline is headquartered in that city or town.

4439 (ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected

4440 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of

4441 .25% for:

4442 (A) a project or service relating to the airport facility; and

4443 (B) the portion of the project or service that is performed within the city or town

4444 imposing the sales and use tax.

4445 (c) If a city or town legislative body described in Subsection (7)(b)(i) determines to

4446 expend the revenues collected from a tax rate of greater than .10% but not to exceed the

4447 revenues collected from a tax rate of .25% for a project or service relating to an airport facility

4448 as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use

4449 tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or

4450 service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as

4451 follows:

4452 (i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c)

4453 into the County of the Second Class State Highway Projects Fund created by Section

4454 [72-2-121.2](#) and expended as provided in Section [72-2-121.2](#); and

4455 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c)

4456 into the Local Highway and Transportation Corridor Preservation Fund created by Section

4457 [72-2-117.5](#) and expended and distributed in accordance with Section [72-2-117.5](#).

4458 (d) A city or town legislative body that expends the revenues collected from a sales and

4459 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
4460 (7)(b) and (c):

4461 (i) shall, on or before the date the city or town legislative body provides the notice
4462 described in Section 59-12-2209 to the commission stating that the city or town will enact a
4463 sales and use tax under this section:

4464 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4465 exceed .25%, the collections from which the city or town legislative body will expend for a
4466 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4467 (B) notify the commission in writing of the tax rate the city or town legislative body
4468 determines in accordance with Subsection (7)(d)(i)(A);

4469 (ii) shall, on or before the April 1 immediately following the date the city or town
4470 legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

4471 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4472 exceed .25%, the collections from which the city or town legislative body will expend for a
4473 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4474 (B) notify the commission in writing of the tax rate the city or town legislative body
4475 determines in accordance with Subsection (7)(d)(ii)(A);

4476 (iii) shall, on or before April 1 of each year after the April 1 described in Subsection
4477 (7)(d)(ii):

4478 (A) determine the tax rate, the percentage of which is greater than .10% but does not
4479 exceed .25%, the collections from which the city or town legislative body will expend for a
4480 project or service relating to an airport facility as allowed by Subsection (7)(b); and

4481 (B) notify the commission in writing of the tax rate the city or town legislative body
4482 determines in accordance with Subsection (7)(d)(iii)(A); and

4483 (iv) may not change the tax rate the city or town legislative body determines in
4484 accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by
4485 Subsections (7)(d)(i) through (iii).

4486 (8) Before a city or town legislative body may impose a sales and use tax under this
4487 section, the city or town legislative body shall provide a copy of the notice described in Section
4488 59-12-2209 that the city or town legislative body provides to the commission:

4489 (a) to the county legislative body within which the city or town is located; and

4490 (b) at the same time as the city or town legislative body provides the notice to the
4491 commission.

4492 (9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the
4493 commission shall transmit revenues collected within a county, city, or town from a tax under
4494 this part that will be expended for a purpose described in Subsection (3)(b) or Subsections
4495 (4)(b) through (f) to the county, city, or town legislative body in accordance with Section
4496 59-12-2206.

4497 (b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the
4498 commission shall deposit revenues collected within a county, city, or town from a sales and use
4499 tax under this section that:

4500 (i) are required to be expended for a purpose described in Subsection (6)(a) into the
4501 Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

4502 (ii) a county, city, or town legislative body determines to expend for a purpose
4503 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
4504 Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body
4505 provides written notice to the commission requesting the deposit.

4506 (c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice
4507 to the commission in accordance with Subsection (7)(d), the commission shall:

4508 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
4509 town legislative body monthly by electronic funds transfer; and

4510 (ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with
4511 Subsection (7)(c).

4512 (d) (i) If a city or town legislative body provides the notice described in Subsection
4513 (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected
4514 from the sales and use tax:

4515 (A) in accordance with Subsection (9)(c);

4516 (B) beginning on the date the city or town legislative body enacts the sales and use tax;
4517 and

4518 (C) ending on the earlier of the June 30 immediately following the date the city or town
4519 legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the
4520 date the city or town legislative body repeals the sales and use tax.

4521 (ii) If a city or town legislative body provides the notice described in Subsection
4522 (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
4523 collected from the sales and use tax:

4524 (A) in accordance with Subsection (9)(c);

4525 (B) beginning on the July 1 immediately following the date the city or town legislative
4526 body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

4527 (C) ending on the earlier of the June 30 of the year after the date the city or town
4528 legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission
4529 or the date the city or town legislative body repeals the sales and use tax.

4530 (e) (i) If a city or town legislative body that is required to provide the notice described
4531 in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the
4532 commission on or before the date required by Subsection (7)(d) for providing the notice, the
4533 commission shall transmit, transfer, or deposit the revenues collected from the sales and use
4534 tax within the city or town in accordance with Subsections (9)(a) and (b).

4535 (ii) If a city or town legislative body that is required to provide the notice described in
4536 Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or
4537 (iii) to the commission on or before the date required by Subsection (7)(d) for providing the
4538 notice, the commission shall transmit or deposit the revenues collected from the sales and use
4539 tax within the city or town in accordance with:

4540 (A) Subsection (9)(c); and

4541 (B) the most recent notice the commission received from the city or town legislative
4542 body under Subsection (7)(d).

4543 (10) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4544 but is not required to, submit an opinion question to the county's, city's, or town's registered
4545 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4546 (11) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4547 this section before July 1, 2022, may remain in effect.

4548 Section 36. Section 59-12-2219 is amended to read:

4549 **59-12-2219. County option sales and use tax for highways and public transit --**
4550 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
4551 **existing budgeted transportation revenue.**

4552 (1) As used in this section:

4553 (a) "Class B road" means the same as that term is defined in Section [72-3-103](#).

4554 (b) "Class C road" means the same as that term is defined in Section [72-3-104](#).

4555 (c) "Eligible political subdivision" means a political subdivision that:

4556 (i) (A) on May 12, 2015, provides public transit services; or

4557 (B) after May 12, 2015, provides written notice to the commission in accordance with
4558 Subsection (10)(b) that it intends to provide public transit service within a county;

4559 (ii) is not a public transit district; and

4560 (iii) is not annexed into a public transit district.

4561 (d) "Public transit district" means a public transit district organized under Title 17B,
4562 Chapter 2a, Part 8, Public Transit District Act.

4563 (2) (a) Subject to the other provisions of this part and Subsection (2)(b), but no later
4564 than June 30, 2022, a county legislative body may impose a sales and use tax of .25% on the
4565 transactions described in Subsection [59-12-103](#)(1) within the county, including the cities and
4566 towns within the county.

4567 (b) (i) Notwithstanding other provisions in this section, if on October 1, 2019, a county
4568 legislative body of a county of the second class has not notified the commission as required in
4569 Subsection [59-12-2209](#)(2), subject to the provisions of this part, but no later than June 30,
4570 2022, the legislative body of a city or town within a county of the second class may impose a
4571 sales and use tax of .10% on the transactions described in Subsection [59-12-103](#)(1) within that
4572 city or town.

4573 (ii) Except as provided in Subsection (2)(b)(iv), the commission shall distribute the
4574 sales and use tax revenue collected in a city or town described in Subsection (2)(b)(i) to the city
4575 or town to be used in accordance with Subsection (11).

4576 (iii) If a city or town imposes the sales and use tax described in Subsection (2)(b)(i), a
4577 county may subsequently impose a sales and use tax for that portion of the county within that
4578 city or town at a tax rate of .15%.

4579 (iv) If a city or town imposes the sales and use tax described in Subsection (2)(b)(i),
4580 and the respective county subsequently imposes a sales and use tax as described in Subsection
4581 (2)(b)(iii), the commission shall distribute the sales and use tax revenue in accordance with the
4582 following, as applicable:

- 4583 (A) Subsection (4)(b);
4584 (B) Subsection (5)(a)(ii);
4585 (C) Subsection (5)(b)(ii);
4586 (D) Subsection (6)(a)(ii); or
4587 (E) Subsection (6)(b)(ii).
4588 (v) If the county subsequently imposes a sales and use tax as described in Subsection
4589 (2)(b)(iii), the commission shall distribute the sales and use tax revenue from the county
4590 imposition of a .15% rate in accordance with the following, as applicable:
4591 (A) Subsections (4)(a) and (c);
4592 (B) Subsections (5)(a)(i) and (iii);
4593 (C) Subsections (5)(b)(i) and (iii);
4594 (D) Subsections (6)(a)(i) and (iii); and
4595 (E) Subsections (6)(b)(i) and (iii).
4596 (3) The commission shall distribute sales and use tax revenue collected under this
4597 section as provided in Subsections (4) through (10).
4598 (4) If the entire boundary of a county that imposes a sales and use tax under this section
4599 is annexed into a single public transit district, the commission shall distribute the sales and use
4600 tax revenue collected within the county as follows:
4601 (a) (i) if imposed on or before June 30, 2018, .10% shall be transferred to the public
4602 transit district in accordance with Section 59-12-2206; or
4603 (ii) if imposed after July 1, 2018, .10% shall be transferred to the county for allocation
4604 as described in Section 59-12-2221 for:
4605 (A) a system for public transit; or
4606 (B) construction, operations, or maintenance of a transit facility as defined in Section
4607 17B-2a-802;
4608 (b) .10% shall be distributed as provided in Subsection (8); and
4609 (c) .05% shall be distributed to the county legislative body.
4610 (5) If the entire boundary of a county that imposes a sales and use tax under this section
4611 is not annexed into a single public transit district, but a city or town within the county is
4612 annexed into a single public transit district that also has a county of the first class annexed into
4613 the same public transit district, the commission shall distribute the sales and use tax revenue

4614 collected within the county as follows:

4615 (a) for a city or town within the county that is annexed into a single public transit
4616 district, the commission shall distribute the sales and use tax revenue collected within that city
4617 or town as follows:

4618 (i) (A) if imposed on or before June 30, 2018, .10% shall be transferred to the public
4619 transit district in accordance with Section 59-12-2206;

4620 (B) if imposed after July 1, 2018, .10% shall be transferred to the county for allocation
4621 as described in Section 59-12-2221 for:

4622 (I) a system for public transit; or

4623 (II) construction, operations, or maintenance of a transit facility as defined in Section
4624 17B-2a-802;

4625 (ii) .10% shall be distributed as provided in Subsection (8); and

4626 (iii) .05% shall be distributed to the county legislative body;

4627 (b) for an eligible political subdivision within the county, the commission shall
4628 distribute the sales and use tax revenue collected within that eligible political subdivision as
4629 follows:

4630 (i) (A) if imposed on or before June 30, 2018, .10% shall be transferred to the eligible
4631 political subdivision in accordance with Section 59-12-2206;

4632 (B) if imposed after July 1, 2018, .10% shall be transferred to the county for allocation
4633 as described in Section 59-12-2221 for:

4634 (I) a system for public transit; or

4635 (II) construction, operations, or maintenance of a transit facility as defined in Section
4636 17B-2a-802;

4637 (ii) .10% shall be distributed as provided in Subsection (8); and

4638 (iii) .05% shall be distributed to the county legislative body; and

4639 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4640 and use tax revenue described in Subsections (5)(a) and (b), as follows:

4641 (i) .10% shall be distributed as provided in Subsection (8); and

4642 (ii) .15% shall be distributed to the county legislative body.

