

Senator Curtis S. Bramble 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 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 certain counties may reallocate 1/16% of the additional public transit tax or the countywide additional public transit tax to fund new construction, major renovations, and improvements to Interstate 15 or state highways within the county;
- ▶ provides procedures and requirements for reallocating 1/16% of the additional public transit tax or allocating 1/16% of the countywide additional public transit



26 tax;

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

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

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

- 38 • the county shall be annexed into the public transit district;
- 39 • a countywide sales tax of .25% or .50% shall be imposed for public
40 transportation; and

- 41 • certain existing sales and use taxes imposed by cities or towns within the county
42 are superseded;

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

45 ▶ amends the definition of qualifying county for purposes of imposing the county
46 option sales and use tax for highways, fixed guideways, or systems for public
47 transit; and

48 ▶ makes technical changes.

49 **Monies Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 This bill takes effect on July 1, 2005.

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **17A-2-1058**, as last amended by Chapter 9, Laws of Utah 2001

56 **17B-2-512**, as last amended by Chapters 89 and 170, Laws of Utah 2003

- 57 **20A-1-203**, as last amended by Chapter 4, Laws of Utah 2002, Fifth Special Session
- 58 **59-12-102**, as last amended by Chapters 1, 156, 255, 298 and 300, Laws of Utah 2004
- 59 **59-12-207.1**, as last amended by Chapter 255, Laws of Utah 2004
- 60 **59-12-501**, as last amended by Chapters 255 and 336, Laws of Utah 2004
- 61 **59-12-502**, as last amended by Chapter 255, Laws of Utah 2004
- 62 **59-12-503**, as enacted by Chapter 131, Laws of Utah 1997
- 63 **59-12-504**, as last amended by Chapter 255, Laws of Utah 2004
- 64 **59-12-1001**, as last amended by Chapter 255, Laws of Utah 2004
- 65 **59-12-1502**, as enacted by Chapter 282, Laws of Utah 2003
- 66 **72-2-121**, as enacted by Chapter 217, Laws of Utah 2001

67 ENACTS:

- 68 **59-12-501.5**, Utah Code Annotated 1953
- 69 **59-12-502.5**, Utah Code Annotated 1953



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

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

73 **17A-2-1058. District may issue bonds.**

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

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

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

83 **17B-2-512. Protests -- Election.**

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

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

88 (ii) for an annexation under Section 17B-2-515; and
89 (iii) for an annexation proposed by a local district that receives sales and use tax funds
90 from the counties, cities, and towns within the local district that impose a sales and use tax
91 under Section 59-12-501, 59-12-501.5, or 59-12-502.5.

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

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

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

98 (i) timely protests are filed by:

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

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

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

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

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

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

112 (b) (i) At each election held under Subsection (3)(a)(ii), the ballot question shall be
113 phrased to indicate that a voter's casting a vote for or against the annexation includes also a
114 vote for or against the imposition of the sales and use tax as provided in Section 59-12-501,
115 59-12-501.5, or 59-12-502.5.

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

118 (c) If a majority of registered voters residing within the area proposed to be annexed

119 and voting on the proposal vote:

120 (i) in favor of annexation, the board of trustees shall, subject to Subsections
121 17B-2-514(1)(b), (2), and (3), complete the annexation by adopting a resolution approving
122 annexation of the area; or

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

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

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

131 **20A-1-203. Calling and purpose of special elections.**

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

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

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

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

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

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

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

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

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

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

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

149 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or

150 53A-17a-134;

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

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

153 (v) if required or authorized by federal law, a vote to determine whether or not Utah's

154 legal boundaries should be changed[~~-~~]; or

155 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act.

156 (b) The legislative body of a local political subdivision may call a local special election

157 by adopting an ordinance or resolution that designates:

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

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

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

161 **59-12-102. Definitions.**

162 As used in this chapter:

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

164 (b) "Admission or user fees" does not include annual membership dues to private

165 organizations.

