

Senator Gregory S. Bell proposes the following substitute bill:

PUBLIC TRANSIT DISTRICT ANNEXATION

AND FUNDING AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill modifies the Utah Public Transit District Act, the Limited Purpose Local Government Entities Title, the Election Code, and the Sales and Use Tax Act by amending provisions related to the funding and annexation of certain public transit districts.

Highlighted Provisions:

This bill:

- ▶ provides that a general obligation bond issued by a public transit district shall be secured as required for municipal general obligation bonds;
- ▶ provides that a local political subdivision may call a local special election to vote on an opinion question election to impose certain sales and use taxes;
- ▶ sets the initial sales and use tax that a county, city, or town within a public transit district may impose at .25% rather than of up to .25% under the public transit tax;
- ▶ provides that beginning on July 1, 2005, bonds may not be issued that are intended to be paid by the 1/16% allocated under the additional public transit tax for public transportation costs and interstate improvements to a county of the first class for new construction, major renovations, and improvements to Interstate 15 or state highways within the county;



26 ▶ provides that when all bonds that are intended to be paid by the 1/16% allocated
27 under the additional public transit tax for public transportation costs and interstate
28 improvements to a county of the first class for new construction, major renovations,
29 and improvements to Interstate 15 or state highways within the county have been
30 paid off, the revenues allocated to a county of the first class shall be allocated to
31 fund a fixed guideway and expanded public transportation system;

32 ▶ authorizes a county to impose a sales and use tax of .25% or .50% for public
33 transportation costs and improvements if a single public transit district has 60% or
34 more of the population of the county residing within the public transit district
35 boundaries;

36 ▶ authorizes a county that has 60% or more of the population residing within a single
37 public transit district's boundaries to submit a proposal to the county's registered
38 voters at a general election or at a special election on a municipal general election
39 date to impose a sales and use tax of .25% or .50% for public transportation costs
40 and improvements;

41 ▶ provides that if the county's registered voters vote to approve becoming a part of the
42 public transit district:

- 43 • the county shall be annexed into the public transit district;
- 44 • a countywide sales tax of .25% or .50% shall be imposed for public
45 transportation; and
- 46 • certain existing sales and use taxes imposed by cities or towns within the county
47 are superseded;

48 ▶ provides procedures and requirements for imposing the countywide .25% or .50%
49 tax;

50 ▶ authorizes any county legislative body to impose the county option sales and use tax
51 for highways, fixed guideways, or systems for public transit; and

52 ▶ makes technical changes.

53 **Monies Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 This bill takes effect on July 1, 2005.

57 **Utah Code Sections Affected:**

58 AMENDS:

- 59 **17A-2-1058**, as last amended by Chapter 9, Laws of Utah 2001
- 60 **17B-2-512**, as last amended by Chapters 89 and 170, Laws of Utah 2003
- 61 **20A-1-203**, as last amended by Chapter 4, Laws of Utah 2002, Fifth Special Session
- 62 **59-12-102**, as last amended by Chapters 1, 156, 255, 298 and 300, Laws of Utah 2004
- 63 **59-12-207.1**, as last amended by Chapter 255, Laws of Utah 2004
- 64 **59-12-501**, as last amended by Chapters 255 and 336, Laws of Utah 2004
- 65 **59-12-502**, as last amended by Chapter 255, Laws of Utah 2004
- 66 **59-12-503**, as enacted by Chapter 131, Laws of Utah 1997
- 67 **59-12-504**, as last amended by Chapter 255, Laws of Utah 2004
- 68 **59-12-1001**, as last amended by Chapter 255, Laws of Utah 2004
- 69 **59-12-1502**, as enacted by Chapter 282, Laws of Utah 2003
- 70 **59-12-1503**, as last amended by Chapters 90 and 255, Laws of Utah 2004
- 71 **72-2-121**, as enacted by Chapter 217, Laws of Utah 2001

72 ENACTS:

- 73 **59-12-501.5**, Utah Code Annotated 1953
- 74 **59-12-502.5**, Utah Code Annotated 1953



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

77 Section 1. Section **17A-2-1058** is amended to read:

78 **17A-2-1058. District may issue bonds.**

79 ~~[Any]~~ (1) A district organized under this part may, in the manner and subject to the
80 limitations and restrictions contained in Title 11, Chapter 14, Utah Municipal Bond Act,
81 authorize, issue and dispose of its negotiable bonds for purposes of paying all or part of the
82 cost of acquiring, improving, or extending any one or more improvements, facilities, or
83 property authorized to be acquired under this part.

84 (2) Notwithstanding any other provision of law and notwithstanding any limitations
85 contained in Sections 17A-2-1044 and 17A-2-1059, a general obligation bond issued by a
86 district shall be secured as provided in Section 11-14-19.

87 Section 2. Section **17B-2-512** is amended to read:

88 **17B-2-512. Protests -- Election.**

89 (1) (a) An owner of private real property located within or a registered voter residing
90 within an area proposed to be annexed may protest an annexation by filing a written protest
91 with the board of trustees of the proposed annexing local district, except:

92 (i) as provided in Section 17B-2-513;

93 (ii) for an annexation under Section 17B-2-515; and

94 (iii) for an annexation proposed by a local district that receives sales and use tax funds
95 from the counties, cities, and towns within the local district that impose a sales and use tax
96 under Section 59-12-501, 59-12-501.5, or 59-12-502.5.

97 (b) A protest of a boundary adjustment is not governed by this section but is governed
98 by Section 17B-2-516.

99 (2) Each protest under Subsection (1)(a) shall be filed within 30 days after the date of
100 the public hearing under Section 17B-2-509.

101 (3) (a) Except as provided in Subsection (4), the local district shall hold an election on
102 the proposed annexation if:

103 (i) timely protests are filed by:

104 (A) the owners of private real property that:

105 (I) is located within the area proposed to be annexed;

106 (II) covers at least 10% of the total private land area within the entire area proposed to
107 be annexed and within each applicable area; and

108 (III) is equal in assessed value to at least 10% of the assessed value of all private real
109 property within the entire area proposed to be annexed and within each applicable area; or

110 (B) registered voters residing within the entire area proposed to be annexed and within
111 each applicable area equal in number to at least 10% of the number of votes cast within the
112 entire area proposed for annexation and within each applicable area, respectively, for the office
113 of governor at the last regular general election before the filing of the petition; or

114 (ii) the proposed annexing local district is one that receives sales and use tax funds
115 from the counties, cities, and towns within the local district that impose a sales and use tax
116 under Section 59-12-501, 59-12-501.5, or 59-12-502.5.

117 (b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be
118 phrased to indicate that a voter's casting a vote for or against the annexation includes also a

119 vote for or against the imposition of the sales and use tax as provided in Section 59-12-501,
120 59-12-501.5, or 59-12-502.5.

121 (ii) Except as otherwise provided in this part, each election under Subsection (3)(a)
122 shall be governed by Title 20A, Election Code.

123 (c) If a majority of registered voters residing within the area proposed to be annexed
124 and voting on the proposal vote:

125 (i) in favor of annexation, the board of trustees shall, subject to Subsections
126 17B-2-514(1)(b), (2), and (3), complete the annexation by adopting a resolution approving
127 annexation of the area; or

128 (ii) against annexation, the annexation process is terminated, the board may not adopt a
129 resolution approving annexation of the area, and the area proposed to be annexed may not for
130 two years be the subject of an effort under this part to annex to the same local district.

131 (4) If sufficient protests are filed under this section to require an election for a
132 proposed annexation to which the protest provisions of this section are applicable, a board of
133 trustees may, notwithstanding Subsection (3), adopt a resolution rejecting the annexation and
134 terminating the annexation process without holding an election.

135 Section 3. Section **20A-1-203** is amended to read:

136 **20A-1-203. Calling and purpose of special elections.**

137 (1) Statewide and local special elections may be held for any purpose authorized by
138 law.

139 (2) (a) Statewide special elections shall be conducted using the procedure for regular
140 general elections.

141 (b) Except as otherwise provided in this title, local special elections shall be conducted
142 using the procedures for regular municipal elections.

143 (3) The governor may call a statewide special election by issuing an executive order
144 that designates:

145 (a) the date for the statewide special election; and

146 (b) the purpose for the statewide special election.

147 (4) The Legislature may call a statewide special election by passing a joint or
148 concurrent resolution that designates:

149 (a) the date for the statewide special election; and

150 (b) the purpose for the statewide special election.

151 (5) (a) The legislative body of a local political subdivision may call a local special
152 election only for:

153 (i) a vote on a bond or debt issue;

154 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or
155 53A-17a-134;

156 (iii) a referendum authorized by Title 20A, Chapter 7, Part 6;

157 (iv) an initiative authorized by Title 20A, Chapter 7, Part 5; [~~or~~]

158 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
159 legal boundaries should be changed[-]; or

160 (vi) a vote on a sales and use tax imposed under Title 59, Chapter 12, Part 5, Public
161 Transit Tax or Part 15, County Option Sales and Use Tax for Highways, Fixed Guideways, or
162 Systems for Public Transit.

163 (b) The legislative body of a local political subdivision may call a local special election
164 by adopting an ordinance or resolution that designates:

165 (i) the date for the local special election; and

166 (ii) the purpose for the local special election.

167 Section 4. Section **59-12-102** is amended to read:

168 **59-12-102. Definitions.**

169 As used in this chapter:

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

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

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

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

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

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

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

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

180 (b) Section 59-12-204;

- 181 (c) Section 59-12-401;
- 182 (d) Section 59-12-402;
- 183 (e) Section 59-12-501;
- 184 (f) Section 59-12-501.5;
- 185 [~~(f)~~] (g) Section 59-12-502;
- 186 (h) Section 59-12-502.5;
- 187 [~~(g)~~] (i) Section 59-12-703;
- 188 [~~(h)~~] (j) Section 59-12-802;
- 189 [~~(i)~~] (k) Section 59-12-804;
- 190 [~~(j)~~] (l) Section 59-12-1001;
- 191 [~~(k)~~] (m) Section 59-12-1102;
- 192 [~~(l)~~] (n) Section 59-12-1302;
- 193 [~~(m)~~] (o) Section 59-12-1402; or
- 194 [~~(n)~~] (p) Section 59-12-1503.
- 195 (5) "Aircraft" is as defined in Section 72-10-102.
- 196 (6) "Alcoholic beverage" means a beverage that:
 - 197 (a) is suitable for human consumption; and
 - 198 (b) contains .5% or more alcohol by volume.
- 199 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 200 (8) "Authorized carrier" means:
 - 201 (a) in the case of vehicles operated over public highways, the holder of credentials
 - 202 indicating that the vehicle is or will be operated pursuant to both the International Registration
 - 203 Plan and the International Fuel Tax Agreement;
 - 204 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
 - 205 certificate or air carrier's operating certificate; or
 - 206 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
 - 207 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 208 (9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the
- 209 following that is used as the primary source of energy to produce fuel or electricity:
 - 210 (i) material from a plant or tree; or
 - 211 (ii) other organic matter that is available on a renewable basis, including:

- 212 (A) slash and brush from forests and woodlands;
- 213 (B) animal waste;
- 214 (C) methane produced:
 - 215 (I) at landfills; or
 - 216 (II) as a byproduct of the treatment of wastewater residuals;
- 217 (D) aquatic plants; and
- 218 (E) agricultural products.
- 219 (b) "Biomass energy" does not include:
 - 220 (i) black liquor;
 - 221 (ii) treated woods; or
 - 222 (iii) biomass from municipal solid waste other than methane produced:
 - 223 (A) at landfills; or
 - 224 (B) as a byproduct of the treatment of wastewater residuals.
- 225 (10) "Certified automated system" means software certified by the governing board of
226 the agreement in accordance with Section 59-12-102.1 that:
 - 227 (a) calculates the agreement sales and use tax imposed within a local taxing
228 jurisdiction:
 - 229 (i) on a transaction; and
 - 230 (ii) in the states that are members of the agreement;
 - 231 (b) determines the amount of agreement sales and use tax to remit to a state that is a
232 member of the agreement; and
 - 233 (c) maintains a record of the transaction described in Subsection (10)(a)(i).
- 234 (11) "Certified service provider" means an agent certified:
 - 235 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
236 and
 - 237 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
238 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
239 own purchases.
- 240 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel
241 suitable for general use.
- 242 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

243 commission shall make rules:

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

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

247 (13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"
248 means:

249 (i) a coin-operated amusement, skill, or ride device;

250 (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and

251 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
252 arcade machine, and a mechanical or electronic skill game or ride.