4643 (6) For a county not described in Subsection (4) or (5), if the entire boundary of a
4644 county of the first or second class that imposes a sales and use tax under this section is not

4645 annexed into a single public transit district, or if there is not a public transit district within the
4646 county, the commission shall distribute the sales and use tax revenue collected within the
4647 county as follows:

4648 (a) for a city or town within the county that is annexed into a single public transit
4649 district, the commission shall distribute the sales and use tax revenue collected within that city
4650 or town as follows:

4651 (i) (A) if imposed on or before June 30, 2018, .10% shall be transferred to the public
4652 transit district in accordance with Section 59-12-2206;

4653 (B) if imposed after July 1, 2018, .10% shall be transferred to the county for allocation
4654 as described in Section 59-12-2221 for:

4655 (I) a system for public transit; or

4656 (II) construction, operations, or maintenance of a transit facility as defined in Section
4657 17B-2a-802;

4658 (ii) .10% shall be distributed as provided in Subsection (8); and

4659 (iii) .05% shall be distributed to the county legislative body;

4660 (b) for an eligible political subdivision within the county, the commission shall
4661 distribute the sales and use tax revenue collected within that eligible political subdivision as
4662 follows:

4663 (i) (A) if imposed on or before June 30, 2018, .10% shall be transferred to the eligible
4664 political subdivision in accordance with Section 59-12-2206;

4665 (B) if imposed after July 1, 2018, .10% shall be transferred to the county for allocation
4666 as described in Section 59-12-2221 for:

4667 (I) a system for public transit; or

4668 (II) construction, operations, or maintenance of a transit facility as defined in Section
4669 17B-2a-802;

4670 (ii) .10% shall be distributed as provided in Subsection (8); and

4671 (iii) .05% shall be distributed to the county legislative body; and

4672 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4673 and use tax revenue described in Subsections (6)(a) and (b), as follows:

4674 (i) .10% shall be distributed as provided in Subsection (8); and

4675 (ii) .15% shall be distributed to the county legislative body.

4676 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a
4677 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this
4678 section is not annexed into a single public transit district, or if there is not a public transit
4679 district within the county, the commission shall distribute the sales and use tax revenue
4680 collected within the county as follows:

4681 (a) for a city or town within the county that is annexed into a single public transit
4682 district, the commission shall distribute the sales and use tax revenue collected within that city
4683 or town as follows:

- 4684 (i) .10% shall be distributed as provided in Subsection (8);
- 4685 (ii) .10% shall be distributed as provided in Subsection (9); and
- 4686 (iii) .05% shall be distributed to the county legislative body;

4687 (b) for an eligible political subdivision within the county, the commission shall
4688 distribute the sales and use tax revenue collected within that eligible political subdivision as
4689 follows:

- 4690 (i) .10% shall be distributed as provided in Subsection (8);
- 4691 (ii) .10% shall be distributed as provided in Subsection (9); and
- 4692 (iii) .05% shall be distributed to the county legislative body; and

4693 (c) the commission shall distribute the sales and use tax revenue, except for the sales
4694 and use tax revenue described in Subsections (7)(a) and (b), as follows:

- 4695 (i) .10% shall be distributed as provided in Subsection (8); and
- 4696 (ii) .15% shall be distributed to the county legislative body.

4697 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions
4698 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),
4699 (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

4700 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
4701 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
4702 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4703 cities, and towns within those counties on the basis of the percentage that the population of
4704 each unincorporated area, city, or town bears to the total population of all of the counties that
4705 impose a tax under this section; and

4706 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),

4707 (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) within the
4708 counties that impose a tax under this section shall be distributed to the unincorporated areas,
4709 cities, and towns within those counties on the basis of the location of the transaction as
4710 determined under Sections 59-12-211 through 59-12-215.

4711 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
4712 of the most recent official census or census estimate of the United States Census Bureau.

4713 (ii) If a needed population estimate is not available from the United States Census
4714 Bureau, population figures shall be derived from an estimate from the Utah Population
4715 Estimates Committee created by executive order of the governor.

4716 (9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative
4717 body:

4718 (A) for a county that obtained approval from a majority of the county's registered
4719 voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016,
4720 may, in consultation with any cities, towns, or eligible political subdivisions within the county,
4721 and in compliance with the requirements for changing an allocation under Subsection (9)(e),
4722 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4723 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4724 public transit district or an eligible political subdivision; or

4725 (B) for a county that obtains approval from a majority of the county's registered voters
4726 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
4727 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
4728 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
4729 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
4730 public transit district or an eligible political subdivision.

4731 (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under
4732 Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission
4733 shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

4734 (A) a public transit district for a city or town within the county that is annexed into a
4735 single public transit district; or

4736 (B) an eligible political subdivision within the county.

4737 (b) If a county legislative body allocates the revenue as described in Subsection

4738 (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under
4739 Subsection (7)(a)(ii) or (7)(b)(ii) to:

4740 (i) a public transit district for a city or town within the county that is annexed into a
4741 single public transit district; or

4742 (ii) an eligible political subdivision within the county.

4743 (c) Notwithstanding Section 59-12-2208, the opinion question required by Section
4744 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
4745 Subsection (9).

4746 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or
4747 (7)(b)(ii) as follows:

4748 (i) the percentage specified by a county legislative body shall be distributed in
4749 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an
4750 eligible political subdivision or a public transit district within the county; and

4751 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates
4752 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district
4753 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or
4754 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection
4755 (9)(a) shall be distributed as follows:

4756 (A) 50% of the revenue as provided in Subsection (8); and

4757 (B) 50% of the revenue to the county legislative body.

4758 (e) If a county legislative body seeks to change an allocation specified in a resolution
4759 under Subsection (9)(a), the county legislative body may change the allocation by:

4760 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage
4761 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit
4762 district or an eligible political subdivision;

4763 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of
4764 all the members of the county legislative body; and

4765 (iii) subject to Subsection (9)(f):

4766 (A) in accordance with Section 59-12-2208, submitting an opinion question to the
4767 county's registered voters voting on changing the allocation so that each registered voter has the
4768 opportunity to express the registered voter's opinion on whether the allocation should be

4769 changed; and

4770 (B) in accordance with Section 59-12-2208, obtaining approval to change the
4771 allocation from a majority of the county's registered voters voting on changing the allocation.

4772 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
4773 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
4774 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
4775 (9)(e)(ii).

4776 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
4777 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
4778 take effect on the first distribution the commission makes under this section after a 90-day
4779 period that begins on the date the commission receives written notice meeting the requirements
4780 of Subsection (9)(g)(ii) from the county.

4781 (ii) The notice described in Subsection (9)(g)(i) shall state:

4782 (A) that the county will make or change the percentage of an allocation under
4783 Subsection (9)(a) or (e); and

4784 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be
4785 allocated to a public transit district or an eligible political subdivision.

4786 (10) (a) If a public transit district is organized after the date a county legislative body
4787 first imposes a tax under this section, a change in a distribution required by this section may
4788 not take effect until the first distribution the commission makes under this section after a
4789 90-day period that begins on the date the commission receives written notice from the public
4790 transit district of the organization of the public transit district.

4791 (b) If an eligible political subdivision intends to provide public transit service within a
4792 county after the date a county legislative body first imposes a tax under this section, a change
4793 in a distribution required by this section may not take effect until the first distribution the
4794 commission makes under this section after a 90-day period that begins on the date the
4795 commission receives written notice from the eligible political subdivision stating that the
4796 eligible political subdivision intends to provide public transit service within the county.

4797 (11) A county, city, or town may expend revenue collected from a tax under this
4798 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
4799 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

- 4800 (a) a class B road;
- 4801 (b) a class C road;
- 4802 (c) traffic and pedestrian safety, including for a class B road or class C road, for:
- 4803 (i) a sidewalk;
- 4804 (ii) curb and gutter;
- 4805 (iii) a safety feature;
- 4806 (iv) a traffic sign;
- 4807 (v) a traffic signal;
- 4808 (vi) street lighting; or
- 4809 (vii) a combination of Subsections (11)(c)(i) through (vi);
- 4810 (d) the construction, maintenance, or operation of an active transportation facility that
- 4811 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
- 4812 destination;
- 4813 (e) public transit system services; or
- 4814 (f) a combination of Subsections (11)(a) through (e).

4815 (12) A public transit district or an eligible political subdivision may expend revenue
4816 the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i)
4817 for capital expenses and service delivery expenses of the public transit district or eligible
4818 political subdivision.

4819 (13) (a) Revenue collected from a sales and use tax under this section may not be used
4820 to supplant existing general fund appropriations that a county, city, or town has budgeted for
4821 transportation as of the date the tax becomes effective for a county, city, or town.

4822 (b) The limitation under Subsection (13)(a) does not apply to a designated
4823 transportation capital or reserve account a county, city, or town may have established prior to
4824 the date the tax becomes effective.

4825 (14) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4826 but is not required to, submit an opinion question to the county's, city's, or town's registered
4827 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4828 (15) Notwithstanding the deadline described in Subsection (2), any tax imposed under
4829 this section before July 1, 2022, may remain in effect.

4830 Section 37. Section 59-12-2220 is enacted to read:

4831 59-12-2220. County, city, or town option sales and use tax to fund a system for
4832 public transit or highways -- Base -- Rate.