166 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in

167 Section 59-12-102.1.

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

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

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

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

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

173 (b) Section 59-12-204;

174 (c) Section 59-12-401;

175 (d) Section 59-12-402;

176 (e) Section 59-12-501;

177 (f) Section 59-12-501.5;

178 [~~(f)~~] (g) Section 59-12-502;

179 (h) Section 59-12-502.5;

180 [~~(g)~~] (i) Section 59-12-703;

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

- 212 (b) "Biomass energy" does not include:
- 213 (i) black liquor;
- 214 (ii) treated woods; or
- 215 (iii) biomass from municipal solid waste other than methane produced:
- 216 (A) at landfills; or
- 217 (B) as a byproduct of the treatment of wastewater residuals.
- 218 (10) "Certified automated system" means software certified by the governing board of
- 219 the agreement in accordance with Section 59-12-102.1 that:
- 220 (a) calculates the agreement sales and use tax imposed within a local taxing
- 221 jurisdiction:
- 222 (i) on a transaction; and
- 223 (ii) in the states that are members of the agreement;
- 224 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 225 member of the agreement; and
- 226 (c) maintains a record of the transaction described in Subsection (10)(a)(i).
- 227 (11) "Certified service provider" means an agent certified:
- 228 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
- 229 and
- 230 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
- 231 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
- 232 own purchases.
- 233 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel
- 234 suitable for general use.
- 235 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 236 commission shall make rules:
- 237 (i) listing the items that constitute "clothing"; and
- 238 (ii) that are consistent with the list of items that constitute "clothing" under the
- 239 agreement.
- 240 (13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"
- 241 means:
- 242 (i) a coin-operated amusement, skill, or ride device;

243 (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and
244 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
245 arcade machine, and a mechanical or electronic skill game or ride.

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

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

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

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

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

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

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

262 (16) "Component part" includes:

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

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

265 (c) fuel used for providing temperature control of orchards and commercial
266 greenhouses doing a majority of their business in wholesale sales, and for providing power for
267 off-highway type farm machinery; and

268 (d) feed, seeds, and seedlings.

269 (17) "Computer" means an electronic device that accepts information:

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

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

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

273 (18) "Computer software" means a set of coded instructions designed to cause:

- 274 (a) a computer to perform a task; or
- 275 (b) automatic data processing equipment to perform a task.
- 276 (19) "Construction materials" means any tangible personal property that will be
- 277 converted into real property.
- 278 (20) "Delivered electronically" means delivered to a purchaser by means other than
- 279 tangible storage media.
- 280 (21) (a) "Delivery charge" means a charge:
- 281 (i) by a seller of:
- 282 (A) tangible personal property; or
- 283 (B) services; and
- 284 (ii) for preparation and delivery of the tangible personal property or services described
- 285 in Subsection (21)(a)(i) to a location designated by the purchaser.
- 286 (b) "Delivery charge" includes a charge for the following:
- 287 (i) transportation;
- 288 (ii) shipping;
- 289 (iii) postage;
- 290 (iv) handling;
- 291 (v) crating; or
- 292 (vi) packing.
- 293 (22) "Dietary supplement" means a product, other than tobacco, that:
- 294 (a) is intended to supplement the diet;
- 295 (b) contains one or more of the following dietary ingredients:
- 296 (i) a vitamin;
- 297 (ii) a mineral;
- 298 (iii) an herb or other botanical;
- 299 (iv) an amino acid;
- 300 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 301 dietary intake; or
- 302 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 303 described in Subsections (22)(b)(i) through (v);
- 304 (c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:

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

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

337 (ii) intended for use in the:

338 (A) diagnosis of disease;

339 (B) cure of disease;

340 (C) mitigation of disease;

341 (D) treatment of disease; or

342 (E) prevention of disease; or

343 (iii) intended to affect:

344 (A) the structure of the body; or

345 (B) any function of the body.

346 (b) "Drug" does not include:

347 (i) food and food ingredients;

348 (ii) a dietary supplement;

349 (iii) an alcoholic beverage; or

350 (iv) a prosthetic device.

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

353 (i) can withstand repeated use;

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

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

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

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

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

359 (B) the state plan for medical assistance under Title XIX of the federal Social Security
360 Act; and

361 (vi) is used for home use only.