253 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does
254 not mean a coin-operated amusement device possessing a coinage mechanism that:

255 (i) accepts and registers multiple denominations of coins; and

256 (ii) allows the seller to collect the sales and use tax at the time an amusement device is
257 activated and operated by a person inserting coins into the device.

258 (14) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
259 fuels that does not constitute industrial use under Subsection (34) or residential use under
260 Subsection (63).

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

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

266 (ii) For purposes of Subsection (15)(b)(i), in accordance with Title 63, Chapter 46a,
267 Utah Administrative Rulemaking Act, the commission may make rules defining what
268 constitutes a person's place of employment.

269 (16) "Component part" includes:

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

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

272 (c) fuel used for providing temperature control of orchards and commercial
273 greenhouses doing a majority of their business in wholesale sales, and for providing power for

- 274 off-highway type farm machinery; and
- 275 (d) feed, seeds, and seedlings.
- 276 (17) "Computer" means an electronic device that accepts information:
- 277 (a) (i) in digital form; or
- 278 (ii) in a form similar to digital form; and
- 279 (b) manipulates that information for a result based on a sequence of instructions.
- 280 (18) "Computer software" means a set of coded instructions designed to cause:
- 281 (a) a computer to perform a task; or
- 282 (b) automatic data processing equipment to perform a task.
- 283 (19) "Construction materials" means any tangible personal property that will be
- 284 converted into real property.
- 285 (20) "Delivered electronically" means delivered to a purchaser by means other than
- 286 tangible storage media.
- 287 (21) (a) "Delivery charge" means a charge:
- 288 (i) by a seller of:
- 289 (A) tangible personal property; or
- 290 (B) services; and
- 291 (ii) for preparation and delivery of the tangible personal property or services described
- 292 in Subsection (21)(a)(i) to a location designated by the purchaser.
- 293 (b) "Delivery charge" includes a charge for the following:
- 294 (i) transportation;
- 295 (ii) shipping;
- 296 (iii) postage;
- 297 (iv) handling;
- 298 (v) crating; or
- 299 (vi) packing.
- 300 (22) "Dietary supplement" means a product, other than tobacco, that:
- 301 (a) is intended to supplement the diet;
- 302 (b) contains one or more of the following dietary ingredients:
- 303 (i) a vitamin;
- 304 (ii) a mineral;

- 305 (iii) an herb or other botanical;
- 306 (iv) an amino acid;
- 307 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 308 dietary intake; or
- 309 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 310 described in Subsections (22)(b)(i) through (v);
- 311 (c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:
- 312 (A) tablet form;
- 313 (B) capsule form;
- 314 (C) powder form;
- 315 (D) softgel form;
- 316 (E) gelcap form; or
- 317 (F) liquid form; or
- 318 (ii) notwithstanding Subsection (22)(c)(i), if the product is not intended for ingestion in
- 319 a form described in Subsections (22)(c)(i)(A) through (F), is not represented:
- 320 (A) as conventional food; and
- 321 (B) for use as a sole item of:
- 322 (I) a meal; or
- 323 (II) the diet; and
- 324 (d) is required to be labeled as a dietary supplement:
- 325 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 326 (ii) as required by 21 C.F.R. Sec. 101.36.
- 327 (23) (a) "Direct mail" means printed material delivered or distributed by United States
- 328 mail or other delivery service:
- 329 (i) to:
- 330 (A) a mass audience; or
- 331 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 332 (ii) if the cost of the printed material is not billed directly to the recipients.
- 333 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 334 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 335 (c) "Direct mail" does not include multiple items of printed material delivered to a

336 single address.

337 (24) (a) "Drug" means a compound, substance, or preparation, or a component of a
338 compound, substance, or preparation that is:

339 (i) recognized in:

340 (A) the official United States Pharmacopoeia;

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

342 (C) the official National Formulary; or

343 (D) a supplement to a publication listed in Subsections (24)(a)(i)(A) through (C);

344 (ii) intended for use in the:

345 (A) diagnosis of disease;

346 (B) cure of disease;

347 (C) mitigation of disease;

348 (D) treatment of disease; or

349 (E) prevention of disease; or

350 (iii) intended to affect:

351 (A) the structure of the body; or

352 (B) any function of the body.

353 (b) "Drug" does not include:

354 (i) food and food ingredients;

355 (ii) a dietary supplement;

356 (iii) an alcoholic beverage; or

357 (iv) a prosthetic device.

358 (25) (a) Except as provided in Subsection (25)(c), "durable medical equipment" means
359 equipment that:

360 (i) can withstand repeated use;

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

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

363 (iv) is not worn in or on the body;

364 (v) is listed as eligible for payment under:

365 (A) Title XVIII of the federal Social Security Act; or

366 (B) the state plan for medical assistance under Title XIX of the federal Social Security

367 Act; and

368 (vi) is used for home use only.

369 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
370 equipment described in Subsection (25)(a).

371 (c) Notwithstanding Subsection (25)(a), "durable medical equipment" does not include
372 mobility enhancing equipment.

373 (26) "Electronic" means:

374 (a) relating to technology; and

375 (b) having:

376 (i) electrical capabilities;

377 (ii) digital capabilities;

378 (iii) magnetic capabilities;

379 (iv) wireless capabilities;

380 (v) optical capabilities;

381 (vi) electromagnetic capabilities; or

382 (vii) capabilities similar to Subsections (26)(b)(i) through (vi).

383 (27) (a) "Food and food ingredients" means substances:

384 (i) regardless of whether the substances are in:

385 (A) liquid form;

386 (B) concentrated form;

387 (C) solid form;

388 (D) frozen form;

389 (E) dried form; or

390 (F) dehydrated form; and

391 (ii) that are:

392 (A) sold for:

393 (I) ingestion by humans; or

394 (II) chewing by humans; and

395 (B) consumed for the substance's:

396 (I) taste; or

397 (II) nutritional value.

- 398 (b) "Food and food ingredients" does not include:
- 399 (i) an alcoholic beverage;
- 400 (ii) tobacco; or
- 401 (iii) prepared food.
- 402 (28) (a) "Fundraising sales" means sales:
- 403 (i) (A) made by a school; or
- 404 (B) made by a school student;
- 405 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 406 materials, or provide transportation; and
- 407 (iii) that are part of an officially sanctioned school activity.
- 408 (b) For purposes of Subsection (28)(a)(iii), "officially sanctioned school activity"
- 409 means a school activity:
- 410 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 411 district governing the authorization and supervision of fundraising activities;
- 412 (ii) that does not directly or indirectly compensate an individual teacher or other
- 413 educational personnel by direct payment, commissions, or payment in kind; and
- 414 (iii) the net or gross revenues from which are deposited in a dedicated account
- 415 controlled by the school or school district.
- 416 (29) "Geothermal energy" means energy contained in heat that continuously flows
- 417 outward from the earth that is used as the sole source of energy to produce electricity.
- 418 (30) "Governing board of the agreement" means the governing board of the agreement
- 419 that is:
- 420 (a) authorized to administer the agreement; and
- 421 (b) established in accordance with the agreement.
- 422 (31) (a) "Hearing aid" means:
- 423 (i) an instrument or device having an electronic component that is designed to:
- 424 (A) (I) improve impaired human hearing; or
- 425 (II) correct impaired human hearing; and
- 426 (B) (I) be worn in the human ear; or
- 427 (II) affixed behind the human ear;
- 428 (ii) an instrument or device that is surgically implanted into the cochlea; or

- 429 (iii) a telephone amplifying device.
- 430 (b) "Hearing aid" does not include:
- 431 (i) except as provided in Subsection (31)(a)(i)(B) or (31)(a)(ii), an instrument or device
- 432 having an electronic component that is designed to be worn on the body;
- 433 (ii) except as provided in Subsection (31)(a)(iii), an assistive listening device or system
- 434 designed to be used by one individual, including:
- 435 (A) a personal amplifying system;
- 436 (B) a personal FM system;
- 437 (C) a television listening system; or
- 438 (D) a device or system similar to a device or system described in Subsections
- 439 (31)(b)(ii)(A) through (C); or
- 440 (iii) an assistive listening device or system designed to be used by more than one
- 441 individual, including:
- 442 (A) a device or system installed in:
- 443 (I) an auditorium;
- 444 (II) a church;
- 445 (III) a conference room;
- 446 (IV) a synagogue; or
- 447 (V) a theater; or
- 448 (B) a device or system similar to a device or system described in Subsections
- 449 (31)(b)(iii)(A)(I) through (V).
- 450 (32) (a) "Hearing aid accessory" means a hearing aid:
- 451 (i) component;
- 452 (ii) attachment; or
- 453 (iii) accessory.
- 454 (b) "Hearing aid accessory" includes:
- 455 (i) a hearing aid neck loop;
- 456 (ii) a hearing aid cord;
- 457 (iii) a hearing aid ear mold;
- 458 (iv) hearing aid tubing;
- 459 (v) a hearing aid ear hook; or

- 460 (vi) a hearing aid remote control.
- 461 (c) "Hearing aid accessory" does not include:
 - 462 (i) a component, attachment, or accessory designed to be used only with an:
 - 463 (A) instrument or device described in Subsection (31)(b)(i); or
 - 464 (B) assistive listening device or system described in Subsection (31)(b)(ii) or (iii); or
 - 465 (ii) a hearing aid battery.
- 466 (33) "Hydroelectric energy" means water used as the sole source of energy to produce
- 467 electricity.
- 468 (34) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 469 other fuels:
 - 470 (a) in mining or extraction of minerals;
 - 471 (b) in agricultural operations to produce an agricultural product up to the time of
 - 472 harvest or placing the agricultural product into a storage facility, including:
 - 473 (i) commercial greenhouses;
 - 474 (ii) irrigation pumps;
 - 475 (iii) farm machinery;
 - 476 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
 - 477 registered under Title 41, Chapter 1a, Part 2, Registration; and
 - 478 (v) other farming activities;
 - 479 (c) in manufacturing tangible personal property at an establishment described in SIC
 - 480 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
 - 481 Executive Office of the President, Office of Management and Budget; or
 - 482 (d) by a scrap recycler if:
 - 483 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 484 one or more of the following items into prepared grades of processed materials for use in new
 - 485 products:
 - 486 (A) iron;
 - 487 (B) steel;
 - 488 (C) nonferrous metal;
 - 489 (D) paper;
 - 490 (E) glass;

- 491 (F) plastic;
- 492 (G) textile; or
- 493 (H) rubber; and
- 494 (ii) the new products under Subsection (34)(d)(i) would otherwise be made with
- 495 nonrecycled materials.
- 496 (35) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 497 personal property for:
- 498 (i) (A) a fixed term; or
- 499 (B) an indeterminate term; and
- 500 (ii) consideration.
- 501 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 502 amount of consideration may be increased or decreased by reference to the amount realized
- 503 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 504 Code.
- 505 (c) "Lease" or "rental" does not include:
- 506 (i) a transfer of possession or control of property under a security agreement or
- 507 deferred payment plan that requires the transfer of title upon completion of the required
- 508 payments;
- 509 (ii) a transfer of possession or control of property under an agreement:
- 510 (A) that requires the transfer of title upon completion of required payments; and
- 511 (B) in which the payment of an option price does not exceed the greater of:
- 512 (I) \$100; or
- 513 (II) 1% of the total required payments; or
- 514 (iii) providing tangible personal property along with an operator for a fixed period of
- 515 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 516 designed.
- 517 (d) For purposes of Subsection (35)(c)(iii), an operator is necessary for equipment to
- 518 perform as designed if the operator's duties exceed the:
- 519 (i) set-up of tangible personal property;
- 520 (ii) maintenance of tangible personal property; or
- 521 (iii) inspection of tangible personal property.