4833 (1) Subject to the other provisions of this part and subject to the requirements of this
4834 section, beginning on July 1, 2019, but no later than June 30, 2022, the following may impose a
4835 sales and use tax under this section:

4836 (a) if the county, city, or town is annexed into a large public transit district:

4837 (i) (A) a county legislative body may impose the sales and use tax on the transactions
4838 described in Subsection 59-12-103(1) located within the county, including the cities and towns
4839 within the county; or

4840 (B) a city or town legislative body may impose the sales and use tax on the transactions
4841 described in Subsection 59-12-103(1) located within the city or town;

4842 (ii) the county, city, or town legislative body may impose the sales and use tax if the
4843 county, city, or town has imposed the maximum amount of sales and use tax authorizations
4844 allowed pursuant to Section 59-12-2203 and authorized under the following sections:

4845 (A) Section 59-12-2213;

4846 (B) Section 59-12-2214;

4847 (C) Section 59-12-2215;

4848 (D) Section 59-12-2216;

4849 (E) Section 59-12-2217;

4850 (F) Section 59-12-2218; and

4851 (G) Section 59-12-2219; and

4852 (iii) the county, city, or town legislative body may impose the sales and use tax if the
4853 county, city, or town imposes the sales and use tax under this section; or

4854 (b) if the county, city, or town is not annexed into a large public transit district:

4855 (i) a county legislative body may impose the sales and use tax on the transactions
4856 described in Subsection 59-12-103(1) located within the county, including the cities and town
4857 within the county; or

4858 (ii) a city or town legislative body may impose the sales and use tax on the transactions
4859 described in Subsection 59-12-103(1) located within the city or town.

4860 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
4861 county, city, or town legislative body that imposes a sales and use tax under this section may

4862 impose the tax at a rate of up to .25%.

4863 (3) Subject to Subsections (4) and (5), a county, city, or town imposing a sales and use
4864 tax under this section shall expend the revenues collected from the sales and use tax for:

4865 (a) the construction, maintenance, or operation of a class B road, defined in Section
4866 72-3-103, or a class C road as defined in Section 72-3-104;

4867 (b) traffic and pedestrian safety, including for a class B road, as defined in Section
4868 72-3-103, or a class C road as defined in Section 72-3-104:

4869 (i) a sidewalk;

4870 (ii) curb and gutter;

4871 (iii) a safety feature;

4872 (iv) a traffic sign;

4873 (v) a traffic signal;

4874 (vi) street lighting; or

4875 (vii) a combination of Subsections (3)(b)(i) through (vi);

4876 (c) to fund a public transit system; or

4877 (d) for a combination of Subsections (3)(a) through (c).

4878 (4) If the county, city, or town is annexed into a large public transit district, the county,
4879 city, or town may expend an amount not to exceed an amount equal to the revenue generated
4880 from a .45% tax rate on the transactions described in Subsection 59-12-103(1) from the total
4881 revenue generated by all the sales and use taxes authorized and imposed under this part by the
4882 county, city, or town for a purpose described in Subsection (3)(a) or (b).

4883 (5) A county shall allocate revenue generated by the sales and use tax imposed under
4884 this section in accordance with the requirements of Section 59-12-2221.

4885 (6) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may,
4886 but is not required to, submit an opinion question to the county's, city's, or town's registered
4887 voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

4888 (7) Notwithstanding the deadline described in Subsection (1), any tax imposed under
4889 this section before July 1, 2022, may remain in effect.

4890 (8) (a) Revenue collected from a sales and use tax under this section may not be used
4891 to supplant existing general fund appropriations that a county, city, or town has budgeted for
4892 transportation or public transit as of the date the tax becomes effective for a county, city, or

4893 town.

4894 (b) The limitation under Subsection (8)(a) does not apply to a designated transportation
4895 or public transit capital or reserve account a county, city, or town may have established prior to
4896 the date the tax becomes effective.

4897 Section 38. Section **59-12-2221** is enacted to read:

4898 **59-12-2221. Allocation and prioritization of sales and use tax revenue imposed by**
4899 **a county.**

4900 (1) Subject to the restriction in Subsection [59-12-2220\(4\)](#), and subject to Subsection
4901 [59-12-2203\(6\)](#), any revenue generated by an imposition by a county under this part shall be
4902 deposited into a fund within the county in which the tax was imposed and allocated as
4903 described in this section, except for:

4904 (a) revenue committed to a public transit district:

4905 (i) according to a direct allocation under this part; or

4906 (ii) pursuant to an interlocal agreement or contract between a county, city, or town and
4907 a public transit district; or

4908 (b) revenue allocated under this part to a city or town.

4909 (2) Each county imposing a sales and use tax authorized in this section shall create a
4910 county transportation committee as described in Subsection (3) to review proposed
4911 transportation, and, as applicable, public transit projects, and rank projects for allocation of
4912 funds.

4913 (3) (a) Under the direction of the county legislative body, each county shall create a
4914 county transportation committee composed of members selected from:

4915 (i) chief executive officers of cities and towns within the county;

4916 (ii) city managers of cities and towns within the county; and

4917 (iii) members of the county legislative body.

4918 (b) In addition to the individuals described in Subsection (3)(a), a county legislative
4919 body may appoint to the county transportation committee other parties with expertise in
4920 transportation planning and funding.

4921 (4) The county transportation committee shall evaluate and rank each proposed public
4922 transit project and regionally significant transportation facility project according to criteria
4923 developed pursuant to Subsection [59-12-2217\(6\)](#).

4924 (5) (a) After the review and ranking of each project as described in this section, the
4925 county transportation committee shall report and recommend the ranked list of projects to the
4926 county legislative body.

4927 (b) After review of the recommended list of projects, the county legislative body shall
4928 review the list of projects and, as funds are available, vote to approve funding for the proposed
4929 projects.

4930 Section 39. Section **63G-6a-1402** is amended to read:

4931 **63G-6a-1402. Procurement of design-build transportation project contracts.**

4932 (1) As used in this section:

4933 (a) "Design-build transportation project contract" means the procurement of both the
4934 design and construction of a transportation project in a single contract with a company or
4935 combination of companies capable of providing the necessary engineering services and
4936 construction.

4937 (b) "Transportation agency" means:

4938 (i) the Department of Transportation;

4939 (ii) a county of the first or second class, as defined in Section [17-50-501](#);

4940 (iii) a municipality of the first class, as defined in Section [10-2-301](#);

4941 (iv) a large public transit district [~~that has more than 200,000 people residing within its~~
4942 ~~boundaries~~] as defined in Section [17B-2a-802](#); and

4943 (v) a public airport authority.

4944 (2) Except as provided in Subsection (3), a transportation agency may award a
4945 design-build transportation project contract for any transportation project that has an estimated
4946 cost of at least \$50,000,000 by following the requirements of this section.

4947 (3) (a) The Department of Transportation:

4948 (i) may award a design-build transportation project contract for any transportation
4949 project by following the requirements of this section; and

4950 (ii) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
4951 Rulemaking Act, establishing requirements for the procurement of its design-build
4952 transportation project contracts in addition to those required by this section.

4953 (b) A public transit district that has more than 200,000 people residing within its
4954 boundaries:

4955 (i) may award a design-build transportation project contract for any transportation
4956 project by following the requirements of this section; and

4957 (ii) shall pass ordinances or a resolution establishing requirements for the procurement
4958 of its design-build transportation project contracts in addition to those required by this section.

4959 (c) A design-build transportation project contract authorized under this Subsection (3)
4960 is not subject to the estimated cost threshold described in Subsection (2).

4961 (d) A design-build transportation project contract may include provision by the
4962 contractor of operations, maintenance, or financing.

4963 (4) (a) Before entering into a design-build transportation project contract, a
4964 transportation agency may issue a request for qualifications to prequalify potential contractors.

4965 (b) Public notice of the request for qualifications shall be given in accordance with
4966 board rules.

4967 (c) A transportation agency shall require, as part of the qualifications specified in the
4968 request for qualifications, that potential contractors at least demonstrate their:

4969 (i) construction experience;

4970 (ii) design experience;

4971 (iii) financial, manpower, and equipment resources available for the project; and

4972 (iv) experience in other design-build transportation projects with attributes similar to
4973 the project being procured.

4974 (d) The request for qualifications shall identify the number of eligible competing
4975 proposers that the transportation agency will select to submit a proposal, which may not be less
4976 than two.

4977 (5) The transportation agency shall:

4978 (a) evaluate the responses received from the request for qualifications;

4979 (b) select from their number those qualified to submit proposals; and

4980 (c) invite those respondents to submit proposals based upon the transportation agency's
4981 request for proposals.

4982 (6) If the transportation agency fails to receive at least two qualified eligible competing
4983 proposals, the transportation agency shall readvertise the project.

4984 (7) The transportation agency shall issue a request for proposals to those qualified
4985 respondents that:

4986 (a) includes a scope of work statement constituting an information for proposal that
4987 may include:

- 4988 (i) preliminary design concepts;
- 4989 (ii) design criteria, needs, and objectives;
- 4990 (iii) warranty and quality control requirements;
- 4991 (iv) applicable standards;
- 4992 (v) environmental documents;
- 4993 (vi) constraints;
- 4994 (vii) time expectations or limitations;
- 4995 (viii) incentives or disincentives; and
- 4996 (ix) other special considerations;

4997 (b) requires submitters to provide:

- 4998 (i) a sealed cost proposal;
- 4999 (ii) a critical path matrix schedule, including cash flow requirements;
- 5000 (iii) proposal security; and
- 5001 (iv) other items required by the department for the project; and

5002 (c) may include award of a stipulated fee to be paid to offerors who submit
5003 unsuccessful proposals.

5004 (8) The transportation agency shall:

5005 (a) evaluate the submissions received in response to the request for proposals from the
5006 prequalified offerors;

5007 (b) comply with rules relating to discussion of proposals, best and final offers, and
5008 evaluations of the proposals submitted; and

5009 (c) after considering price and other identified factors, award the contract to the
5010 responsible offeror whose responsive proposal is most advantageous to the transportation
5011 agency or the state.

5012 Section 40. Section **72-1-102** is amended to read:

5013 **72-1-102. Definitions.**

5014 As used in this title:

5015 (1) "Commission" means the Transportation Commission created under Section
5016 [72-1-301](#).

5017 (2) "Construction" means the construction, reconstruction, replacement, and
5018 improvement of the highways, including the acquisition of rights-of-way and material sites.