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

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

366 (26) "Electronic" means:

- 367 (a) relating to technology; and
- 368 (b) having:
 - 369 (i) electrical capabilities;
 - 370 (ii) digital capabilities;
 - 371 (iii) magnetic capabilities;
 - 372 (iv) wireless capabilities;
 - 373 (v) optical capabilities;
 - 374 (vi) electromagnetic capabilities; or
 - 375 (vii) capabilities similar to Subsections (26)(b)(i) through (vi).
- 376 (27) (a) "Food and food ingredients" means substances:
 - 377 (i) regardless of whether the substances are in:
 - 378 (A) liquid form;
 - 379 (B) concentrated form;
 - 380 (C) solid form;
 - 381 (D) frozen form;
 - 382 (E) dried form; or
 - 383 (F) dehydrated form; and
 - 384 (ii) that are:
 - 385 (A) sold for:
 - 386 (I) ingestion by humans; or
 - 387 (II) chewing by humans; and
 - 388 (B) consumed for the substance's:
 - 389 (I) taste; or
 - 390 (II) nutritional value.
- 391 (b) "Food and food ingredients" does not include:
 - 392 (i) an alcoholic beverage;
 - 393 (ii) tobacco; or
 - 394 (iii) prepared food.
- 395 (28) (a) "Fundraising sales" means sales:
 - 396 (i) (A) made by a school; or
 - 397 (B) made by a school student;

398 (ii) that are for the purpose of raising funds for the school to purchase equipment,
399 materials, or provide transportation; and

400 (iii) that are part of an officially sanctioned school activity.

401 (b) For purposes of Subsection (28)(a)(iii), "officially sanctioned school activity"
402 means a school activity:

403 (i) that is conducted in accordance with a formal policy adopted by the school or school
404 district governing the authorization and supervision of fundraising activities;

405 (ii) that does not directly or indirectly compensate an individual teacher or other
406 educational personnel by direct payment, commissions, or payment in kind; and

407 (iii) the net or gross revenues from which are deposited in a dedicated account
408 controlled by the school or school district.

409 (29) "Geothermal energy" means energy contained in heat that continuously flows
410 outward from the earth that is used as the sole source of energy to produce electricity.

411 (30) "Governing board of the agreement" means the governing board of the agreement
412 that is:

413 (a) authorized to administer the agreement; and

414 (b) established in accordance with the agreement.

415 (31) (a) "Hearing aid" means:

416 (i) an instrument or device having an electronic component that is designed to:

417 (A) (I) improve impaired human hearing; or

418 (II) correct impaired human hearing; and

419 (B) (I) be worn in the human ear; or

420 (II) affixed behind the human ear;

421 (ii) an instrument or device that is surgically implanted into the cochlea; or

422 (iii) a telephone amplifying device.

423 (b) "Hearing aid" does not include:

424 (i) except as provided in Subsection (31)(a)(i)(B) or (31)(a)(ii), an instrument or device
425 having an electronic component that is designed to be worn on the body;

426 (ii) except as provided in Subsection (31)(a)(iii), an assistive listening device or system
427 designed to be used by one individual, including:

428 (A) a personal amplifying system;

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

460 electricity.

461 (34) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
462 other fuels:

463 (a) in mining or extraction of minerals;

464 (b) in agricultural operations to produce an agricultural product up to the time of
465 harvest or placing the agricultural product into a storage facility, including:

466 (i) commercial greenhouses;

467 (ii) irrigation pumps;

468 (iii) farm machinery;

469 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
470 registered under Title 41, Chapter 1a, Part 2, Registration; and

471 (v) other farming activities;

472 (c) in manufacturing tangible personal property at an establishment described in SIC
473 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
474 Executive Office of the President, Office of Management and Budget; or

475 (d) by a scrap recycler if:

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

479 (A) iron;

480 (B) steel;

481 (C) nonferrous metal;

482 (D) paper;

483 (E) glass;

484 (F) plastic;

485 (G) textile; or

486 (H) rubber; and

487 (ii) the new products under Subsection (34)(d)(i) would otherwise be made with
488 nonrecycled materials.