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

524 (37) "Local taxing jurisdiction" means a:

525 (a) county that is authorized to impose an agreement sales and use tax;

526 (b) city that is authorized to impose an agreement sales and use tax; or

527 (c) town that is authorized to impose an agreement sales and use tax.

528 (38) "Manufactured home" is as defined in Section 58-56-3.

529 (39) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

531 Industrial Classification Manual of the federal Executive Office of the President, Office of

532 Management and Budget; or

533 (b) a scrap recycler if:

534 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

535 one or more of the following items into prepared grades of processed materials for use in new

536 products:

537 (A) iron;

538 (B) steel;

539 (C) nonferrous metal;

540 (D) paper;

541 (E) glass;

542 (F) plastic;

543 (G) textile; or

544 (H) rubber; and

545 (ii) the new products under Subsection (39)(b)(i) would otherwise be made with

546 nonrecycled materials.

547 (40) "Mobile home" is as defined in Section 58-56-3.

548 (41) "Mobile telecommunications service" is as defined in the Mobile

549 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

550 (42) (a) Except as provided in Subsection (42)(c), "mobility enhancing equipment"
551 means equipment that is:

552 (i) primarily and customarily used to provide or increase the ability to move from one

553 place to another;

554 (ii) appropriate for use in a:

555 (A) home; or

556 (B) motor vehicle;

557 (iii) not generally used by persons with normal mobility; and

558 (iv) listed as eligible for payment under:

559 (A) Title XVIII of the federal Social Security Act; or

560 (B) the state plan for medical assistance under Title XIX of the federal Social Security

561 Act.

562 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

563 the equipment described in Subsection (42)(a).

564 (c) Notwithstanding Subsection (42)(a), "mobility enhancing equipment" does not

565 include:

566 (i) a motor vehicle;

567 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

568 vehicle manufacturer;

569 (iii) durable medical equipment; or

570 (iv) a prosthetic device.

571 (43) "Model 1 seller" means a seller that has selected a certified service provider as the

572 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and

573 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the

574 seller's own purchases.

575 (44) "Model 2 seller" means a seller that:

576 (a) except as provided in Subsection (44)(b), has selected a certified automated system

577 to perform the seller's sales tax functions for agreement sales and use taxes; and

578 (b) notwithstanding Subsection (44)(a), retains responsibility for remitting all of the

579 sales tax:

580 (i) collected by the seller; and

581 (ii) to the appropriate local taxing jurisdiction.

582 (45) (a) Subject to Subsection (45)(b), "model 3 seller" means a seller that has:

583 (i) sales in at least five states that are members of the agreement;

- 584 (ii) total annual sales revenues of at least \$500,000,000;
- 585 (iii) a proprietary system that calculates the amount of tax:
- 586 (A) for an agreement sales and use tax; and
- 587 (B) due to each local taxing jurisdiction; and
- 588 (iv) entered into a performance agreement with the governing board of the agreement.
- 589 (b) For purposes of Subsection (45)(a), "model 3 seller" includes an affiliated group of
- 590 sellers using the same proprietary system.
- 591 (46) "Modular home" means a modular unit as defined in Section 58-56-3.
- 592 (47) "Motor vehicle" is as defined in Section 41-1a-102.
- 593 (48) (a) "Other fuels" means products that burn independently to produce heat or
- 594 energy.
- 595 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 596 personal property.
- 597 (49) "Person" includes any individual, firm, partnership, joint venture, association,
- 598 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 599 municipality, district, or other local governmental entity of the state, or any group or
- 600 combination acting as a unit.
- 601 (50) "Place of primary use":
- 602 (a) for telephone service other than mobile telecommunications service, means the
- 603 street address representative of where the purchaser's use of the telephone service primarily
- 604 occurs, which shall be:
- 605 (i) the residential street address of the purchaser; or
- 606 (ii) the primary business street address of the purchaser; or
- 607 (b) for mobile telecommunications service, is as defined in the Mobile
- 608 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 609 (51) "Postproduction" means an activity related to the finishing or duplication of a
- 610 medium described in Subsection 59-12-104(60)(a).
- 611 (52) (a) "Prepared food" means:
- 612 (i) food:
- 613 (A) sold in a heated state; or
- 614 (B) heated by a seller;

615 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
616 item; or

617 (iii) except as provided in Subsection (52)(c), food sold with an eating utensil provided
618 by the seller, including a:

619 (A) plate;

620 (B) knife;

621 (C) fork;

622 (D) spoon;

623 (E) glass;

624 (F) cup;

625 (G) napkin; or

626 (H) straw.

627 (b) "Prepared food" does not include:

628 (i) food that a seller only:

629 (A) cuts;

630 (B) repackages; or

631 (C) pasteurizes; or

632 (ii) (A) the following:

633 (I) raw egg;

634 (II) raw fish;

635 (III) raw meat;

636 (IV) raw poultry; or

637 (V) a food containing an item described in Subsections (52)(b)(ii)(A)(I) through (IV);

638 and

639 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
640 Food and Drug Administration's Food Code that a consumer cook the items described in
641 Subsection (52)(b)(ii)(A) to prevent food borne illness.

642 (c) Notwithstanding Subsection (52)(a)(iii), an eating utensil provided by the seller
643 does not include the following used to transport the food:

644 (i) a container; or

645 (ii) packaging.

646 (53) "Prescription" means an order, formula, or recipe that is issued:

647 (a) (i) orally;

648 (ii) in writing;

649 (iii) electronically; or

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

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

652 (54) (a) Except as provided in Subsection (54)(b)(ii) or (iii), "prewritten computer
653 software" means computer software that is not designed and developed:

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

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

656 (b) "Prewritten computer software" includes:

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

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

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

661 (ii) notwithstanding Subsection (54)(a), computer software designed and developed by
662 the author or other creator of the computer software to the specifications of a specific purchaser
663 if the computer software is sold to a person other than the purchaser; or

664 (iii) notwithstanding Subsection (54)(a) and except as provided in Subsection (54)(c),
665 prewritten computer software or a prewritten portion of prewritten computer software:

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

667 (B) if the modification or enhancement described in Subsection (54)(b)(iii)(A) is
668 designed and developed to the specifications of a specific purchaser.

669 (c) Notwithstanding Subsection (54)(b)(iii), "prewritten computer software" does not
670 include a modification or enhancement described in Subsection (54)(b)(iii) if the charges for
671 the modification or enhancement are:

672 (i) reasonable; and

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

675 (55) (a) "Prosthetic device" means a device that is:

676 (i) worn on or in the body to:

- 677 (A) artificially replace a missing portion of the body;
- 678 (B) prevent or correct a physical deformity or physical malfunction; or
- 679 (C) support a weak or deformed portion of the body; and
- 680 (ii) listed as eligible for payment under:
 - 681 (A) Title XVIII of the federal Social Security Act; or
 - 682 (B) the state plan for medical assistance under Title XIX of the federal Social Security
 - 683 Act.
- 684 (b) "Prosthetic device" includes:
 - 685 (i) parts used in the repairs or renovation of a prosthetic device; or
 - 686 (ii) replacement parts for a prosthetic device.
- 687 (c) "Prosthetic device" does not include:
 - 688 (i) corrective eyeglasses;
 - 689 (ii) contact lenses;
 - 690 (iii) hearing aids; or
 - 691 (iv) dental prostheses.
- 692 (56) (a) "Protective equipment" means an item:
 - 693 (i) for human wear; and
 - 694 (ii) that is:
 - 695 (A) designed as protection:
 - 696 (I) to the wearer against injury or disease; or
 - 697 (II) against damage or injury of other persons or property; and
 - 698 (B) not suitable for general use.
- 699 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 700 commission shall make rules:
 - 701 (i) listing the items that constitute "protective equipment"; and
 - 702 (ii) that are consistent with the list of items that constitute "protective equipment"
 - 703 under the agreement.
- 704 (57) (a) "Purchase price" and "sales price" mean the total amount of consideration:
 - 705 (i) valued in money; and
 - 706 (ii) for which tangible personal property or services are:
 - 707 (A) sold;

- 708 (B) leased; or
- 709 (C) rented.
- 710 (b) "Purchase price" and "sales price" include:
- 711 (i) the seller's cost of the tangible personal property or services sold;
- 712 (ii) expenses of the seller, including:
- 713 (A) the cost of materials used;
- 714 (B) a labor cost;
- 715 (C) a service cost;
- 716 (D) interest;
- 717 (E) a loss;
- 718 (F) the cost of transportation to the seller; or
- 719 (G) a tax imposed on the seller;
- 720 (iii) a charge by the seller for any service necessary to complete the sale;
- 721 (iv) a delivery charge; or
- 722 (v) an installation charge.
- 723 (c) "Purchase price" and "sales price" do not include:
- 724 (i) a discount:
- 725 (A) in a form including:
- 726 (I) cash;
- 727 (II) term; or
- 728 (III) coupon;
- 729 (B) that is allowed by a seller;
- 730 (C) taken by a purchaser on a sale; and
- 731 (D) that is not reimbursed by a third party; or
- 732 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 733 provided to the purchaser:
- 734 (A) the amount of a trade-in;
- 735 (B) the following from credit extended on the sale of tangible personal property or
- 736 services:
- 737 (I) interest charges;
- 738 (II) financing charges; or

- 739 (III) carrying charges; or
- 740 (C) a tax or fee legally imposed directly on the consumer.
- 741 (58) "Purchaser" means a person to whom:
- 742 (a) a sale of tangible personal property is made; or
- 743 (b) a service is furnished.
- 744 (59) "Regularly rented" means:
- 745 (a) rented to a guest for value three or more times during a calendar year; or
- 746 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 747 value.
- 748 (60) "Renewable energy" means:
- 749 (a) biomass energy;
- 750 (b) hydroelectric energy;
- 751 (c) geothermal energy;
- 752 (d) solar energy; or
- 753 (e) wind energy.
- 754 (61) (a) "Renewable energy production facility" means a facility that:
- 755 (i) uses renewable energy to produce electricity; and
- 756 (ii) has a production capacity of 20 kilowatts or greater.
- 757 (b) A facility is a renewable energy production facility regardless of whether the
- 758 facility is:
- 759 (i) connected to an electric grid; or
- 760 (ii) located on the premises of an electricity consumer.
- 761 (62) "Rental" is as defined in Subsection (35).
- 762 (63) "Residential use" means the use in or around a home, apartment building, sleeping
- 763 quarters, and similar facilities or accommodations.
- 764 (64) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 765 than:
- 766 (a) resale;
- 767 (b) sublease; or
- 768 (c) subrent.
- 769 (65) (a) "Retailer" means any person engaged in a regularly organized business in

770 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
771 who is selling to the user or consumer and not for resale.