5019 (3) "Department" means the Department of Transportation created in Section 72-1-201.

5020 (4) "Executive director" means the executive director of the department appointed
5021 under Section 72-1-202.

5022 (5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

5023 (6) "Federal aid primary highway" means that portion of connected main highways
5024 located within this state officially designated by the department and approved by the United
5025 States Secretary of Transportation under Title 23, Highways, U.S.C.

5026 (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel,
5027 culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the
5028 public, or made public in an action for the partition of real property, including the entire area
5029 within the right-of-way.

5030 (8) "Highway authority" means the department or the legislative, executive, or
5031 governing body of a county or municipality.

5032 (9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

5033 (10) "Interstate system" means any highway officially designated by the department
5034 and included as part of the national interstate and defense highways, as provided in the Federal
5035 Aid Highway Act of 1956 and any supplemental acts or amendments.

5036 (11) "Limited-access facility" means a highway especially designated for through
5037 traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other
5038 persons have any right or easement, or have only a limited right or easement of access, light,
5039 air, or view.

5040 (12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

5041 (13) "Municipality" has the same meaning set forth in Section 10-1-104.

5042 (14) "National highway systems highways" means that portion of connected main
5043 highways located within this state officially designated by the department and approved by the
5044 United States Secretary of Transportation under Title 23, Highways, U.S.C.

5045 (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and
5046 maintained by the department where drivers, vehicles, and vehicle loads are checked or
5047 inspected for compliance with state and federal laws as specified in Section 72-9-501.

5048 (b) "Port-of-entry" includes inspection and checking stations and weigh stations.

5049 (16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the
5050 duties specified in Section [72-9-501](#).

5051 (17) "Public transit facility" means a transit vehicle, transit station, depot, passenger
5052 loading or unloading zone, parking lot, or other facility:

5053 (a) leased by or operated by or on behalf of a public transit district; and

5054 (b) related to the public transit services provided by the district, including:

5055 (i) railway or other right-of-way;

5056 (ii) railway line; and

5057 (iii) a reasonable area immediately adjacent to a designated stop on a route traveled by
5058 a transit vehicle.

5059 [~~17~~] (18) "Right-of-way" means real property or an interest in real property, usually
5060 in a strip, acquired for or devoted to a highway.

5061 [~~18~~] (19) "Sealed" does not preclude acceptance of electronically sealed and submitted
5062 bids or proposals in addition to bids or proposals manually sealed and submitted.

5063 [~~19~~] (20) "Semitrailer" has the meaning set forth in Section [41-1a-102](#).

5064 [~~20~~] (21) "SR" means state route and has the same meaning as state highway as
5065 defined in this section.

5066 [~~21~~] (22) "State highway" means those highways designated as state highways in
5067 Title 72, Chapter 4, Designation of State Highways Act.

5068 [~~22~~] (23) "State highway purposes" has the meaning set forth in Section [72-5-102](#).

5069 [~~23~~] (24) "State transportation systems" means all streets, alleys, roads, highways,
5070 and thoroughfares of any kind, including connected structures, airports, spaceports, public
5071 transit facilities, and all other modes and forms of conveyance used by the public.

5072 [~~24~~] (25) "Trailer" has the meaning set forth in Section [41-1a-102](#).

5073 [~~25~~] (26) "Truck tractor" has the meaning set forth in Section [41-1a-102](#).

5074 [~~26~~] (27) "UDOT" means the Utah Department of Transportation.

5075 [~~27~~] (28) "Vehicle" has the same meaning set forth in Section [41-1a-102](#).

5076 Section 41. Section **72-1-202** is amended to read:

5077 **72-1-202. Executive director of department -- Appointment -- Qualifications --**
5078 **Term -- Responsibility -- Power to bring suits -- Salary.**

5079 (1) (a) The governor, after consultation with the commission and with the consent of
5080 the Senate, shall appoint an executive director to be the chief executive officer of the
5081 department.

5082 (b) The executive director shall be a qualified executive with technical and
5083 administrative experience and training appropriate for the position.

5084 (c) The executive director shall remain in office until a successor is appointed.

5085 (d) The executive director may be removed by the governor.

5086 (2) In addition to the other functions, powers, duties, rights, and responsibilities
5087 prescribed in this chapter, the executive director shall:

5088 (a) have responsibility for the administrative supervision of the state transportation
5089 systems and the various operations of the department;

5090 (b) have the responsibility for the implementation of rules, priorities, and policies
5091 established by the department and the commission;

5092 (c) have the responsibility for the oversight and supervision of any transportation
5093 project for which state funds are expended;

5094 ~~[(e)]~~ (d) have full power to bring suit in courts of competent jurisdiction in the name of
5095 the department as the executive director considers reasonable and necessary for the proper
5096 attainment of the goals of this chapter;

5097 ~~[(f)]~~ (e) receive a salary, to be established by the governor within the salary range fixed
5098 by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual
5099 traveling expenses while away from the executive director's office on official business; and

5100 ~~[(g)]~~ (f) purchase all necessary equipment and supplies for the department.

5101 Section 42. Section **72-1-203** is amended to read:

5102 **72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants**
5103 **and advisers -- Salaries.**

5104 (1) The executive director shall appoint [~~a deputy director, who shall be a registered~~
5105 ~~professional engineer in the state and~~] two deputy directors, who shall serve at the discretion of
5106 the executive director.

5107 (2) (a) The deputy director of engineering and operations shall be a registered
5108 professional engineer in the state and is the chief engineer of the department. The deputy
5109 director of engineering and operations shall assist the executive director [~~and is responsible for~~]

5110 with areas of responsibility including:

5111 ~~[(a) program and project development; and]~~

5112 ~~[(b) operation and maintenance of the state transportation systems.]~~

5113 (i) project development;

5114 (ii) oversight of the management of the region offices described in Section [72-1-205](#);

5115 (iii) management of operations; and

5116 (iv) oversight of operations of motor carriers and ports.

5117 (b) The deputy director of planning and investment shall assist the executive director

5118 with areas of responsibility including:

5119 (i) oversight and coordination of planning, including:

5120 (A) development of statewide strategic initiatives for planning across all modes of

5121 transportation;

5122 (B) coordination with metropolitan planning organizations and local governments; and

5123 (C) corridor and area planning;

5124 (ii) asset management;

5125 (iii) programming and prioritization of transportation projects;

5126 (iv) fulfilling requirements for environmental studies and impact statements; and

5127 (v) resource investment, including identification and development of public-private

5128 partnership opportunities.

5129 (3) The executive director may also appoint assistants to administer the divisions of the
5130 department. These assistants shall serve at the discretion of the executive director.

5131 (4) In addition, the executive director may employ other assistants and advisers as the
5132 executive director finds necessary and fix salaries in accordance with the salary standards
5133 adopted by the Department of Human Resource Management.

5134 Section 43. Section **72-1-204** is amended to read:

5135 **72-1-204. Divisions enumerated -- Duties.**

5136 The divisions of the department are:

5137 (1) the Comptroller Division responsible for:

5138 (a) all financial aspects of the department, including budgeting, accounting, and
5139 contracting;

5140 (b) providing all material data and documentation necessary for effective fiscal

- 5141 planning and programming; and
- 5142 (c) procuring administrative supplies;
- 5143 (2) the Internal Audit Division responsible for:
- 5144 (a) conducting and verifying all internal audits and reviews within the department;
- 5145 (b) performing financial and compliance audits to determine the allowability and
- 5146 reasonableness of proposals, accounting records, and final costs of consultants, contractors,
- 5147 utility companies, and other entities used by the department; and
- 5148 (c) implementing audit procedures that meet or exceed generally accepted auditing
- 5149 standards relating to revenues, expenditures, and funding;
- 5150 (3) the Communications Division responsible for:
- 5151 (a) developing, managing, and implementing the department's public hearing processes
- 5152 and programs;
- 5153 (b) responding to public complaints, requests, and input;
- 5154 (c) assisting the divisions and regions in the department's public involvement
- 5155 programs;
- 5156 (d) developing and managing internal department communications; and
- 5157 (e) managing and overseeing department media relations;
- 5158 (4) the Program Development Division responsible for:
- 5159 (a) developing transportation plans for state transportation systems;
- 5160 (b) collecting, processing, and storing transportation data to support department's
- 5161 engineering functions;
- 5162 (c) maintaining and operating the asset management systems;
- 5163 (d) designating state transportation systems qualifications;
- 5164 (e) developing a statewide transportation improvement program for approval by the
- 5165 commission;
- 5166 (f) providing cartographic services to the department;
- 5167 (g) assisting local governments in participating in federal-aid transportation programs;
- 5168 and
- 5169 (h) providing research services associated with transportation programs;
- 5170 (5) the Project Development Division responsible for:
- 5171 (a) developing statewide standards for project design and construction;

- 5172 (b) providing support for project development in the areas of design environment,
- 5173 right-of-way, materials testing, structures, value engineering, and construction; and
- 5174 (c) designing specialty projects; [~~and~~]
- 5175 (6) the Operations Division responsible for:
- 5176 (a) maintaining the state transportation systems;
- 5177 (b) state transportation systems safety;
- 5178 (c) operating state ports-of-entry;
- 5179 (d) operating state motor carrier safety programs in accordance with this title and
- 5180 federal law;
- 5181 (e) aeronautical operations;
- 5182 (f) providing equipment for department engineering and maintenance functions; and
- 5183 (g) risk management[-]; and
- 5184 (7) the Planning and Investment Division responsible for:
- 5185 (a) creating and managing an intermodal terminal facility to promote economic
- 5186 development and investment;
- 5187 (b) promoting strategies to synergize development of an intermodal inland port; and
- 5188 (c) overseeing and coordinating public-private partnerships.

5189 Section 44. Section **72-1-208** is amended to read:

5190 **72-1-208. Cooperation with counties, cities, towns, the federal government, and**

5191 **all state departments -- Inspection of work done by a public transit district.**

5192 (1) The department shall cooperate with the counties, cities, towns, and community

5193 reinvestment agencies in the construction, maintenance, and use of the highways and in all

5194 related matters, and may provide services to the counties, cities, towns, and community

5195 reinvestment agencies on terms mutually agreed upon.

5196 (2) The department, with the approval of the governor, shall cooperate with the federal

5197 government in all federal-aid projects and with all state departments in all matters in

5198 connection with the use of the highways.