489 (35) (a) "Lease" or "rental" means a transfer of possession or control of tangible
490 personal property for:

- 491 (i) (A) a fixed term; or
492 (B) an indeterminate term; and
493 (ii) consideration.
- 494 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
495 amount of consideration may be increased or decreased by reference to the amount realized
496 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
497 Code.
- 498 (c) "Lease" or "rental" does not include:
- 499 (i) a transfer of possession or control of property under a security agreement or
500 deferred payment plan that requires the transfer of title upon completion of the required
501 payments;
- 502 (ii) a transfer of possession or control of property under an agreement:
- 503 (A) that requires the transfer of title upon completion of required payments; and
504 (B) in which the payment of an option price does not exceed the greater of:
- 505 (I) \$100; or
506 (II) 1% of the total required payments; or
- 507 (iii) providing tangible personal property along with an operator for a fixed period of
508 time or an indeterminate period of time if the operator is necessary for equipment to perform as
509 designed.
- 510 (d) For purposes of Subsection (35)(c)(iii), an operator is necessary for equipment to
511 perform as designed if the operator's duties exceed the:
- 512 (i) set-up of tangible personal property;
513 (ii) maintenance of tangible personal property; or
514 (iii) inspection of tangible personal property.
- 515 (36) "Load and leave" means delivery to a purchaser by use of a tangible storage media
516 if the tangible storage media is not physically transferred to the purchaser.
- 517 (37) "Local taxing jurisdiction" means a:
- 518 (a) county that is authorized to impose an agreement sales and use tax;
519 (b) city that is authorized to impose an agreement sales and use tax; or
520 (c) town that is authorized to impose an agreement sales and use tax.
- 521 (38) "Manufactured home" is as defined in Section 58-56-3.

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

523 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
524 Industrial Classification Manual of the federal Executive Office of the President, Office of
525 Management and Budget; or

526 (b) a scrap recycler if:

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

530 (A) iron;

531 (B) steel;

532 (C) nonferrous metal;

533 (D) paper;

534 (E) glass;

535 (F) plastic;

536 (G) textile; or

537 (H) rubber; and

538 (ii) the new products under Subsection (39)(b)(i) would otherwise be made with
539 nonrecycled materials.

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

541 (41) "Mobile telecommunications service" is as defined in the Mobile
542 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

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

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

547 (ii) appropriate for use in a:

548 (A) home; or

549 (B) motor vehicle;

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

551 (iv) listed as eligible for payment under:

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

553 (B) the state plan for medical assistance under Title XIX of the federal Social Security
554 Act.

555 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
556 the equipment described in Subsection (42)(a).

557 (c) Notwithstanding Subsection (42)(a), "mobility enhancing equipment" does not
558 include:

559 (i) a motor vehicle;

560 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
561 vehicle manufacturer;

562 (iii) durable medical equipment; or

563 (iv) a prosthetic device.

564 (43) "Model 1 seller" means a seller that has selected a certified service provider as the
565 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
566 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
567 seller's own purchases.

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

569 (a) except as provided in Subsection (44)(b), has selected a certified automated system
570 to perform the seller's sales tax functions for agreement sales and use taxes; and

571 (b) notwithstanding Subsection (44)(a), retains responsibility for remitting all of the
572 sales tax:

573 (i) collected by the seller; and

574 (ii) to the appropriate local taxing jurisdiction.

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

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

577 (ii) total annual sales revenues of at least \$500,000,000;

578 (iii) a proprietary system that calculates the amount of tax:

579 (A) for an agreement sales and use tax; and

580 (B) due to each local taxing jurisdiction; and

581 (iv) entered into a performance agreement with the governing board of the agreement.

582 (b) For purposes of Subsection (45)(a), "model 3 seller" includes an affiliated group of
583 sellers using the same proprietary system.

584 (46) "Modular home" means a modular unit as defined in Section 58-56-3.

585 (47) "Motor vehicle" is as defined in Section 41-1a-102.

586 (48) (a) "Other fuels" means products that burn independently to produce heat or
587 energy.

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

590 (49) "Person" includes any individual, firm, partnership, joint venture, association,
591 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
592 municipality, district, or other local governmental entity of the state, or any group or
593 combination acting as a unit.

594 (50) "Place of primary use":

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

598 (i) the residential street address of the purchaser; or

599 (ii) the primary business street address of the purchaser; or

600 (b) for mobile telecommunications service, is as defined in the Mobile
601 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

602 (51) "Postproduction" means an activity related to the finishing or duplication of a
603 medium described in Subsection 59-12-104(60)(a).