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

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

777 (b) "Sale" includes:

778 (i) installment and credit sales;

779 (ii) any closed transaction constituting a sale;

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

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

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

787 (67) "Sale at retail" is as defined in Subsection (64).

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

790 (a) by a purchaser-lessee;

791 (b) to a lessor;

792 (c) for consideration; and

793 (d) if:

794 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
795 of the tangible personal property;

796 (ii) the sale of the tangible personal property to the lessor is intended as a form of
797 financing:

798 (A) for the property; and

799 (B) to the purchaser-lessee; and

800 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

801 is required to:

802 (A) capitalize the property for financial reporting purposes; and

803 (B) account for the lease payments as payments made under a financing arrangement.

804 (69) "Sales price" is as defined in Subsection (57).

805 (70) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
806 amounts charged by a school:

807 (i) sales that are directly related to the school's educational functions or activities

808 including:

809 (A) the sale of:

810 (I) textbooks;

811 (II) textbook fees;

812 (III) laboratory fees;

813 (IV) laboratory supplies; or

814 (V) safety equipment;

815 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

816 that:

817 (I) a student is specifically required to wear as a condition of participation in a
818 school-related event or school-related activity; and

819 (II) is not readily adaptable to general or continued usage to the extent that it takes the
820 place of ordinary clothing;

821 (C) sales of the following if the net or gross revenues generated by the sales are
822 deposited into a school district fund or school fund dedicated to school meals:

823 (I) food and food ingredients; or

824 (II) prepared food; or

825 (D) transportation charges for official school activities; or

826 (ii) amounts paid to or amounts charged by a school for admission to a school-related
827 event or school-related activity.

828 (b) "Sales relating to schools" does not include:

829 (i) bookstore sales of items that are not educational materials or supplies;

830 (ii) except as provided in Subsection (70)(a)(i)(B):

831 (A) clothing;

- 832 (B) clothing accessories or equipment;
- 833 (C) protective equipment; or
- 834 (D) sports or recreational equipment; or
- 835 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 836 event or school-related activity if the amounts paid or charged are passed through to a person:
- 837 (A) other than a:
- 838 (I) school;
- 839 (II) nonprofit organization authorized by a school board or a governing body of a
- 840 private school to organize and direct a competitive secondary school activity; or
- 841 (III) nonprofit association authorized by a school board or a governing body of a
- 842 private school to organize and direct a competitive secondary school activity; and
- 843 (B) that is required to collect sales and use taxes under this chapter.
- 844 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 845 commission may make rules defining the term "passed through."
- 846 (71) For purposes of this section and Section 59-12-104, "school" means:
- 847 (a) an elementary school or a secondary school that:
- 848 (i) is a:
- 849 (A) public school; or
- 850 (B) private school; and
- 851 (ii) provides instruction for one or more grades kindergarten through 12; or
- 852 (b) a public school district.
- 853 (72) "Seller" means a person that makes a sale, lease, or rental of:
- 854 (a) tangible personal property; or
- 855 (b) a service.
- 856 (73) (a) "Semiconductor fabricating or processing materials" means tangible personal
- 857 property:
- 858 (i) used primarily in the process of:
- 859 (A) (I) manufacturing a semiconductor; or
- 860 (II) fabricating a semiconductor; or
- 861 (B) maintaining an environment suitable for a semiconductor; or
- 862 (ii) consumed primarily in the process of:

- 863 (A) (I) manufacturing a semiconductor; or
- 864 (II) fabricating a semiconductor; or
- 865 (B) maintaining an environment suitable for a semiconductor.
- 866 (b) "Semiconductor fabricating or processing materials" includes:
- 867 (i) parts used in the repairs or renovations of tangible personal property described in
- 868 Subsection (73)(a); or
- 869 (ii) a chemical, catalyst, or other material used to:
- 870 (A) produce or induce in a semiconductor a:
- 871 (I) chemical change; or
- 872 (II) physical change;
- 873 (B) remove impurities from a semiconductor; or
- 874 (C) improve the marketable condition of a semiconductor.
- 875 (74) "Senior citizen center" means a facility having the primary purpose of providing
- 876 services to the aged as defined in Section 62A-3-101.
- 877 (75) "Simplified electronic return" means the electronic return:
- 878 (a) described in Section 318(C) of the agreement; and
- 879 (b) approved by the governing board of the agreement.
- 880 (76) "Solar energy" means the sun used as the sole source of energy for producing
- 881 electricity.
- 882 (77) (a) "Sports or recreational equipment" means an item:
- 883 (i) designed for human use; and
- 884 (ii) that is:
- 885 (A) worn in conjunction with:
- 886 (I) an athletic activity; or
- 887 (II) a recreational activity; and
- 888 (B) not suitable for general use.
- 889 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 890 commission shall make rules:
- 891 (i) listing the items that constitute "sports or recreational equipment"; and
- 892 (ii) that are consistent with the list of items that constitute "sports or recreational
- 893 equipment" under the agreement.

894 (78) "State" means the state of Utah, its departments, and agencies.

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

898 (80) (a) "Tangible personal property" means personal property that:

899 (i) may be:

900 (A) seen;

901 (B) weighed;

902 (C) measured;

903 (D) felt; or

904 (E) touched; or

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

906 (b) "Tangible personal property" includes:

907 (i) electricity;

908 (ii) water;

909 (iii) gas;

910 (iv) steam; or

911 (v) prewritten computer software.

912 (81) (a) "Telephone service" means a two-way transmission:

913 (i) by:

914 (A) wire;

915 (B) radio;

916 (C) lightwave; or

917 (D) other electromagnetic means; and

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

919 (A) a sign;

920 (B) a signal;

921 (C) writing;

922 (D) an image;

923 (E) sound;

924 (F) a message;

- 925 (G) data; or
- 926 (H) other information of any nature.
- 927 (b) "Telephone service" includes:
- 928 (i) mobile telecommunications service;
- 929 (ii) private communications service; or
- 930 (iii) automated digital telephone answering service.
- 931 (c) "Telephone service" does not include a service or a transaction that a state or a
- 932 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 933 Tax Freedom Act, Pub. L. No. 105-277.
- 934 (82) Notwithstanding where a call is billed or paid, "telephone service address" means:
- 935 (a) if the location described in this Subsection (82)(a) is known, the location of the
- 936 telephone service equipment:
- 937 (i) to which a call is charged; and
- 938 (ii) from which the call originates or terminates;
- 939 (b) if the location described in Subsection (82)(a) is not known but the location
- 940 described in this Subsection (82)(b) is known, the location of the origination point of the signal
- 941 of the telephone service first identified by:
- 942 (i) the telecommunications system of the seller; or
- 943 (ii) if the system used to transport the signal is not that of the seller, information
- 944 received by the seller from its service provider; or
- 945 (c) if the locations described in Subsection (82)(a) or (b) are not known, the location of
- 946 a purchaser's primary place of use.
- 947 (83) (a) "Telephone service provider" means a person that:
- 948 (i) owns, controls, operates, or manages a telephone service; and
- 949 (ii) engages in an activity described in Subsection (83)(a)(i) for the shared use with or
- 950 resale to any person of the telephone service.
- 951 (b) A person described in Subsection (83)(a) is a telephone service provider whether or
- 952 not the Public Service Commission of Utah regulates:
- 953 (i) that person; or
- 954 (ii) the telephone service that the person owns, controls, operates, or manages.
- 955 (84) "Tobacco" means:

- 956 (a) a cigarette;
- 957 (b) a cigar;
- 958 (c) chewing tobacco;
- 959 (d) pipe tobacco; or
- 960 (e) any other item that contains tobacco.
- 961 (85) (a) "Use" means the exercise of any right or power over tangible personal property
- 962 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item,
- 963 or service.
- 964 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
- 965 the regular course of business and held for resale.
- 966 (86) (a) Subject to Subsection (86)(b), "vehicle" means the following that are required
- 967 to be titled, registered, or titled and registered:
- 968 (i) an aircraft as defined in Section 72-10-102;
- 969 (ii) a vehicle as defined in Section 41-1a-102;
- 970 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 971 (iv) a vessel as defined in Section 41-1a-102.
- 972 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:
- 973 (i) a vehicle described in Subsection (86)(a); or
- 974 (ii) (A) a locomotive;
- 975 (B) a freight car;
- 976 (C) railroad work equipment; or
- 977 (D) other railroad rolling stock.
- 978 (87) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 979 exchanging a vehicle as defined in Subsection (86).
- 980 (88) (a) Except as provided in Subsection (88)(b), "waste energy facility" means a
- 981 facility that generates electricity:
- 982 (i) using as the primary source of energy waste materials that would be placed in a
- 983 landfill or refuse pit if it were not used to generate electricity, including:
- 984 (A) tires;
- 985 (B) waste coal; or
- 986 (C) oil shale; and

987 (ii) in amounts greater than actually required for the operation of the facility.

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

989 (i) municipal solid waste;

990 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

991 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

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

993 (90) "Wind energy" means wind used as the sole source of energy to produce
994 electricity.

995 (91) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
996 location by the United States Postal Service.

997 Section 5. Section **59-12-207.1** is amended to read:

998 **59-12-207.1. Definitions -- Location of certain transactions -- Reports to**
999 **commission -- Direct payment provision for a seller making certain purchases --**
1000 **Exceptions -- Rulemaking authority.**

1001 (1) As used in this section:

1002 (a) (i) "Receive" and "receipt" mean:

1003 (A) taking possession of tangible personal property;

1004 (B) making first use of services; or

1005 (C) for a digital good, the earlier of:

1006 (I) taking possession of tangible personal property; or

1007 (II) making first use of services.

1008 (ii) "Receive" and "receipt" do not include possession by a shipping company on behalf
1009 of a purchaser.

1010 (b) "Transportation equipment" means:

1011 (i) a locomotive or railcar that is utilized for the carriage of persons or property in
1012 interstate commerce;

1013 (ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more
1014 that is:

1015 (A) registered under Section 41-1a-301; and

1016 (B) operated under the authority of a carrier authorized and certificated:

1017 (I) by the United States Department of Transportation or another federal authority; and

- 1018 (II) to engage in the carriage of persons or property in interstate commerce;
- 1019 (iii) a trailer, semitrailer, or passenger bus that is:
- 1020 (A) registered under Section 41-1a-301; and
- 1021 (B) operated under the authority of a carrier authorized and certificated:
- 1022 (I) by the United States Department of Transportation or another federal authority; and
- 1023 (II) to engage in the carriage of persons or property in interstate commerce;
- 1024 (iv) an aircraft that is operated by an air carrier authorized and certificated:
- 1025 (A) by the United States Department of Transportation or another federal or foreign
- 1026 authority; and
- 1027 (B) to engage in the carriage of persons or property in interstate commerce; or
- 1028 (v) a container designed for use on, or a component part attached or secured on an item
- 1029 listed in Subsections (1)(b)(i) through (iv).
- 1030 (2) Except as provided in Subsections (8) and (14), if tangible personal property or a
- 1031 service that is subject to taxation under this chapter is received by a purchaser at a business
- 1032 location of a seller, the location of the transaction is the business location of the seller.
- 1033 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
- 1034 and (14), if tangible personal property or a service that is subject to taxation under this chapter
- 1035 is not received by a purchaser at a business location of a seller, the location of the transaction is
- 1036 the location where the purchaser takes receipt of the tangible personal property or services.
- 1037 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
- 1038 and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location
- 1039 indicated by an address for or other information on the purchaser if:
- 1040 (a) the address or other information is available from the seller's business records; and
- 1041 (b) use of the address or other information from the seller's records does not constitute
- 1042 bad faith.
- 1043 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
- 1044 (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
- 1045 location indicated by an address for the purchaser if:
- 1046 (i) the address was obtained during the consummation of the transaction; and
- 1047 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
- 1048 (b) An address used under Subsection (5)(a) may include the address of a purchaser's

1049 payment instrument if no other address is available.