5199 (3) The department:

5200 (a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a,

5201 Part 8, Public Transit District Act, relating to safety appliances and procedures; and

5202 (b) may make further additions or changes necessary for the purpose of safety to

5203 employees and the general public.

5204 (4) (a) The department may assume responsibility for any public transit project that
5205 traverses any portion of the state highway systems.

5206 (b) To determine whether the department will assume responsibility for a public transit
5207 project, the executive director and the public transit agency proposing the development shall
5208 jointly determine whether the department will assume responsibility.

5209 Section 45. Section **72-1-211** is amended to read:

5210 **72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.**

5211 (1) (a) The executive director shall develop statewide strategic initiatives [for the
5212 department] across all modes of transportation.

5213 (b) To develop the strategic initiatives described in Subsection (1)(a), the executive
5214 director shall consult with the commission and relevant stakeholders, including:

5215 (i) metropolitan planning organizations;

5216 (ii) county and municipal governments;

5217 (iii) transit districts; and

5218 (iv) other transportation stakeholders.

5219 (c) To develop the strategic initiatives described in Subsection (1)(a), the executive
5220 director shall consider:

5221 (i) regional transportation plans developed by metropolitan planning organizations;

5222 (ii) local transportation plans developed by county and municipal governments;

5223 (iii) public transit plans developed by public transit districts; and

5224 (iv) other relevant transportation plans developed by other stakeholders.

5225 (d) To develop the strategic initiatives described in Subsection (1)(a), the executive
5226 director shall consider projected major centers of economic activity, population growth, and
5227 job centers.

5228 (2) (a) The strategic initiatives developed under Subsection (1) shall include
5229 consideration of the following factors:

5230 [~~(a)~~] (i) corridor preservation;

5231 (ii) congestion reduction;

5232 (iii) economic development and job creation;

5233 (iv) asset management;

5234 (v) sustainability;
5235 (vi) optimization of return on investment;
5236 ~~[(b)]~~ (vii) development of new transportation capacity projects;
5237 ~~[(c)]~~ (viii) long-term maintenance and operations of the transportation system;
5238 ~~[(d)]~~ (ix) safety;
5239 ~~[(e)]~~ (x) incident management; [and]
5240 ~~[(f)]~~ (xi) homeland security[-];
5241 (xii) mobility and access; and
5242 (xiii) transportation related air quality.
5243 (b) The strategic initiatives shall include an assessment of capacity needs and establish
5244 goals for corridors that meet all of the following:
5245 (i) high volume of travel and throughput;
5246 (ii) connection of projected major centers of economic activity, population growth, and
5247 future job centers;
5248 (iii) major freight corridors; and
5249 (iv) corridors accommodating multiple modes of travel.
5250 (3) (a) The executive director or the executive director's designee shall report the
5251 strategic initiatives of the department developed under Subsection (1) to the Transportation
5252 Commission and, before December 1 of each year, the Transportation Interim Committee.
5253 (b) The report required under Subsection (3)(a) shall include the measure that will be
5254 used to determine whether the strategic initiatives have been achieved.
5255 (4) After compliance with Subsection (3) and in accordance with Title 63G, Chapter 3,
5256 Utah Administrative Rulemaking Act, the department shall make rules establishing the
5257 strategic initiatives developed under this part.
5258 (5) The executive director shall ensure that the strategic initiatives developed under
5259 Subsection (1):
5260 (a) are reviewed and updated as needed, but no less frequent than every four years; and
5261 (b) cover at least a 20-year horizon.
5262 Section 46. Section **72-1-213** is amended to read:
5263 **72-1-213. Road usage charge study -- Recommendations.**
5264 (1) (a) The department shall[-(1) continue to] study a road usage charge mileage-based

5265 revenue system, including a [~~potential~~] demonstration program, as an alternative to the motor
5266 and special tax[~~;~~and].

5267 ~~[(2) make recommendations to the Legislature and other policymaking bodies on the~~
5268 ~~potential use and future implementation of a road usage charge within the state.]~~

5269 (b) The demonstration program may consider:

5270 (i) the necessity of protecting all personally identifiable information used in reporting
5271 highway use;

5272 (ii) alternatives to recording and reporting highway use;

5273 (iii) alternatives to administration of a road usage charge program; and

5274 (iv) other factors as determined by the department.

5275 (2) (a) The department shall create a Road Usage Charge Advisory Committee to assist
5276 the department to conduct a road usage charge demonstration program.

5277 (b) The executive director shall appoint members of the committee, considering
5278 individuals with experience and expertise in the following areas:

5279 (i) telecommunications;

5280 (ii) data security and privacy;

5281 (iii) privacy rights advocacy organizations;

5282 (iv) transportation agencies with technical expertise;

5283 (v) national research;

5284 (vi) members of the Legislature;

5285 (vii) representatives from the State Tax Commission; and

5286 (viii) other relevant stakeholders as determined by the executive director.

5287 (c) The executive director or the executive director's designee shall serve as chair of the
5288 committee.

5289 (d) A member of the committee may not receive compensation or benefits for the
5290 member's service, but may receive per diem and travel expenses in accordance with:

5291 (i) Section [63A-3-106](#);

5292 (ii) Section [63A-3-107](#); and

5293 (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
5294 [63A-3-107](#).

5295 (e) The department shall provide staff support to the committee.

5296 (3) (a) Beginning in 2019, and no later than September 30 of each year, the department
5297 shall prepare and submit a report of its findings based on the results of the road usage charge
5298 demonstration program to the:

5299 (i) Road Usage Charge Advisory Committee created under Subsection (2);

5300 (ii) Transportation Commission;

5301 (iii) Transportation Interim Committee of the Legislature; and

5302 (iv) Revenue and Taxation Interim Committee of the Legislature.

5303 (b) The report shall review the following issues:

5304 (i) cost;

5305 (ii) privacy, including recommendations regarding public and private access, including
5306 by law enforcement, to data collected and stored for purposes of the road usage charge to
5307 ensure individual privacy rights are protected;

5308 (iii) jurisdictional issues;

5309 (iv) feasibility;

5310 (v) complexity;

5311 (vi) acceptance;

5312 (vii) use of revenues;

5313 (viii) security and compliance, including a discussion of processes and security
5314 measures necessary to minimize fraud and tax evasion rates;

5315 (ix) data collection technology, including a discussion of the advantages and
5316 disadvantages of various types of data collection equipment and the privacy implications and
5317 considerations of the equipment;

5318 (x) potential for additional driver services;

5319 (xi) evaluation of necessary framework and strategy, upon full implementation of a
5320 road user charge program, to offer the option to an owner of an alternative fuel vehicle as
5321 defined in Section [41-1a-102](#) to:

5322 (A) pay an increased motor vehicle registration fee required in Section [41-1a-1206](#); or

5323 (B) participate in a road user charge program; and

5324 (xii) implementation issues.

5325 (c) The report may make recommendations to the Legislature and other policymaking
5326 bodies on the potential use and future implementation of a road usage charge within the state.

5327 Section 47. Section **72-1-214** is amended to read:

5328 **72-1-214. Department designated as state safety oversight agency for rail fixed**
5329 **guideway public transportation safety -- Powers and duties -- Rulemaking.**

5330 (1) (a) Except as provided in Subsection (1)(b), as used in this section, "fixed
5331 guideway" means the same as that term is defined in Section [59-12-102](#).

5332 (b) For purposes of this section, "fixed guideway" does not include a rail system
5333 subject to regulation by the Federal Railroad Administration.

5334 (2) The department is designated as the state safety oversight agency for rail fixed
5335 guideway public transportation safety in accordance with 49 U.S.C. Sec. 5329(e)(4).

5336 (3) As the state safety oversight agency, the department may, to the extent necessary to
5337 fulfill the department's obligations under federal law:

5338 (a) enter into and inspect the property of a fixed guideway rail system receiving federal
5339 funds without prior notice to the operator;

5340 (b) audit an operator of a fixed guideway rail system receiving federal funds for
5341 compliance with:

5342 (i) federal and state laws regarding the safety of the fixed guideway rail system; and

5343 (ii) a public transportation agency safety plan adopted by a specific operator in
5344 accordance with 49 U.S.C. Sec. 5329(d);

5345 (c) direct the operator of a fixed guideway rail system to correct a safety hazard by a
5346 specified date and time;

5347 (d) prevent the operation of all or part of a fixed guideway rail system that the
5348 department has determined to be unsafe;

5349 (e) audit, review, approve, and oversee an operator of a fixed guideway rail system
5350 receiving federal funds for compliance with a plan adopted by the operator in compliance with
5351 49 U.S.C. Sec. 5329(d); and

5352 (f) enforce statutes, rules, regulations, and executive orders relating to the operation of
5353 a fixed guideway rail public transportation system in Utah.

5354 (4) The department shall, at least annually, provide a status report on the safety of the
5355 rail fixed guideway public transportation systems the department oversees to:

5356 (a) the Federal Transit Administration;

5357 (b) the governor; and

5358 (c) members of the board of any rail fixed guideway public transportation system that
5359 the department oversees in accordance with this section.

5360 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5361 the department shall make rules necessary to administer and enforce this section[-], including
5362 rules providing for the legal and financial independence of state safety oversight agency
5363 activities and functions.

5364 (b) The rules made in accordance with Subsection (5)(a) shall conform to the
5365 requirements of and regulations enacted in accordance with 49 U.S.C. Sec. 5329.

5366 (6) (a) Notwithstanding any other agreement, a county, city, or town with fixed
5367 guideway rail transit service provided by a public transit district that is subject to safety
5368 oversight as provided in this section may request local option transit sales tax in accordance
5369 with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the
5370 department to meet nonfederal match requirements for costs of safety oversight described in
5371 this section.

5372 (b) A county, city, or town that requests local option transit sales tax as described in
5373 Subsection (6)(a) shall transmit to the department all of the funds requested under Subsection
5374 (6)(a) and transmitted to the county, city, or town under Subsection 59-12-2206(5)(b).

5375 (c) A county, city, or town that requests local option transit sales tax as described in
5376 Subsection (6)(a) may not request more local option transit sales tax than is necessary to carry
5377 out the state safety oversight functions under this section and the amount shall only reflect a
5378 maximum of 20% nonfederal match requirement of eligible costs of state safety oversight.