604 (52) (a) "Prepared food" means:

605 (i) food:

606 (A) sold in a heated state; or

607 (B) heated by a seller;

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

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

612 (A) plate;

613 (B) knife;

614 (C) fork;

- 615 (D) spoon;
- 616 (E) glass;
- 617 (F) cup;
- 618 (G) napkin; or
- 619 (H) straw.
- 620 (b) "Prepared food" does not include:
- 621 (i) food that a seller only:
- 622 (A) cuts;
- 623 (B) repackages; or
- 624 (C) pasteurizes; or
- 625 (ii) (A) the following:
- 626 (I) raw egg;
- 627 (II) raw fish;
- 628 (III) raw meat;
- 629 (IV) raw poultry; or
- 630 (V) a food containing an item described in Subsections (52)(b)(ii)(A)(I) through (IV);
- 631 and
- 632 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 633 Food and Drug Administration's Food Code that a consumer cook the items described in
- 634 Subsection (52)(b)(ii)(A) to prevent food borne illness.
- 635 (c) Notwithstanding Subsection (52)(a)(iii), an eating utensil provided by the seller
- 636 does not include the following used to transport the food:
- 637 (i) a container; or
- 638 (ii) packaging.
- 639 (53) "Prescription" means an order, formula, or recipe that is issued:
- 640 (a) (i) orally;
- 641 (ii) in writing;
- 642 (iii) electronically; or
- 643 (iv) by any other manner of transmission; and
- 644 (b) by a licensed practitioner authorized by the laws of a state.
- 645 (54) (a) Except as provided in Subsection (54)(b)(ii) or (iii), "prewritten computer

646 software" means computer software that is not designed and developed:

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

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

649 (b) "Prewritten computer software" includes:

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

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

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

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

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

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

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

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

665 (i) reasonable; and

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

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

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

670 (A) artificially replace a missing portion of the body;

671 (B) prevent or correct a physical deformity or physical malfunction; or

672 (C) support a weak or deformed portion of the body; and

673 (ii) listed as eligible for payment under:

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

675 (B) the state plan for medical assistance under Title XIX of the federal Social Security
676 Act.

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

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

739 (b) advertised or held out to the public as a place that is regularly rented to guests for
740 value.

741 (60) "Renewable energy" means:

742 (a) biomass energy;

743 (b) hydroelectric energy;

744 (c) geothermal energy;

745 (d) solar energy; or

746 (e) wind energy.

747 (61) (a) "Renewable energy production facility" means a facility that:

748 (i) uses renewable energy to produce electricity; and

749 (ii) has a production capacity of 20 kilowatts or greater.

750 (b) A facility is a renewable energy production facility regardless of whether the
751 facility is:

752 (i) connected to an electric grid; or

753 (ii) located on the premises of an electricity consumer.

754 (62) "Rental" is as defined in Subsection (35).

755 (63) "Residential use" means the use in or around a home, apartment building, sleeping
756 quarters, and similar facilities or accommodations.

757 (64) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
758 than:

759 (a) resale;

760 (b) sublease; or

761 (c) subrent.

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

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

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

- 770 (b) "Sale" includes:
- 771 (i) installment and credit sales;
- 772 (ii) any closed transaction constituting a sale;
- 773 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 774 chapter;
- 775 (iv) any transaction if the possession of property is transferred but the seller retains the
- 776 title as security for the payment of the price; and
- 777 (v) any transaction under which right to possession, operation, or use of any article of
- 778 tangible personal property is granted under a lease or contract and the transfer of possession
- 779 would be taxable if an outright sale were made.
- 780 (67) "Sale at retail" is as defined in Subsection (64).
- 781 (68) "Sale-leaseback transaction" means a transaction by which title to tangible
- 782 personal property that is subject to a tax under this chapter is transferred:
- 783 (a) by a purchaser-lessee;
- 784 (b) to a lessor;
- 785 (c) for consideration; and
- 786 (d) if:
- 787 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 788 of the tangible personal property;
- 789 (ii) the sale of the tangible personal property to the lessor is intended as a form of
- 790 financing:
- 791 (A) for the property; and
- 792 (B) to the purchaser-lessee; and
- 793 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 794 is required to:
- 795 (A) capitalize the property for financial reporting purposes; and
- 796 (B) account for the lease payments as payments made under a financing arrangement.
- 797 (69) "Sales price" is as defined in Subsection (57).
- 798 (70) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 799 amounts charged by a school:
- 800 (i) sales that are directly related to the school's educational functions or activities