1050 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1051 and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
1052 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the
1053 location indicated by the address from which:

1054 (a) except as provided in Subsection (6)(b), for tangible personal property that is
1055 subject to taxation under this chapter, the tangible personal property was shipped;

1056 (b) notwithstanding Subsection (6)(a), for computer software delivered electronically
1057 or a digital good that is subject to taxation under this chapter, the computer software delivered
1058 electronically or digital good was first available for transmission by the seller; or

1059 (c) for a service that is subject to taxation under this chapter, the service was provided.

1060 (7) (a) As used in this Subsection (7), "shared ZIP Code" means:

1061 (i) a nine-digit ZIP Code that is located within two or more local taxing jurisdictions;

1062 or

1063 (ii) a five-digit ZIP Code that is located within two or more local taxing jurisdictions if:

1064 (A) a nine-digit ZIP Code is not available for a location; or

1065 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code
1066 for a location.

1067 (b) Notwithstanding Subsections (3) through (6) and except as provided in Subsection
1068 (7)(d)(ii), if the location of a transaction determined under Subsections (3) through (6) is in a
1069 shared ZIP Code, the location of the transaction is:

1070 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
1071 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
1072 agreement combined tax rate; or

1073 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
1074 rate for the shared ZIP Code, the local taxing jurisdiction that:

1075 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

1076 (B) has located within the local taxing jurisdiction the largest number of street
1077 addresses within the shared ZIP Code.

1078 (c) A seller shall collect a tax imposed under this chapter at the lowest agreement
1079 combined tax rate imposed within the local taxing jurisdiction in which the transaction is

1080 located under Subsection (7)(b) notwithstanding the following:

- 1081 (i) Section 59-12-204;
- 1082 (ii) Section 59-12-401;
- 1083 (iii) Section 59-12-402;
- 1084 (iv) Section 59-12-501;
- 1085 (v) Section 59-12-501.5;
- 1086 [~~(v)~~] (vi) Section 59-12-502;
- 1087 (vii) Section 59-12-502.5;
- 1088 [~~(vi)~~] (viii) Section 59-12-703;
- 1089 [~~(vii)~~] (ix) Section 59-12-802;
- 1090 [~~(viii)~~] (x) Section 59-12-804;
- 1091 [~~(ix)~~] (xi) Section 59-12-1001;
- 1092 [~~(x)~~] (xii) Section 59-12-1102;
- 1093 [~~(xi)~~] (xiii) Section 59-12-1302;
- 1094 [~~(xii)~~] (xiv) Section 59-12-1402; and
- 1095 [~~(xiii)~~] (xv) Section 59-12-1503.

1096 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1097 commission may make rules:

1098 (i) providing for the circumstances under which a seller has exercised due diligence in
1099 determining the nine-digit ZIP Code for an address; or

1100 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
1101 within which a transaction is located if a seller is unable to determine the local taxing
1102 jurisdiction within which the transaction is located under Subsection (7)(b).

1103 (8) Notwithstanding Subsections (2) through (6), the location of a transaction made
1104 with a direct payment permit described in Section 59-12-107.1 is:

1105 (a) for a tax imposed under Section 59-12-204, the location determined under Section
1106 59-12-205; or

1107 (b) for a tax imposed under this chapter other than under Section 59-12-204, the
1108 location at which the tangible personal property or service purchased using the direct payment
1109 permit is used.

1110 (9) Notwithstanding Subsections (3) through (5), the location of a purchase of direct

1111 mail is the location described in Subsection (6), if the purchaser of the direct mail:
1112 (a) has not been issued a direct payment permit under Section 59-12-107.1; and
1113 (b) does not provide the seller the form or information described in Subsection
1114 59-12-107.3(1).

1115 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
1116 determined under Subsections (3) through (6), (8), and (9), is the local taxing jurisdiction
1117 within which:

1118 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
1119 through (6), (8), and (9) is located; or
1120 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
1121 through (6), (8), and (9) is located if:

1122 (A) a nine-digit ZIP Code is not available for the location determined under
1123 Subsections (3) through (6), (8), and (9); or
1124 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code
1125 for the location determined under Subsections (3) through (6), (8), and (9).

1126 (b) Notwithstanding Subsection (10)(a), in accordance with Title 63, Chapter 46a, Utah
1127 Administrative Rulemaking Act, the commission may make rules for determining the local
1128 taxing jurisdiction within which a transaction is located if a seller is unable to determine the
1129 local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1130 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
1131 transaction commenced by a florist that transmits an order:

1132 (i) by:

1133 (A) telegraph;
1134 (B) telephone; or
1135 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and
1136 (ii) for delivery to another place:

1137 (A) in this state; or
1138 (B) outside this state.

1139 (b) Notwithstanding Subsections (3) through (6), beginning on July 1, 2004, through
1140 December 31, 2005, the location of a florist delivery transaction is the business location of the
1141 florist that commences the florist delivery transaction.

1142 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1143 commission may by rule:

1144 (i) define the terms:

1145 (A) "business location"; and

1146 (B) "florist";

1147 (ii) define what constitutes a means of communication similar to Subsection

1148 (11)(a)(i)(A) or (B); and

1149 (iii) provide procedures for determining when a transaction is commenced.

1150 (12) If a purchaser knows at the time that the purchaser purchases a service, prewritten
1151 computer software delivered electronically, or a digital good that the service, prewritten
1152 computer software delivered electronically, or digital good will be concurrently available for
1153 use in more than one location, the purchaser shall:

1154 (a) determine the location of the transaction under this section for each location in
1155 which the service, prewritten computer software delivered electronically, or digital good will
1156 be concurrently available for use; and

1157 (b) apportion the purchase price of the service, prewritten computer software delivered
1158 electronically, or digital good:

1159 (i) among each location determined under Subsection (12)(a); and

1160 (ii) in accordance with Section 59-12-107.2.

1161 (13) (a) A tax collected under this chapter shall be reported to the commission on a
1162 form that identifies the location of each transaction that occurred during the return filing
1163 period.

1164 (b) The form described in Subsection (13)(a) shall be filed with the commission as
1165 required under this chapter.

1166 (14) This section does not apply to:

1167 (a) amounts charged by a seller for:

1168 (i) telephone service;

1169 (ii) the retail sale or transfer of:

1170 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

1171 (B) an aircraft other than an aircraft that is transportation equipment;

1172 (C) a watercraft;

- 1173 (D) a modular home;
- 1174 (E) a manufactured home; or
- 1175 (F) a mobile home; or
- 1176 (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal
- 1177 property other than tangible personal property that is transportation equipment; or
- 1178 (b) a tax paid under this chapter:
- 1179 (i) by a seller; and
- 1180 (ii) for the seller's purchases.

1181 Section 6. Section **59-12-501** is amended to read:

1182 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

1183 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in

1184 addition to other sales and use taxes, any county, city, or town within a transit district

1185 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a

1186 sales and use tax of [~~up to~~] .25% on the transactions described in Subsection 59-12-103(1)

1187 located within the county, city, or town, to fund a public transportation system.

1188 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax

1189 under this section on the sales and uses described in Section 59-12-104 to the extent the sales

1190 and uses are exempt from taxation under Section 59-12-104.

1191 (b) For purposes of this Subsection (1), the location of a transaction shall be

1192 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1193 (c) (i) A county, city, or town may impose a tax under this section only if the governing

1194 body of the county, city, or town, by resolution, submits the proposal to all the qualified voters

1195 within the county, city, or town for approval at a general or special election conducted in the

1196 manner provided by statute.

1197 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an

1198 area to a public transit district or local district and approving for that annexed area the sales and

1199 use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for

1200 the area to be annexed to the public transit district or local district.

1201 (2) (a) If only a portion of a county is included within a public transit district, the

1202 proposal may be submitted only to the qualified voters residing within the boundaries of the

1203 proposed or existing public transit district.

1204 (b) Notice of any such election shall be given by the county, city, or town governing
1205 body 15 days in advance in the manner prescribed by statute.

1206 (c) If a majority of the voters voting in such election approve the proposal, it shall
1207 become effective on the date provided by the county, city, or town governing body.

1208 (3) This section may not be construed to require an election in jurisdictions where
1209 voters have previously approved a public transit sales or use tax.

1210 Section 7. Section **59-12-501.5** is enacted to read:

1211 **59-12-501.5. Countywide public transit tax -- Base -- Rate -- Voter Approval.**

1212 (1) As used in this section, "public transit district" means a public transit district
1213 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act that has more
1214 than 200,000 people residing within the district boundaries.

1215 (2) (a) Subject to the other provisions of this part, if a single public transit district has
1216 60% or more of the population of a county residing within the public transit district boundaries,
1217 beginning on or after July 1, 2005, the county legislative body may impose a sales and use tax
1218 of .25%:

1219 (i) except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), on the transactions:

1220 (A) described in Subsection 59-12-103(1);

1221 (B) within the county, including the cities and towns within the county;

1222 (ii) for the purpose of funding public transportation system operations, costs, and
1223 improvements.

1224 (b) Notwithstanding Subsection (2)(a)(i), a county legislative body may not impose a
1225 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
1226 sales and uses are exempt from taxation under Section 59-12-104.

1227 (c) For purposes of this Subsection (2), the location of a transaction shall be
1228 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1229 (d) (i) Population figures for purposes of this section shall be based on the most recent
1230 official census or census estimate of the United States Census Bureau.

1231 (ii) If a needed population estimate is not available from the United States Census
1232 Bureau, population figures shall be derived from the estimate from the Utah Population
1233 Estimates Committee created by executive order of the governor.