5379 Section 48. Section 72-1-303 is amended to read:

5380 **72-1-303. Duties of commission.**

5381 (1) The commission has the following duties:

5382 (a) determining priorities and funding levels of projects in the state transportation
5383 systems and capital development of new public transit facilities for each fiscal year based on
5384 project lists compiled by the department and taking into consideration the strategic initiatives
5385 described in Section 72-1-211;

5386 (b) determining additions and deletions to state highways under Chapter 4, Designation
5387 of State Highways Act;

5388 (c) holding public hearings and otherwise providing for public input in transportation

5389 matters;

5390 (d) making policies and rules in accordance with Title 63G, Chapter 3, Utah
5391 Administrative Rulemaking Act, necessary to perform the commission's duties described under
5392 this section;

5393 (e) in accordance with Section 63G-4-301, reviewing orders issued by the executive
5394 director in adjudicative proceedings held in accordance with Title 63G, Chapter 4,
5395 Administrative Procedures Act;

5396 (f) advising the department in state transportation systems policy;

5397 (g) approving settlement agreements of condemnation cases subject to Section
5398 63G-10-401;

5399 (h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
5400 nonvoting, ex officio member or a voting member on the board of trustees of a public transit
5401 district;

5402 (i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term
5403 and long-range public transit plans; and

5404 (j) reviewing administrative rules made, amended, or repealed by the department.

5405 (2) (a) For projects prioritized with funding provided under Sections 72-2-124 and
5406 72-2-125, the commission shall annually report to a committee designated by the Legislative
5407 Management Committee:

5408 (i) a prioritized list of the new transportation capacity projects in the state
5409 transportation system and the funding levels available for those projects; and

5410 (ii) the unfunded highway construction and maintenance needs within the state.

5411 (b) The committee designated by the Legislative Management Committee under
5412 Subsection (2)(a) shall:

5413 (i) review the list reported by the Transportation Commission; and

5414 (ii) make a recommendation to the Legislature on:

5415 (A) the amount of additional funding to allocate to transportation; and

5416 (B) the source of revenue for the additional funding allocation under Subsection

5417 (2)(b)(ii)(A).

5418 (3) The commission shall review and may approve plans for the construction of a
5419 highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval

5420 of Highway Facilities on Sovereign Lands Act.

5421 Section 49. Section **72-1-304** is amended to read:

5422 **72-1-304. Written project prioritization process for new transportation capacity**
5423 **projects -- Rulemaking.**

5424 (1) (a) The Transportation Commission, in consultation with the department and the
5425 metropolitan planning organizations as defined in Section [72-1-208.5](#), shall develop a written
5426 prioritization process for the prioritization of new transportation capacity projects that are or
5427 will be part of the state highway system under Chapter 4, Part 1, State Highways, or public
5428 transit projects that add capacity to the public transit systems within the state.

5429 (b) (i) A local government or district may nominate a project for prioritization in
5430 accordance with the process established by the commission in rule.

5431 (ii) If a local government or district nominates a project for prioritization by the
5432 commission, the local government or district shall provide data and evidence to show that:

5433 (A) the project will advance the purposes and goals described in Section [72-1-211](#);

5434 (B) for a public transit project, the local government or district has an ongoing funding
5435 source for operations and maintenance of the proposed development; and

5436 (C) the local government or district will provide 40% of the funds for the project as
5437 required by Subsection [72-2-124\(7\)\(e\)](#).

5438 (2) The following shall be included in the written prioritization process under
5439 Subsection (1):

5440 (a) a description of how the strategic initiatives of the department adopted under
5441 Section [72-1-211](#) are advanced by the written prioritization process;

5442 (b) a definition of the type of projects to which the written prioritization process
5443 applies;

5444 (c) specification of a weighted criteria system that is used to rank proposed projects
5445 and how it will be used to determine which projects will be prioritized;

5446 (d) specification of the data that is necessary to apply the weighted ranking criteria; and

5447 (e) any other provisions the commission considers appropriate[-], which may include
5448 consideration of:

5449 (i) regional and statewide economic development impacts, including improved local
5450 access to:

5451 (A) employment;
5452 (B) recreation;
5453 (C) commerce; and
5454 (D) residential areas;
5455 (ii) the extent to which local land use plans relevant to a project support and
5456 accomplish the strategic initiatives adopted under Section 72-1-211; and
5457 (iii) any matching funds provided by a political subdivision or public transit district in
5458 addition to the 40% required by Subsection 72-2-124(7)(e).

5459 (3) In developing the written prioritization process, the commission:
5460 (a) shall seek and consider public comment by holding public meetings at locations
5461 throughout the state; and
5462 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
5463 the state provides an equal opportunity to raise local matching dollars for state highway
5464 improvements within each county.

5465 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5466 Transportation Commission, in consultation with the department, shall make rules establishing
5467 the written prioritization process under Subsection (1).

5468 (5) The commission shall submit the proposed rules under this section to a committee
5469 or task force designated by the Legislative Management Committee for review prior to taking
5470 final action on the proposed rules or any proposed amendment to the rules described in
5471 Subsection (4).

5472 Section 50. Section 72-1-305 is amended to read:

5473 **72-1-305. Project selection using the written prioritization process -- Public**
5474 **comment -- Report.**

5475 (1) Except as provided in Subsection (4), in determining priorities and funding levels
5476 of projects in the state transportation system under Subsection 72-1-303(1)(a) that are new
5477 transportation capacity projects, the commission shall use the weighted criteria system adopted
5478 in the written prioritization process under Section 72-1-304.

5479 (2) Prior to finalizing priorities and funding levels of projects in the state transportation
5480 system, the commission shall conduct public hearings at locations around the state and accept
5481 public comments on:

5482 (a) the written prioritization process;
5483 (b) the merits of new transportation capacity projects that will be prioritized under this
5484 section; and
5485 (c) the merits of new transportation capacity projects as recommended by a consensus
5486 of local elected officials participating in a metropolitan planning organization as defined in
5487 Section [72-1-208.5](#).

5488 (3) The commission shall make the weighted criteria system ranking for each project
5489 publicly available prior to the public hearings held under Subsection (2).

5490 (4) (a) If the commission prioritizes a project over another project with a higher rank
5491 under the weighted criteria system, the commission shall identify the change and accept public
5492 comment at a hearing held under this section on the merits of prioritizing the project above
5493 higher ranked projects.

5494 (b) The commission shall make the reasons for the prioritization under Subsection
5495 (4)(a) publicly available.

5496 (5) The executive director or the executive director's designee shall report annually to
5497 the governor and a committee designated by the Legislative Management Committee no later
5498 than the last day of October:

5499 (a) the projects prioritized under this section during the year prior to the report; and

5500 (b) the status and progress of all projects prioritized under this section.

5501 (6) (a) The department may not delay a new transportation or public transit capacity
5502 project that was funded by the Legislature in an appropriations act to a different fiscal year than
5503 programmed by the commission due to an unavoidable shortfall in revenues unless the project
5504 delays are prioritized and approved by the Transportation Commission.

5505 (b) The Transportation Commission shall prioritize and approve any new
5506 transportation or public transit capacity project delays for projects that were funded by the
5507 Legislature in an appropriations act due to an unavoidable shortfall in revenues.

5508 Section 51. Section [72-2-117.5](#) is amended to read:

5509 **72-2-117.5. Definitions -- Local Highway and Transportation Corridor**

5510 **Preservation Fund -- Disposition of fund money.**

5511 (1) As used in this section:

5512 (a) "Council of governments" means a decision-making body in each county composed

5513 of membership including the county governing body and the mayors of each municipality in the
5514 county.

5515 (b) "Metropolitan planning organization" has the same meaning as defined in Section
5516 [72-1-208.5](#).

5517 (2) There is created the Local Highway and Transportation Corridor Preservation Fund
5518 within the Transportation Fund.

5519 (3) The fund shall be funded from the following sources:

5520 (a) a local option highway construction and transportation corridor preservation fee
5521 imposed under Section [41-1a-1222](#);

5522 (b) appropriations made to the fund by the Legislature;

5523 (c) contributions from other public and private sources for deposit into the fund;

5524 (d) all money collected from rents and sales of real property acquired with fund money;

5525 (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued
5526 as authorized by Title 63B, Bonds;

5527 (f) the portion of the sales and use tax described in Subsection [59-12-2217](#)~~[(2)(b) and~~
5528 ~~required by Subsection [59-12-2217](#)(8)(a) to be]~~ deposited into the fund; and

5529 (g) sales and use tax revenues deposited into the fund in accordance with Section
5530 [59-12-2218](#).

5531 (4) (a) The fund shall earn interest.

5532 (b) All interest earned on fund money shall be deposited into the fund.

5533 (c) The State Tax Commission shall allocate the revenues:

5534 (i) provided under Subsection (3)(a) to each county imposing a local option highway
5535 construction and transportation corridor preservation fee under Section [41-1a-1222](#);

5536 (ii) provided under Subsection [59-12-2217](#)(2)(b) to each county imposing a county
5537 option sales and use tax for transportation; and

5538 (iii) provided under Subsection (3)(g) to each county of the second class or city or town
5539 within a county of the second class that imposes the sales and use tax authorized by Section
5540 [59-12-2218](#).

5541 (d) The department shall distribute the funds allocated to each county, city, or town
5542 under Subsection (4)(c) to each county, city, or town.

5543 (e) The money allocated and distributed under this Subsection (4):

5544 (i) shall be used for the purposes provided in this section for each county, city, or town;

5545 (ii) is allocated to each county, city, or town as provided in this section with the
5546 condition that the state will not be charged for any asset purchased with the money allocated
5547 and distributed under this Subsection (4), unless there is a written agreement in place with the
5548 department prior to the purchase of the asset stipulating a reimbursement by the state to the
5549 county, city, or town of no more than the original purchase price paid by the county, city, or
5550 town; and

5551 (iii) is considered a local matching contribution for the purposes described under
5552 Section [72-2-123](#) if used on a state highway.

5553 (f) Administrative costs of the department to implement this section shall be paid from
5554 the fund.

5555 (5) (a) A highway authority may acquire real property or any interests in real property
5556 for state, county, and municipal highway or public transit corridors subject to:

5557 (i) money available in the fund to each county under Subsection (4); and

5558 (ii) the provisions of this section.

5559 (b) Fund money may be used to pay interest on debts incurred in accordance with this
5560 section.

5561 (c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired
5562 under this section but limited to a total of 5% of the purchase price of the property.