- 801 including:
- 802 (A) the sale of:
 - 803 (I) textbooks;
 - 804 (II) textbook fees;
 - 805 (III) laboratory fees;
 - 806 (IV) laboratory supplies; or
 - 807 (V) safety equipment;
 - 808 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 809 that:
- 810 (I) a student is specifically required to wear as a condition of participation in a
 - 811 school-related event or school-related activity; and
 - 812 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 - 813 place of ordinary clothing;
 - 814 (C) sales of the following if the net or gross revenues generated by the sales are
 - 815 deposited into a school district fund or school fund dedicated to school meals:
 - 816 (I) food and food ingredients; or
 - 817 (II) prepared food; or
 - 818 (D) transportation charges for official school activities; or
 - 819 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 - 820 event or school-related activity.
 - 821 (b) "Sales relating to schools" does not include:
 - 822 (i) bookstore sales of items that are not educational materials or supplies;
 - 823 (ii) except as provided in Subsection (70)(a)(i)(B):
 - 824 (A) clothing;
 - 825 (B) clothing accessories or equipment;
 - 826 (C) protective equipment; or
 - 827 (D) sports or recreational equipment; or
 - 828 (iii) amounts paid to or amounts charged by a school for admission to a school-related
 - 829 event or school-related activity if the amounts paid or charged are passed through to a person:
 - 830 (A) other than a:
 - 831 (I) school;

832 (II) nonprofit organization authorized by a school board or a governing body of a
833 private school to organize and direct a competitive secondary school activity; or

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

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

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

839 (71) For purposes of this section and Section 59-12-104, "school" means:

840 (a) an elementary school or a secondary school that:

841 (i) is a:

842 (A) public school; or

843 (B) private school; and

844 (ii) provides instruction for one or more grades kindergarten through 12; or

845 (b) a public school district.

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

847 (a) tangible personal property; or

848 (b) a service.

849 (73) (a) "Semiconductor fabricating or processing materials" means tangible personal
850 property:

851 (i) used primarily in the process of:

852 (A) (I) manufacturing a semiconductor; or

853 (II) fabricating a semiconductor; or

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

855 (ii) consumed primarily in the process of:

856 (A) (I) manufacturing a semiconductor; or

857 (II) fabricating a semiconductor; or

858 (B) maintaining an environment suitable for a semiconductor.

859 (b) "Semiconductor fabricating or processing materials" includes:

860 (i) parts used in the repairs or renovations of tangible personal property described in
861 Subsection (73)(a); or

862 (ii) a chemical, catalyst, or other material used to:

- 863 (A) produce or induce in a semiconductor a:
- 864 (I) chemical change; or
- 865 (II) physical change;
- 866 (B) remove impurities from a semiconductor; or
- 867 (C) improve the marketable condition of a semiconductor.
- 868 (74) "Senior citizen center" means a facility having the primary purpose of providing
- 869 services to the aged as defined in Section 62A-3-101.
- 870 (75) "Simplified electronic return" means the electronic return:
- 871 (a) described in Section 318(C) of the agreement; and
- 872 (b) approved by the governing board of the agreement.
- 873 (76) "Solar energy" means the sun used as the sole source of energy for producing
- 874 electricity.
- 875 (77) (a) "Sports or recreational equipment" means an item:
- 876 (i) designed for human use; and
- 877 (ii) that is:
- 878 (A) worn in conjunction with:
- 879 (I) an athletic activity; or
- 880 (II) a recreational activity; and
- 881 (B) not suitable for general use.
- 882 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 883 commission shall make rules:
- 884 (i) listing the items that constitute "sports or recreational equipment"; and
- 885 (ii) that are consistent with the list of items that constitute "sports or recreational
- 886 equipment" under the agreement.
- 887 (78) "State" means the state of Utah, its departments, and agencies.
- 888 (79) "Storage" means any keeping or retention of tangible personal property or any
- 889 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 890 sale in the regular course of business.
- 891 (80) (a) "Tangible personal property" means personal property that:
- 892 (i) may be:
- 893 (A) seen;