1234 (3) (a) Before imposing a tax under this section, a county legislative body shall:

- 1235 (i) adopt a resolution to impose a tax under this section; and
1236 (ii) submit an opinion question to the county's registered voters voting on the
1237 imposition of the tax so that each registered voter has the opportunity to express the registered
1238 voter's opinion on whether a tax should be imposed under this section.
- 1239 (b) The election required by this Subsection (3) shall be held:
1240 (i) (A) at a regular general election; and
1241 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
1242 governing regular general elections; or
1243 (ii) (A) at a special election called by the county legislative body;
1244 (B) only on the date of a municipal general election provided in Subsection
1245 20A-1-202(1); and
1246 (C) in accordance with the procedures and requirements of Title 20A, Election Code,
1247 for holding municipal general elections.
- 1248 (c) The ballot question for the opinion question submitted under Subsection (3)(a) shall
1249 read:
1250 "Shall a county be a part of that public transit district?
1251 If a majority of the county's registered voters voting in the election approve becoming a
1252 part of that public transit district, the county shall be annexed into the public transit district and
1253 a sales and use tax of .25% shall be imposed countywide to fund public transportation
1254 operations, costs, and improvements of the transit district. The .25% sales and use tax shall
1255 supersede the existing sales and use taxes imposed by the county or a city or town within the
1256 county that are used to fund public transportation."
- 1257 (4) If the majority of the county's registered voters voting in the election on the
1258 proposal under Subsection (3), vote in favor of the proposal described in Subsection (3):
1259 (a) the county shall be annexed into the public transit district;
1260 (b) the county legislative body shall provide notice to the commission of the imposition
1261 of a tax under this section within 30 days after the canvass of the election described in
1262 Subsection (3);
1263 (c) the tax under this section shall take effect on the first day of the calendar quarter
1264 after the 90-day period described in Subsection 59-12-504(2);
1265 (d) subject to Subsection (4)(e) and (f), if a city or town located within the county

1266 imposes a tax under Section 59-12-501 or the county imposes a tax under Section 59-12-501
1267 the tax shall be repealed:

1268 (i) on the day on which a tax under this section takes effect in accordance with
1269 Subsection (4)(c); and

1270 (ii) in accordance with Section 59-12-504;

1271 (e) (i) if, on the day on which a tax under this section takes effect as provided in
1272 Subsection (4)(c), any revenues generated by a tax imposed by a city or town under Section
1273 59-12-501 are used as a source of repayment for debt service on any bonded indebtedness or
1274 other obligations:

1275 (A) the county legislative body shall distribute to the city or town an amount of
1276 revenues generated by a tax under this section equal to the amount necessary to pay the debt
1277 service on the bonded indebtedness or other obligations; and

1278 (B) the city or town shall expend the amount described in Subsection (4)(e)(i)(A) to
1279 repay the bonded indebtedness;

1280 (ii) the city or town may through an interlocal agreement, authorize the distribution
1281 directly to the public transit district or other entity to pay the debt or other obligation;

1282 (f) if, on the day on which a tax under this section takes effect as provided in
1283 Subsection (4)(c), any revenues generated by a tax imposed by a county under Section
1284 59-12-501 are used as a source of repayment for debt service on any bonded indebtedness or
1285 other obligations, the county legislative body shall use the revenues generated by a tax under
1286 this section to repay the bonded indebtedness; and

1287 (g) if a county has adopted a resolution under Subsection (3)(a), a transit district may
1288 not incur any new debt or obligation using revenue under Section 59-12-501 for a county that
1289 has expressed its intent to hold an election under this section until after the election results
1290 have been certified.

1291 (5) If a county legislative body imposes a tax under this section and a majority of the
1292 county's registered voters voting in an election under Subsection (3) vote in favor of the
1293 imposition of a tax under this section, beginning on the date the tax under this section is
1294 imposed:

1295 (a) the county legislative body may not impose a sales and use tax under Section
1296 59-12-501; and

1297 (b) a city or town within the county may not impose a sales and use tax under Section
1298 59-12-501 or 59-12-502.

1299 Section 8. Section **59-12-502** is amended to read:

1300 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
1301 **and interstate improvements -- Base -- Rate -- Voter approval.**

1302 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in
1303 addition to other sales and use taxes, including the public transit district tax authorized by
1304 Section 59-12-501, a county, city, or town within a transit district organized under Title 17A,
1305 Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of .25% on
1306 the transactions described in Subsection 59-12-103(1) located within the county, city, or town,
1307 to fund a fixed guideway and expanded public transportation system.

1308 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1309 under this section on the sales and uses described in Section 59-12-104 to the extent the sales
1310 and uses are exempt from taxation under Section 59-12-104.

1311 (b) For purposes of this Subsection (1), the location of a transaction shall be
1312 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1313 (c) (i) A county, city, or town may impose the tax under this section only if the
1314 governing body of the county, city, or town submits, by resolution, the proposal to all the
1315 qualified voters within the county, city, or town for approval at a general or special election
1316 conducted in the manner provided by statute.

1317 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
1318 or town governing body 15 days in advance in the manner prescribed by statute.

1319 (2) If the majority of the voters voting in this election approve the proposal, it shall
1320 become effective on the date provided by the county, city, or town governing body.

1321 (3) (a) This section may not be construed to require an election in jurisdictions where
1322 voters have previously approved a public transit sales or use tax.

1323 (b) This section shall be construed to require an election to impose the sales and use
1324 tax authorized by this section, including jurisdictions where the voters have previously
1325 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
1326 construed to affect the sales and use tax authorized by Section 59-12-501.

1327 (4) No public funds shall be spent to promote the required election.

1328 (5) (a) Notwithstanding the designated use of revenues in Subsection (1) and subject to
1329 Subsections (5)(b) and (c), of the revenues generated by the tax imposed under this section by
1330 any county of the first class:

1331 ~~[(a)]~~ (i) 75% shall be allocated to fund a fixed guideway and expanded public
1332 transportation system; and

1333 ~~[(b)]~~ (ii) 25% shall be allocated to fund new construction, major renovations, and
1334 improvements to Interstate 15 and state highways within the county and to pay any debt service
1335 and bond issuance costs related to those projects.

1336 (b) Beginning on July 1, 2005, a bond may not be issued to fund new construction,
1337 major renovations, and improvements to Interstate 15 and state highways within the county if
1338 the bond is intended to be paid from revenues allocated under Subsection (5)(a)(ii).

1339 (c) When all bonds incurred before July 1, 2005 for new construction, major
1340 renovations, and improvements to Interstate 15 and state highways within the county which
1341 were intended to be paid from revenues allocated under Subsection (5)(a)(ii) have been paid
1342 off, the revenues generated by the tax imposed under this section that are allocated under
1343 Subsection (5)(a)(ii) shall be allocated to fund a fixed guideway and expanded public
1344 transportation system.

1345 (6) ~~[(A)]~~ Subject to Subsections (5)(b) and (c), a county of the first class may, through an
1346 interlocal agreement, authorize the deposit or transfer of the portion of the revenues described
1347 in Subsection (5)~~[(b)]~~ (a)(ii) to the Public Transportation System Tax Highway Fund created in
1348 Section 72-2-121.

1349 Section 9. Section **59-12-502.5** is enacted to read:

1350 **59-12-502.5. Countywide public transit tax for public transportation costs and**
1351 **improvements - Base -- Equalized rate -- Voter approval.**

1352 (1) As used in this section, "public transit district" means a public transit district
1353 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, that has more
1354 than 200,000 people residing within the district boundaries.

1355 (2) (a) Subject to the other provisions of this part, if a single public transit district has
1356 60% or more of the population of a county residing within the public transit district boundaries,
1357 beginning on or after July 1, 2005, the county legislative body may impose a sales and use tax
1358 of .50%:

- 1359 (i) except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), on the transactions:
1360 (A) described in Subsection 59-12-103(1); and
1361 (B) within the county, including the cities and towns within the county; and
1362 (ii) for the purpose of funding public transportation system operations, costs, and
1363 improvements.
- 1364 (b) Notwithstanding Subsection (2)(a)(i), a county legislative body may not impose a
1365 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
1366 sales and uses are exempt from taxation under Section 59-12-104.
- 1367 (c) For purposes of this Subsection (2), the location of a transaction shall be
1368 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.
- 1369 (d) (i) Population figures for purposes of this section shall be based on the most recent
1370 official census or census estimate of the United States Census Bureau.
- 1371 (ii) If a needed population estimate is not available from the United States Census
1372 Bureau, population figures shall be derived from the estimate from the Utah Population
1373 Estimates Committee created by executive order of the governor.
- 1374 (3) (a) Before imposing a tax under this section, a county legislative body shall:
1375 (i) adopt a resolution to impose a tax under this section; and
1376 (ii) submit an opinion question to the county's registered voters voting on the
1377 imposition of the tax so that each registered voter has the opportunity to express the registered
1378 voter's opinion on whether a tax should be imposed under this section.
- 1379 (b) The election required by this Subsection (3) shall be held:
1380 (i) (A) at a regular general election; and
1381 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
1382 governing regular general elections; or
1383 (ii) (A) at a special election called by the county legislative body;
1384 (B) only on the date of a municipal general election provided in Subsection
1385 20A-1-202(1); and
1386 (C) in accordance with the procedures and requirements of Title 20A, Election Code,
1387 for holding municipal general elections.
- 1388 (c) The ballot question for the proposal submitted under Subsection (3)(a) shall read:
1389 "Shall the county be a part of the public transit district?"

1390 If a majority of the county's registered voters voting in the election approve becoming a
1391 part of that public transit district, the county shall be annexed into the public transit district and
1392 a sales and use tax of .50% shall be imposed countywide to fund public transportation
1393 operations, costs, and improvements of the transit district. The .50% sales and use tax shall
1394 supersede the existing sales and use taxes imposed by the county or a city or town within the
1395 county that are used to fund public transportation."

1396 (4) If a majority of the county's registered voters voting in the election on the proposal
1397 under Subsection (3), vote in favor of the proposal described in Subsection (3):

1398 (a) the county shall be annexed into the public transit district;

1399 (b) the county legislative body shall provide notice to the commission of the imposition
1400 of a tax under this section within 30 days after the canvass of the election described in
1401 Subsection (3);

1402 (c) the tax under this section shall take effect on the first day of the first calendar
1403 quarter after the 90-day period described in Subsection 59-12-504(2);

1404 (d) subject to Subsections (4)(e) and (f), if a city or town located within the county
1405 imposes a tax under Section 59-12-501 or 59-12-502 or the county imposes a tax under Section
1406 59-12-501, 59-12-501.5, or 59-12-502 the tax shall be repealed:

1407 (i) on the day on which a tax under this section takes effect in accordance with
1408 Subsection (4)(c); and

1409 (ii) in accordance with Section 59-12-504;

1410 (e) (i) if, on the day on which a tax under this section takes effect as provided in
1411 Subsection (4)(c), any revenues generated by a tax imposed by a city or town under Section
1412 59-12-501 or 59-12-502 are used as a source of repayment for debt service on any bonded
1413 indebtedness or other obligations:

1414 (A) the county legislative body shall distribute to the city or town an amount of
1415 revenues generated by a tax under this section equal to the amount necessary to pay the debt
1416 service on the bonded indebtedness or other obligations; and

1417 (B) the city or town shall expend the amount described in Subsection (4)(e)(i)(A) to
1418 repay the bonded indebtedness;

1419 (ii) the city or town may through an interlocal agreement, authorize the distribution
1420 directly to the public transit district or other entity to pay the debt or other obligation;

1421 (f) if, on the day on which a tax under this section takes effect as provided in
1422 Subsection (4)(c), any revenues generated by a tax imposed by a county under Section
1423 59-12-501, 59-12-501.5, or 59-12-502 are used as a source of repayment for debt service on
1424 any bonded indebtedness or other obligations, the county legislative body shall use the
1425 revenues generated by a tax under this section to repay the bonded indebtedness; and

1426 (g) if a county has adopted a resolution under Subsection (3)(a), a transit district may
1427 not incur any new debt or obligation using revenue under Section 59-12-501, 59-12-501.5, or
1428 59-12-502 for a county that has expressed its intent to hold an election under this section until
1429 after the election results have been certified.