5563 (B) Any additional maintenance cost shall be paid from funds other than under this
5564 section.

5565 (C) Revenue generated by any property acquired under this section is excluded from
5566 the limitations under this Subsection (5)(c)(i).

5567 (ii) Fund money may be used to pay direct costs of acquisition of properties acquired
5568 under this section.

5569 (d) Fund money allocated and distributed under Subsection (4) may be used by a
5570 county highway authority for countywide transportation or public transit planning if:

5571 (i) the county's planning focus area is outside the boundaries of a metropolitan
5572 planning organization;

5573 (ii) the transportation planning is part of the county's continuing, cooperative, and
5574 comprehensive process for transportation or public transit planning, corridor preservation,

5575 right-of-way acquisition, and project programming;

5576 (iii) no more than four years allocation every 20 years to each county is used for
5577 transportation planning under this Subsection (5)(d); and

5578 (iv) the county otherwise qualifies to use the fund money as provided under this
5579 section.

5580 (e) (i) Subject to Subsection (11), fund money allocated and distributed under
5581 Subsection (4) may be used by a county highway authority for transportation or public transit
5582 corridor planning that is part of the corridor elements of an ongoing work program of
5583 transportation or public transit projects.

5584 (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the
5585 direction of:

5586 (A) the metropolitan planning organization if the county is within the boundaries of a
5587 metropolitan planning organization; or

5588 (B) the department if the county is not within the boundaries of a metropolitan
5589 planning organization.

5590 (f) (i) A county, city, or town that imposes a local option highway construction and
5591 transportation corridor preservation fee under Section [41-1a-1222](#) may elect to administer the
5592 funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving
5593 loan fund.

5594 (ii) If a county, city, or town elects to administer the funds allocated and distributed to
5595 that county, city, or town under Subsection (4) as a revolving loan fund, a local highway
5596 authority shall repay the fund money authorized for the project to the fund.

5597 (iii) A county, city, or town that elects to administer the funds allocated and distributed
5598 to that county, city, or town under Subsection (4) as a revolving loan fund shall establish
5599 repayment conditions of the money to the fund from the specified project funds.

5600 (g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be
5601 used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of
5602 the third, fourth, fifth, or sixth class for:

5603 (A) the construction, operation, or maintenance of a class B road or class C road; or

5604 (B) the restoration or repair of survey monuments associated with transportation
5605 infrastructure.

5606 (ii) A county, city, or town may not use more than 50% of the current balance of fund
5607 money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

5608 (iii) A county, city, or town may not use more than 50% of the fund revenue collections
5609 allocated to a county, city, or town in the current fiscal year for the purposes described in
5610 Subsection (5)(g)(i).

5611 (6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be
5612 used to preserve highway and public transit corridors, promote long-term statewide
5613 transportation planning, save on acquisition costs, and promote the best interests of the state in
5614 a manner which minimizes impact on prime agricultural land.

5615 (ii) The Local Highway and Transportation Corridor Preservation Fund shall only be
5616 used to preserve a highway or public transit corridor that is right-of-way:

5617 (A) in a county of the first or second class for:

5618 (I) a state highway;

5619 (II) a principal arterial highway as defined in Section [72-4-102.5](#);

5620 (III) a minor arterial highway as defined in Section [72-4-102.5](#); [~~or~~]

5621 (IV) a collector highway in an urban area as defined in Section [72-4-102.5](#); or

5622 (V) a transit facility as defined in Section [17B-2a-802](#); or

5623 (B) in a county of the third, fourth, fifth, or sixth class for:

5624 (I) a state highway;

5625 (II) a principal arterial highway as defined in Section [72-4-102.5](#);

5626 (III) a minor arterial highway as defined in Section [72-4-102.5](#);

5627 (IV) a major collector highway as defined in Section [72-4-102.5](#); [~~or~~]

5628 (V) a minor collector road as defined in Section [72-4-102.5](#)[~~;~~]; or

5629 (VI) a transit facility as defined in Section [17B-2a-802](#).

5630 (iii) The Local Highway and Transportation Corridor Preservation Fund may not be
5631 used for a highway corridor that is primarily a recreational trail as defined under Section
5632 [79-5-102](#).

5633 (b) A highway authority shall authorize the expenditure of fund money after
5634 determining that the expenditure is being made in accordance with this section from
5635 applications that are:

5636 (i) endorsed by the council of governments; and

5637 (ii) for a right-of-way purchase for a highway or public transit corridor authorized
5638 under Subsection (6)(a)(ii).

5639 (7) (a) (i) A council of governments shall establish a council of governments
5640 endorsement process which includes prioritization and application procedures for use of the
5641 money allocated to each county under this section.

5642 (ii) The endorsement process under Subsection (7)(a)(i) may include review or
5643 endorsement of the preservation project by:

5644 (A) the metropolitan planning organization if the county is within the boundaries of a
5645 metropolitan planning organization; or

5646 (B) the department if the county is not within the boundaries of a metropolitan
5647 planning organization.

5648 (b) All fund money shall be prioritized by each highway authority and council of
5649 governments based on considerations, including:

5650 (i) areas with rapidly expanding population;

5651 (ii) the willingness of local governments to complete studies and impact statements
5652 that meet department standards;

5653 (iii) the preservation of corridors by the use of local planning and zoning processes;

5654 (iv) the availability of other public and private matching funds for a project;

5655 (v) the cost-effectiveness of the preservation projects;

5656 (vi) long and short-term maintenance costs for property acquired; and

5657 (vii) whether the transportation or public transit corridor is included as part of:

5658 (A) the county and municipal master plan; and

5659 (B) (I) the statewide long range plan; or

5660 (II) the regional transportation plan of the area metropolitan planning organization if
5661 one exists for the area.

5662 (c) The council of governments shall:

5663 (i) establish a priority list of highway and public transit corridor preservation projects
5664 within the county;

5665 (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for
5666 approval; and

5667 (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the

5668 members of the county legislative body.

5669 (d) A county's council of governments may only submit one priority list described in
5670 Subsection (7)(c)(i) per calendar year.

5671 (e) A county legislative body may only consider and approve one priority list described
5672 in Subsection (7)(c)(i) per calendar year.

5673 (8) (a) Unless otherwise provided by written agreement with another highway authority
5674 or public transit district, the highway authority that holds the deed to the property is responsible
5675 for maintenance of the property.

5676 (b) The transfer of ownership for property acquired under this section from one
5677 highway authority to another shall include a recorded deed for the property and a written
5678 agreement between the highway authorities or public transit district.

5679 (9) (a) The proceeds from any bonds or other obligations secured by revenues of the
5680 Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes
5681 authorized for funds under this section.

5682 (b) The highway authority shall pledge the necessary part of the revenues of the Local
5683 Highway and Transportation Corridor Preservation Fund to the payment of principal and
5684 interest on the bonds or other obligations.

5685 (10) (a) A highway authority may not expend money under this section to purchase a
5686 right-of-way for a state highway unless the highway authority has:

5687 (i) a transportation corridor property acquisition policy or ordinance in effect that
5688 meets department requirements for the acquisition of real property or any interests in real
5689 property under this section; and

5690 (ii) an access management policy or ordinance in effect that meets the requirements
5691 under Subsection [72-2-117\(8\)](#).

5692 (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a
5693 written agreement with the department for the department to acquire real property or any
5694 interests in real property on behalf of the local highway authority under this section.

5695 (11) The county shall ensure, to the extent possible, that the fund money allocated and
5696 distributed to a city or town in accordance with Subsection (4) is expended:

5697 (a) to fund a project or service as allowed by this section within the city or town to
5698 which the fund money is allocated;

5699 (b) to pay debt service, principal, or interest on a bond or other obligation as allowed
5700 by this section if that bond or other obligation is:

5701 (i) secured by money allocated to the city or town; and

5702 (ii) issued to finance a project or service as allowed by this section within the city or
5703 town to which the fund money is allocated;

5704 (c) to fund transportation planning as allowed by this section within the city or town to
5705 which the fund money is allocated; or

5706 (d) for another purpose allowed by this section within the city or town to which the
5707 fund money is allocated.

5708 (12) Notwithstanding any other provision in this section, any amounts within the fund
5709 allocated to a public transit district or for a public transit corridor may only be derived from the
5710 portion of the fund that does not include constitutionally restricted sources related to the
5711 operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid
5712 motor fuel to propel a motor vehicle.

5713 Section 52. Section **72-2-121** is amended to read:

5714 **72-2-121. County of the First Class Highway Projects Fund.**

5715 (1) There is created a special revenue fund within the Transportation Fund known as
5716 the "County of the First Class Highway Projects Fund."

5717 (2) The fund consists of money generated from the following revenue sources:

5718 (a) any voluntary contributions received for new construction, major renovations, and
5719 improvements to highways within a county of the first class;

5720 (b) the portion of the sales and use tax described in Subsection [59-12-2214\(3\)\(b\)](#)
5721 deposited in or transferred to the fund;

5722 (c) the portion of the sales and use tax described in Subsection [59-12-2217\[\(2\)\(b\) and](#)
5723 [required by Subsection 59-12-2217\(8\)\(b\) to be\]](#) deposited in or transferred to the fund; and

5724 (d) a portion of the local option highway construction and transportation corridor
5725 preservation fee imposed in a county of the first class under Section [41-1a-1222](#) deposited in or
5726 transferred to the fund.

5727 (3) (a) The fund shall earn interest.

5728 (b) All interest earned on fund money shall be deposited into the fund.