1430 (5) If a county legislative body imposes a tax under this section and a majority of the
1431 county's registered voters voting in an election under Subsection (3) vote in favor of the
1432 imposition of a tax under this section, beginning on the date the tax under this section is
1433 imposed:

1434 (a) the county legislative body may not impose a sales and use tax under Sections
1435 59-12-501, 59-12-501.5, and 59-12-502; and

1436 (b) a city or town within the county may not impose a sales and use tax under Section
1437 59-12-501 or 59-12-502.

1438 Section 10. Section **59-12-503** is amended to read:

1439 **59-12-503. Public transit taxes -- Local option direct transfer.**

1440 A county or municipality may elect, in writing, to have the portion of the monthly funds
1441 transfer that is collected as a public transit sales and use tax under Sections 59-12-501 [~~and~~],
1442 59-12-501.5, 59-12-502, and 59-12-502.5 to be transferred directly to a designated public
1443 transit district, subject to the same charge as described under Section 59-12-206.

1444 Section 11. Section **59-12-504** is amended to read:

1445 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
1446 **Administration, collection, and enforcement of tax.**

1447 (1) For purposes of this section:

1448 (a) "Annexation" means an annexation to:

1449 (i) a county under Title 17, Chapter 2, Annexation to County; or

1450 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1451 (b) "Annexing area" means an area that is annexed into a county, city, or town.

1452 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
1453 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
1454 effect:

1455 (i) on the first day of a calendar quarter; and

1456 (ii) after a 90-day period beginning on the date the commission receives notice meeting
1457 the requirements of Subsection (2)(b) from the county, city, or town.

1458 (b) The notice described in Subsection (2)(a)(ii) shall state:

1459 (i) that the county, city, or town will enact or repeal a tax under this part;

1460 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

1461 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

1462 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
1463 of the tax.

1464 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
1465 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

1466 (A) that begins after the effective date of the enactment of the tax; and

1467 (B) if the billing period for the transaction begins before the effective date of the
1468 enactment of the tax under:

1469 (I) Section 59-12-501; [~~or~~]

1470 (II) Section 59-12-501.5;

1471 [~~(III)~~] (III) Section 59-12-502[-]; or

1472 (IV) Section 59-12-502.5.

1473 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
1474 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1475 (A) that began before the effective date of the repeal of the tax; and

1476 (B) if the billing period for the transaction begins before the effective date of the repeal
1477 of the tax imposed under:

1478 (I) Section 59-12-501; [~~or~~]

1479 (II) Section 59-12-501.5;

1480 [~~(III)~~] (III) Section 59-12-502[-]; or

1481 (IV) Section 59-12-502.5.

1482 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

- 1483 (A) Subsection 59-12-103(1)(b);
- 1484 (B) Subsection 59-12-103(1)(c);
- 1485 (C) Subsection 59-12-103(1)(d);
- 1486 (D) Subsection 59-12-103(1)(e);
- 1487 (E) Subsection 59-12-103(1)(f);
- 1488 (F) Subsection 59-12-103(1)(g);
- 1489 (G) Subsection 59-12-103(1)(h);
- 1490 (H) Subsection 59-12-103(1)(i);
- 1491 (I) Subsection 59-12-103(1)(j); or
- 1492 (J) Subsection 59-12-103(1)(k).
- 1493 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
- 1494 sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1495 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
- 1496 (A) on the first day of a calendar quarter; and
- 1497 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1498 Subsection (2)(a).
- 1499 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1500 the commission may by rule define the term "catalogue sale."
- 1501 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
- 1502 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 1503 part for an annexing area, the enactment or repeal shall take effect:
- 1504 (i) on the first day of a calendar quarter; and
- 1505 (ii) after a 90-day period beginning on the date the commission receives notice meeting
- 1506 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
- 1507 area.
- 1508 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 1509 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 1510 repeal of a tax under this part for the annexing area;
- 1511 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 1512 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 1513 (iv) the rate of the tax described in Subsection (3)(b)(i).

1514 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
1515 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

1516 (A) that begins after the effective date of the enactment of the tax; and

1517 (B) if the billing period for the transaction begins before the effective date of the
1518 enactment of the tax under:

1519 (I) Section 59-12-501; [~~or~~]

1520 (II) Section 59-12-501.5;

1521 [~~(III)~~] (III) Section 59-12-502[-]; or

1522 (IV) Section 59-12-502.5.

1523 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
1524 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1525 (A) that began before the effective date of the repeal of the tax; and

1526 (B) if the billing period for the transaction begins before the effective date of the repeal
1527 of the tax imposed under:

1528 (I) Section 59-12-501; [~~or~~]

1529 (II) Section 59-12-501.5;

1530 [~~(III)~~] (III) Section 59-12-502[-]; or

1531 (IV) Section 59-12-502.5.

1532 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

1533 (A) Subsection 59-12-103(1)(b);

1534 (B) Subsection 59-12-103(1)(c);

1535 (C) Subsection 59-12-103(1)(d);

1536 (D) Subsection 59-12-103(1)(e);

1537 (E) Subsection 59-12-103(1)(f);

1538 (F) Subsection 59-12-103(1)(g);

1539 (G) Subsection 59-12-103(1)(h);

1540 (H) Subsection 59-12-103(1)(i);

1541 (I) Subsection 59-12-103(1)(j); or

1542 (J) Subsection 59-12-103(1)(k).

1543 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
1544 sale is computed on the basis of sales and use tax rates published in the catalogue, an

1545 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

1546 (A) on the first day of a calendar quarter; and

1547 (B) beginning 60 days after the effective date of the enactment or repeal under
1548 Subsection (3)(a).

1549 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1550 the commission may by rule define the term "catalogue sale."

1551 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
1552 administered, collected, and enforced in accordance with:

1553 (i) the same procedures used to administer, collect, and enforce the tax under:

1554 (A) Part 1, Tax Collection; or

1555 (B) Part 2, Local Sales and Use Tax Act; and

1556 (ii) Chapter 1, General Taxation Policies.

1557 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
1558 Subsections 59-12-205(2) through (9).

1559 (c) (i) The commission may retain an amount of tax collected under this part of not to
1560 exceed the lesser of:

1561 (A) 1.5%; or

1562 (B) an amount equal to the cost to the commission of administering this part.

1563 (ii) Any amount the commission retains under Subsection (4)(c)(i) shall be:

1564 (A) placed in the Sales and Use Tax Administrative Fees Account; and

1565 (B) used as provided in Subsection 59-12-206(2).

1566 Section 12. Section **59-12-1001** is amended to read:

1567 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
1568 **transit -- Ordinance requirements -- Voter approval requirements -- Election**
1569 **requirements -- Notice of election requirements -- Exceptions to voter approval**
1570 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

1571 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a city or town
1572 in which the transactions described in Subsection 59-12-103(1) are not subject to a sales and
1573 use tax under Section 59-12-501, 59-12-501.5, or 59-12-502.5 may as provided in this part
1574 impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1)
1575 located within the city or town.

1576 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
1577 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1578 exempt from taxation under Section 59-12-104.

1579 (c) For purposes of this Subsection (1), the location of a transaction shall be
1580 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1581 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
1582 the tax:

1583 (i) for the construction and maintenance of highways under the jurisdiction of the city
1584 or town imposing the tax;

1585 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

1586 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

1587 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
1588 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

1589 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
1590 guideway system.

1591 (3) To impose a tax under this part, the governing body of the city or town shall:

1592 (a) pass an ordinance approving the tax; and

1593 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
1594 in Subsection (4).

1595 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

1596 (a) hold an election during:

1597 (i) a regular general election; or

1598 (ii) a municipal general election; and

1599 (b) publish notice of the election:

1600 (i) 15 days or more before the day on which the election is held; and

1601 (ii) in a newspaper of general circulation in the city or town.

1602 (5) An ordinance approving a tax under this part shall provide an effective date for the
1603 tax as provided in Subsection (6).

1604 (6) (a) For purposes of this Subsection (6):

1605 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
1606 4, Annexation.

- 1607 (ii) "Annexing area" means an area that is annexed into a city or town.
- 1608 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city
- 1609 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 1610 (A) on the first day of a calendar quarter; and
- 1611 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1612 the requirements of Subsection (6)(b)(ii) from the city or town.
- 1613 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 1614 (A) that the city or town will enact or repeal a tax under this part;
- 1615 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 1616 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 1617 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
- 1618 the tax.
- 1619 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 1620 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1621 (A) that begins after the effective date of the enactment of the tax; and
- 1622 (B) if the billing period for the transaction begins before the effective date of the
- 1623 enactment of the tax under Subsection (1).
- 1624 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 1625 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1626 (A) that began before the effective date of the repeal of the tax; and
- 1627 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1628 of the tax imposed under Subsection (1).
- 1629 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1630 (A) Subsection 59-12-103(1)(b);
- 1631 (B) Subsection 59-12-103(1)(c);
- 1632 (C) Subsection 59-12-103(1)(d);
- 1633 (D) Subsection 59-12-103(1)(e);
- 1634 (E) Subsection 59-12-103(1)(f);
- 1635 (F) Subsection 59-12-103(1)(g);
- 1636 (G) Subsection 59-12-103(1)(h);
- 1637 (H) Subsection 59-12-103(1)(i);

- 1638 (I) Subsection 59-12-103(1)(j); or
- 1639 (J) Subsection 59-12-103(1)(k).
- 1640 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
- 1641 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1642 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
- 1643 (A) on the first day of a calendar quarter; and
- 1644 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1645 Subsection (6)(b)(i).
- 1646 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1647 the commission may by rule define the term "catalogue sale."
- 1648 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
- 1649 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 1650 part for an annexing area, the enactment or repeal shall take effect:
- 1651 (A) on the first day of a calendar quarter; and
- 1652 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1653 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.
- 1654 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
- 1655 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
- 1656 repeal of a tax under this part for the annexing area;
- 1657 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
- 1658 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
- 1659 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
- 1660 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
- 1661 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1662 (A) that begins after the effective date of the enactment of the tax; and
- 1663 (B) if the billing period for the transaction begins before the effective date of the
- 1664 enactment of the tax under Subsection (1).
- 1665 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
- 1666 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1667 (A) that began before the effective date of the repeal of the tax; and
- 1668 (B) if the billing period for the transaction begins before the effective date of the repeal

- 1669 of the tax imposed under Subsection (1).
- 1670 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
- 1671 (A) Subsection 59-12-103(1)(b);
- 1672 (B) Subsection 59-12-103(1)(c);
- 1673 (C) Subsection 59-12-103(1)(d);
- 1674 (D) Subsection 59-12-103(1)(e);
- 1675 (E) Subsection 59-12-103(1)(f);
- 1676 (F) Subsection 59-12-103(1)(g);
- 1677 (G) Subsection 59-12-103(1)(h);
- 1678 (H) Subsection 59-12-103(1)(i);
- 1679 (I) Subsection 59-12-103(1)(j); or
- 1680 (J) Subsection 59-12-103(1)(k).
- 1681 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
- 1682 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1683 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
- 1684 (A) on the first day of a calendar quarter; and
- 1685 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1686 Subsection (6)(e)(i).
- 1687 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1688 the commission may by rule define the term "catalogue sale."
- 1689 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
- 1690 voter approval requirements of Subsection (3)(b) if:
- 1691 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
- 1692 businesses based on gross receipts pursuant to Section 10-1-203; or
- 1693 (ii) the city or town:
- 1694 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
- 1695 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
- 1696 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
- 1697 purpose described in Subsection (2)(a).
- 1698 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
- 1699 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January

1700 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
1701 pursuant to Section 10-1-203.

1702 Section 13. Section **59-12-1502** is amended to read:

1703 **59-12-1502. Definitions.**

1704 As used in this part:

1705 (1) "Annexation" means an annexation to a county under Title 17, Chapter 2,
1706 Annexation to County.

1707 (2) "Annexing area" means an area that is annexed into a county.

1708 ~~[(3) "Qualifying county" means a county in which a sales and use tax authorized by~~
1709 ~~Section 59-12-502 is not imposed by:]~~

1710 ~~[(a) the county;]~~

1711 ~~[(b) a city within the county; or]~~

1712 ~~[(c) a town within the county.]~~

1713 ~~[(4)]~~ (3) "State highway" means a highway designated as a state highway under Title
1714 72, Chapter 4, Designation of State Highways Act.

1715 ~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)]~~ (4)(b), "public transit" is as defined
1716 in Section 17A-2-1004.

1717 (b) Notwithstanding Subsection ~~[(5)]~~ (4)(a), "public transit" does not include a fixed
1718 guideway system.

1719 Section 14. Section **59-12-1503** is amended to read:

1720 **59-12-1503. Opinion question election -- Imposition of tax -- Use of tax revenues**
1721 **-- Administration, collection, and enforcement of tax by commission -- Administrative fee**
1722 **-- Enactment or repeal of tax -- Annexation -- Notice.**

1723 (1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this
1724 part, ~~the~~ a county legislative body ~~[of a qualifying county]~~ may impose a sales and use tax of
1725 .25%:

1726 (i) except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions:

1727 (A) described in Subsection 59-12-103(1); and

1728 (B) within the county, including the cities and towns within the county;

1729 (ii) for the purposes determined by the county legislative body in accordance with
1730 Subsection (2); and

1731 (iii) in addition to any other sales and use tax authorized under this chapter.
1732 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
1733 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
1734 sales and uses are exempt from taxation under Section 59-12-104.
1735 (c) For purposes of this Subsection (1), the location of a transaction shall be
1736 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.
1737 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
1738 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
1739 revenues the county will receive from the tax under this part that will be allocated to fund one
1740 or more of the following:
1741 (i) a project or service relating to a fixed guideway system:
1742 (A) for the portion of the project or service that is performed within the county; and
1743 (B) if the fixed guideway system is owned and operated by a public transit district
1744 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
1745 (ii) a project or service relating to a system for public transit:
1746 (A) for the portion of the project or service that is performed within the county; and
1747 (B) if the system for public transit is owned and operated by a public transit district
1748 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or
1749 (iii) the following relating to a state highway within the county:
1750 (A) a project beginning on or after the day on which a county legislative body imposes
1751 a tax under this part only within the county involving:
1752 (I) new construction;
1753 (II) a renovation;
1754 (III) an improvement; or
1755 (IV) an environmental study;
1756 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
1757 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
1758 through (IV).
1759 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
1760 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
1761 tax under this part.

1762 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
1763 tax under this part do not include amounts retained by the commission in accordance with
1764 Subsection (8).

1765 (3) (a) Before imposing a tax under this part, a county legislative body shall:

1766 (i) obtain approval from a majority of the members of the county legislative body to:

1767 (A) impose the tax; and

1768 (B) allocate the revenues the county will receive from the tax in accordance with the
1769 resolution adopted in accordance with Subsection (2); and

1770 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
1771 voters voting on the imposition of the tax so that each registered voter has the opportunity to
1772 express the registered voter's opinion on whether a tax should be imposed under this part.

1773 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
1774 specified in the resolution:

1775 (i) adopted in accordance with Subsection (2); and

1776 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

1777 (c) The election required by this Subsection (3) shall be held:

1778 (i) (A) at a regular general election; and

1779 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
1780 governing regular general elections; or

1781 (ii) (A) at a special election called by the county legislative body;

1782 (B) only on the date of a municipal general election provided in Subsection
1783 20A-1-202(1); and

1784 (C) in accordance with the procedures and requirements of Section 20A-1-203.

1785 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
1786 of the county's registered voters voting on the imposition of the tax have voted in favor of the
1787 imposition of the tax in accordance with Subsection (3), the county legislative body may
1788 impose the tax by a majority vote of all of the members of the county legislative body.

1789 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
1790 generated by the tax shall be:

1791 (i) allocated in accordance with the allocations specified in the resolution under
1792 Subsection (2); and

1793 (ii) expended as provided in this part.

1794 (5) If a county legislative body allocates revenues generated by the tax for a project
1795 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
1796 shall:

1797 (a) obtain approval from the Transportation Commission to complete the project; and

1798 (b) enter into an interlocal agreement:

1799 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

1800 (ii) with the Department of Transportation; and

1801 (iii) to complete the project.

1802 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
1803 legislative body seeks to change the allocation of the tax specified in the resolution under
1804 Subsection (2), the county legislative body may change the allocation of the tax by:

1805 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
1806 revenues the county will receive from the tax under this part that will be allocated to fund one
1807 or more of the systems or projects described in Subsection (2);

1808 (ii) obtaining approval to change the allocation of the tax from a majority of the
1809 members of the county legislative body; and

1810 (iii) (A) submitting an opinion question to the county's registered voters voting on
1811 changing the allocation of the tax so that each registered voter has the opportunity to express
1812 the registered voter's opinion on whether the allocation of the tax should be changed; and

1813 (B) obtaining approval to change the allocation of the tax from a majority of the
1814 county's registered voters voting on changing the allocation of the tax.

1815 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
1816 specified in the resolution:

1817 (A) adopted in accordance with Subsection (6)(a)(i); and

1818 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

1819 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
1820 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

1821 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
1822 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
1823 transmitted:

- 1824 (A) by the commission;
- 1825 (B) to the county;
- 1826 (C) monthly; and
- 1827 (D) by electronic funds transfer.
- 1828 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
- 1829 transfer the revenues described in Subsection (7)(a)(i):
- 1830 (A) directly to a public transit district:
- 1831 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
- 1832 (II) designated by the county; and
- 1833 (B) by providing written notice to the commission:
- 1834 (I) requesting the revenues to be transferred directly to a public transit district as
- 1835 provided in Subsection (7)(a)(ii)(A); and
- 1836 (II) designating the public transit district to which the revenues are requested to be
- 1837 transferred.
- 1838 (b) Revenues generated by a tax under this part that are allocated for a purpose
- 1839 described in Subsection (2)(a)(iii) shall be:
- 1840 (i) deposited into the State Highway Projects Within Counties Fund created by Section
- 1841 72-2-121.1; and
- 1842 (ii) expended as provided in Section 72-2-121.1.
- 1843 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
- 1844 shall be administered, collected, and enforced in accordance with:
- 1845 (A) the same procedures used to administer, collect, and enforce the tax under:
- 1846 (I) Part 1, Tax Collection; or
- 1847 (II) Part 2, Local Sales and Use Tax Act; and
- 1848 (B) Chapter 1, General Taxation Policies.
- 1849 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
- 1850 Subsections 59-12-205(2) through (9).
- 1851 (b) (i) The commission may retain an amount of tax collected under this part of not to
- 1852 exceed the lesser of:
- 1853 (A) 1.5%; or
- 1854 (B) an amount equal to the cost to the commission of administering this part.

- 1855 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 1856 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 1857 (B) used as provided in Subsection 59-12-206(2).
- 1858 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a
- 1859 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 1860 (A) on the first day of a calendar quarter; and
- 1861 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1862 the requirements of Subsection (9)(a)(ii) from the county.
- 1863 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
- 1864 (A) that the county will enact or repeal a tax under this part;
- 1865 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
- 1866 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
- 1867 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
- 1868 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
- 1869 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1870 (A) that begins after the effective date of the enactment of the tax; and
- 1871 (B) if the billing period for the transaction begins before the effective date of the
- 1872 enactment of the tax under Subsection (1).
- 1873 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
- 1874 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1875 (A) that began before the effective date of the repeal of the tax; and
- 1876 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1877 of the tax imposed under Subsection (1).
- 1878 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:
- 1879 (A) Subsection 59-12-103(1)(b);
- 1880 (B) Subsection 59-12-103(1)(c);
- 1881 (C) Subsection 59-12-103(1)(d);
- 1882 (D) Subsection 59-12-103(1)(e);
- 1883 (E) Subsection 59-12-103(1)(f);
- 1884 (F) Subsection 59-12-103(1)(g);
- 1885 (G) Subsection 59-12-103(1)(h);

- 1886 (H) Subsection 59-12-103(1)(i);
- 1887 (I) Subsection 59-12-103(1)(j); or
- 1888 (J) Subsection 59-12-103(1)(k).
- 1889 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
- 1890 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1891 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:
- 1892 (A) on the first day of a calendar quarter; and
- 1893 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1894 Subsection (9)(a)(i).
- 1895 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1896 the commission may by rule define the term "catalogue sale."
- 1897 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs on
- 1898 or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
- 1899 part for an annexing area, the enactment or repeal shall take effect:
- 1900 (A) on the first day of a calendar quarter; and
- 1901 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1902 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- 1903 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
- 1904 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
- 1905 or repeal of a tax under this part for the annexing area;
- 1906 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
- 1907 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
- 1908 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).
- 1909 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
- 1910 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1911 (A) that begins after the effective date of the enactment of the tax; and
- 1912 (B) if the billing period for the transaction begins before the effective date of the
- 1913 enactment of the tax under Subsection (1).
- 1914 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
- 1915 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1916 (A) that began before the effective date of the repeal of the tax; and

1917 (B) if the billing period for the transaction begins before the effective date of the repeal
 1918 of the tax imposed under Subsection (1).

1919 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

1920 (A) Subsection 59-12-103(1)(b);

1921 (B) Subsection 59-12-103(1)(c);

1922 (C) Subsection 59-12-103(1)(d);

1923 (D) Subsection 59-12-103(1)(e);

1924 (E) Subsection 59-12-103(1)(f);

1925 (F) Subsection 59-12-103(1)(g);

1926 (G) Subsection 59-12-103(1)(h);

1927 (H) Subsection 59-12-103(1)(i);

1928 (I) Subsection 59-12-103(1)(j); or

1929 (J) Subsection 59-12-103(1)(k).

1930 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
 1931 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
 1932 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

1933 (A) on the first day of a calendar quarter; and

1934 (B) beginning 60 days after the effective date of the enactment or repeal under
 1935 Subsection (9)(d)(i).

1936 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 1937 the commission may by rule define the term "catalogue sale."

1938 Section 15. Section **72-2-121** is amended to read:

1939 **72-2-121. Public Transportation System Tax Highway Fund.**

1940 (1) There is created a special revenue fund entitled the Public Transportation System
 1941 Tax Highway Fund.

1942 (2) The fund consists of monies generated from the following revenue sources:

1943 (a) any voluntary contributions received for new construction, major renovations, and
 1944 improvements to Interstate 15 and state highways within a county of the first class; and

1945 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)[~~(b)~~]
 1946 (a)(ii) deposited in or transferred to the fund through an interlocal agreement.

1947 (3) (a) The fund shall earn interest.

1948 (b) All interest earned on fund monies shall be deposited into the fund.

1949 (4) The executive director may use fund monies, as prioritized by the Transportation
1950 Commission, only for new construction, major renovations, and improvements to Interstate 15
1951 and state highways within a county of the first class and to pay any debt service and bond
1952 issuance costs related to those projects.

1953 Section 16. **Effective date.**

1954 This bill takes effect on July 1, 2005.