5729 (4) The executive director shall use the fund money only:

5730 (a) to pay debt service and bond issuance costs for bonds issued under Sections
5731 63B-16-102, 63B-18-402, and 63B-27-102;

5732 (b) for right-of-way acquisition, new construction, major renovations, and
5733 improvements to highways within a county of the first class and to pay any debt service and
5734 bond issuance costs related to those projects, including improvements to a highway located
5735 within a municipality in a county of the first class where the municipality is located within the
5736 boundaries of more than a single county;

5737 (c) for the construction, acquisition, use, maintenance, or operation of:

5738 (i) an active transportation facility for nonmotorized vehicles;

5739 (ii) multimodal transportation that connects an origin with a destination; or

5740 (iii) a facility that may include a:

5741 (A) pedestrian or nonmotorized vehicle trail;

5742 (B) nonmotorized vehicle storage facility;

5743 (C) pedestrian or vehicle bridge; or

5744 (D) vehicle parking lot or parking structure;

5745 (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or
5746 county to pay for a portion of right-of-way acquisition, construction, reconstruction,
5747 renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and
5748 (9);

5749 (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by
5750 Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts
5751 transferred in accordance with Subsection 72-2-124(4)(a)(iv);

5752 (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond
5753 issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects
5754 described in Subsection 63B-18-401(4)(a);

5755 (g) for a fiscal year beginning on or after July 1, 2013, and after the department has
5756 verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to
5757 transfer an amount equal to 50% of the revenue generated by the local option highway
5758 construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in
5759 a county of the first class:

5760 (i) to the legislative body of a county of the first class; and

5761 (ii) to be used by a county of the first class for:
5762 (A) highway construction, reconstruction, or maintenance projects; or
5763 (B) the enforcement of state motor vehicle and traffic laws;

5764 (h) for fiscal year 2015 only, and after the department has verified that the amount
5765 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
5766 Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue
5767 available in the fund for the 2015 fiscal year:

5768 (i) to the legislative body of a county of the first class; and
5769 (ii) to be used by a county of the first class for:
5770 (A) highway construction, reconstruction, or maintenance projects; or
5771 (B) the enforcement of state motor vehicle and traffic laws;

5772 (i) for fiscal year 2015-16 only, and after the department has verified that the amount
5773 required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under
5774 Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

5775 (i) to the legislative body of a county of the first class; and
5776 (ii) to be used by the county for the purposes described in this section;

5777 (j) for a fiscal year beginning on or after July 1, 2015, after the department has verified
5778 that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the
5779 transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to
5780 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into
5781 the fund in accordance with Subsection 59-12-2214(3)(b) to:

5782 (i) the appropriate debt service or sinking fund for the repayment of bonds issued under
5783 Section 63B-27-102; and
5784 (ii) the Transportation Investment Fund of 2005 created in Section 72-2-124 until
5785 \$28,079,000 has been deposited into the Transportation Investment Fund of 2005; and
5786 (k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been
5787 repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, after the
5788 department has verified that the amount required under Subsection 72-2-121.3(4)(c) is
5789 available in the fund and the transfer under Subsection (4)(f) has been made, and after the
5790 bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up
5791 to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited

5792 into the fund in accordance with Subsection [59-12-2214\(3\)\(b\)](#):

5793 (i) to the legislative body of a county of the first class; and

5794 (ii) to be used by the county for the purposes described in this section.

5795 (5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
5796 fund and bond proceeds from bonds issued under Sections [63B-16-102](#), [63B-18-402](#), and
5797 [63B-27-102](#) are considered a local matching contribution for the purposes described under
5798 Section [72-2-123](#).

5799 (6) The additional administrative costs of the department to administer this fund shall
5800 be paid from money in the fund.

5801 (7) Notwithstanding any statutory or other restrictions on the use or expenditure of the
5802 revenue sources deposited into this fund, the Department of Transportation may use the money
5803 in this fund for any of the purposes detailed in Subsection (4).

5804 Section 53. Section **72-2-124** is amended to read:

5805 **72-2-124. Transportation Investment Fund of 2005.**

5806 (1) There is created a capital projects fund entitled the Transportation Investment Fund
5807 of 2005.

5808 (2) The fund consists of money generated from the following sources:

5809 (a) any voluntary contributions received for the maintenance, construction,
5810 reconstruction, or renovation of state and federal highways;

5811 (b) appropriations made to the fund by the Legislature;

5812 (c) registration fees designated under Section [41-1a-1201](#);

5813 ~~[(c)]~~ (d) the sales and use tax revenues deposited into the fund in accordance with
5814 Section [59-12-103](#); and

5815 ~~[(d) registration fees designated under Section [41-1a-1201](#); and]~~

5816 (e) revenues transferred to the fund in accordance with Section [72-2-106](#).

5817 (3) (a) The fund shall earn interest.

5818 (b) All interest earned on fund money shall be deposited into the fund.

5819 (4) (a) Except as provided in Subsection (4)(b), the executive director may use fund
5820 money only to pay:

5821 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
5822 federal highways prioritized by the Transportation Commission through the prioritization

- 5823 process for new transportation capacity projects adopted under Section 72-1-304;
- 5824 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
5825 projects described in Subsections 63B-18-401(2), (3), and (4);
- 5826 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
5827 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
5828 with Subsection 72-2-121(4)(f);
- 5829 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
5830 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
5831 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
5832 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;
- 5833 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
5834 for projects prioritized in accordance with Section 72-2-125;
- 5835 (vi) all highway general obligation bonds that are intended to be paid from revenues in
5836 the Centennial Highway Fund created by Section 72-2-118; and
- 5837 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First
5838 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described
5839 in Section 72-2-121.
- 5840 (b) The executive director may use fund money to exchange for an equal or greater
5841 amount of federal transportation funds to be used as provided in Subsection (4)(a).
- 5842 (5) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
5843 in any fiscal year, the department and the commission shall appear before the Executive
5844 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
5845 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
5846 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.
- 5847 (b) The Executive Appropriations Committee of the Legislature shall review and
5848 comment on the amount of bond proceeds needed to fund the projects.
- 5849 (6) The Division of Finance shall, from money deposited into the fund, transfer the
5850 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
5851 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
5852 sinking fund.
- 5853 (7) (a) There is created in the Transportation Investment Fund of 2005 the Transit

5854 Transportation Investment Fund.

5855 (b) The fund shall be funded by:

5856 (i) contributions deposited into the fund in accordance with Section [59-12-103](#);

5857 (ii) appropriations into the account by the Legislature;

5858 (iii) private contributions; and

5859 (iv) donations or grants from public or private entities.

5860 (c) (i) The fund shall earn interest.

5861 (ii) All interest earned on fund money shall be deposited into the fund.

5862 (d) Subject to Subsection (7)(e), the Legislature may appropriate money from the fund
5863 for public transit capital development of new capacity projects to be used as prioritized by the
5864 commission.

5865 (e) (i) The Legislature may only appropriate money from the fund for a public transit
5866 capital development project if the public transit district or political subdivision provides funds
5867 of equal to or greater than 40% of the funds needed for the project.

5868 (ii) A public transit district or political subdivision may use money derived from a loan
5869 granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to
5870 provide all or part of the 40% requirement described in Subsection (7)(e)(i) if:

5871 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
5872 Transportation Infrastructure Loan Fund; and

5873 (B) the proposed capital project has been prioritized by the commission pursuant to
5874 Section [72-1-303](#).

5875 Section 54. Section **72-5-401** is amended to read:

5876 **72-5-401. Definitions.**

5877 As used in this part:

5878 (1) "Corridor" means the path or proposed path of a transportation facility, including a
5879 public transit facility, that exists or that may exist in the future[~~—A corridor~~], and may include
5880 the land occupied or to be occupied by a transportation facility, and any other land that may be
5881 needed for expanding a transportation facility or for controlling access to it.

5882 (2) "Corridor preservation" means planning or acquisition processes intended to:

5883 (a) protect or enhance the capacity of existing corridors; and

5884 (b) protect the availability of proposed corridors in advance of the need for and the

5885 actual commencement of the transportation facility construction.

5886 (3) "Development" means:

5887 (a) the subdividing of land;

5888 (b) the construction of improvements, expansions, or additions; or

5889 (c) any other action that will appreciably increase the value of and the future

5890 acquisition cost of land.

5891 (4) "Official map" means a map, drawn by government authorities and recorded in

5892 county recording offices that:

5893 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for

5894 highways and other transportation facilities;

5895 (b) provides a basis for restricting development in designated rights-of-way or between

5896 designated setbacks to allow the government authorities time to purchase or otherwise reserve

5897 the land; and

5898 (c) for counties and municipalities may be adopted as an element of the general plan,

5899 pursuant to Title 17, Chapter 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, General

5900 Plan.

5901 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other

5902 police power, whereby government puts private property to public use or restrains use of

5903 private property for public purposes, and that requires compensation to be paid to private

5904 property owners.

5905 Section 55. Section **72-6-120** is amended to read:

5906 **72-6-120. Department authorized to participate in federal program assuming**

5907 **responsibility for environmental review of highway projects -- Rulemaking authority.**

5908 (1) The department may:

5909 (a) assume responsibilities under 23 U.S.C. Sec. 326 for:

5910 (i) determining whether state highway design and construction projects are

5911 categorically excluded from requirements for environmental assessments or environmental

5912 impact statements; and

5913 (ii) environmental review, consultation, or other actions required under federal law for

5914 categorically excluded projects;

5915 (b) assume responsibilities under 23 U.S.C. Sec. 327 with respect to one or more

5916 railroad, public transportation, highway [projects], or multimodal projects within the state
5917 under the National Environmental Policy Act of 1969 for environmental review, consultation,
5918 or other action required under any federal environmental law pertaining to the review or
5919 approval of a specific highway project;

5920 (c) enter one or more memoranda of understanding with the United States Department
5921 of Transportation related to federal highway programs as provided in 23 U.S.C. Secs. 326 and
5922 327 subject to the requirements of Subsection [72-1-207\(5\)](#);

5923 (d) accept, receive, and administer grants, other money, or gifts from public and private
5924 agencies, including the federal government, for the purpose of carrying out the programs
5925 authorized under this section; and

5926 (e) cooperate with the federal government in implementing this section and any
5927 memorandum of understanding entered into under Subsection [72-1-207\(5\)](#).

5928 (2) Notwithstanding any other provision of law, in implementing a program under this
5929 section that is approved by the United States Department of Transportation, the department is
5930 authorized to:

5931 (a) perform or conduct any of the activities described in a memorandum of
5932 understanding entered into under Subsection [72-1-207\(5\)](#);

5933 (b) take actions necessary to implement the program; and

5934 (c) adopt relevant federal environmental standards as the standards for this state for
5935 categorically excluded projects.

5936 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5937 department may makes rules to implement the provisions of this section.

5938 **Section 56. Repealer.**

5939 This bill repeals:

5940 Section [17B-2a-807.5](#), **Public transit district board of trustees -- Transitional**
5941 **provisions.**

5942 **Section 57. Effective date.**

5943 This bill takes effect on May 8, 2018, except that the amendments to Sections
5944 [41-1a-102](#), [41-1a-1201](#), [41-1a-1206](#), and [59-12-103](#) in this bill take effect on January 1, 2019.