- 894 (B) weighed;
- 895 (C) measured;
- 896 (D) felt; or
- 897 (E) touched; or
- 898 (ii) is in any manner perceptible to the senses.
- 899 (b) "Tangible personal property" includes:
- 900 (i) electricity;
- 901 (ii) water;
- 902 (iii) gas;
- 903 (iv) steam; or
- 904 (v) prewritten computer software.
- 905 (81) (a) "Telephone service" means a two-way transmission:
- 906 (i) by:
- 907 (A) wire;
- 908 (B) radio;
- 909 (C) lightwave; or
- 910 (D) other electromagnetic means; and
- 911 (ii) of one or more of the following:
- 912 (A) a sign;
- 913 (B) a signal;
- 914 (C) writing;
- 915 (D) an image;
- 916 (E) sound;
- 917 (F) a message;
- 918 (G) data; or
- 919 (H) other information of any nature.
- 920 (b) "Telephone service" includes:
- 921 (i) mobile telecommunications service;
- 922 (ii) private communications service; or
- 923 (iii) automated digital telephone answering service.
- 924 (c) "Telephone service" does not include a service or a transaction that a state or a

925 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
926 Tax Freedom Act, Pub. L. No. 105-277.

927 (82) Notwithstanding where a call is billed or paid, "telephone service address" means:

928 (a) if the location described in this Subsection (82)(a) is known, the location of the
929 telephone service equipment:

930 (i) to which a call is charged; and

931 (ii) from which the call originates or terminates;

932 (b) if the location described in Subsection (82)(a) is not known but the location

933 described in this Subsection (82)(b) is known, the location of the origination point of the signal
934 of the telephone service first identified by:

935 (i) the telecommunications system of the seller; or

936 (ii) if the system used to transport the signal is not that of the seller, information
937 received by the seller from its service provider; or

938 (c) if the locations described in Subsection (82)(a) or (b) are not known, the location of
939 a purchaser's primary place of use.

940 (83) (a) "Telephone service provider" means a person that:

941 (i) owns, controls, operates, or manages a telephone service; and

942 (ii) engages in an activity described in Subsection (83)(a)(i) for the shared use with or
943 resale to any person of the telephone service.

944 (b) A person described in Subsection (83)(a) is a telephone service provider whether or
945 not the Public Service Commission of Utah regulates:

946 (i) that person; or

947 (ii) the telephone service that the person owns, controls, operates, or manages.

948 (84) "Tobacco" means:

949 (a) a cigarette;

950 (b) a cigar;

951 (c) chewing tobacco;

952 (d) pipe tobacco; or

953 (e) any other item that contains tobacco.

954 (85) (a) "Use" means the exercise of any right or power over tangible personal property
955 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item,

956 or service.

957 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
958 the regular course of business and held for resale.

959 (86) (a) Subject to Subsection (86)(b), "vehicle" means the following that are required
960 to be titled, registered, or titled and registered:

- 961 (i) an aircraft as defined in Section 72-10-102;
- 962 (ii) a vehicle as defined in Section 41-1a-102;
- 963 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 964 (iv) a vessel as defined in Section 41-1a-102.

965 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

- 966 (i) a vehicle described in Subsection (86)(a); or
- 967 (ii) (A) a locomotive;
- 968 (B) a freight car;
- 969 (C) railroad work equipment; or
- 970 (D) other railroad rolling stock.

971 (87) "Vehicle dealer" means a person engaged in the business of buying, selling, or
972 exchanging a vehicle as defined in Subsection (86).

973 (88) (a) Except as provided in Subsection (88)(b), "waste energy facility" means a
974 facility that generates electricity:

- 975 (i) using as the primary source of energy waste materials that would be placed in a
976 landfill or refuse pit if it were not used to generate electricity, including:
 - 977 (A) tires;
 - 978 (B) waste coal; or
 - 979 (C) oil shale; and
- 980 (ii) in amounts greater than actually required for the operation of the facility.

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

- 982 (i) municipal solid waste;
- 983 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 984 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

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

986 (90) "Wind energy" means wind used as the sole source of energy to produce

987 electricity.

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

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

991 **59-12-207.1. Definitions -- Location of certain transactions -- Reports to**
992 **commission -- Direct payment provision for a seller making certain purchases --**
993 **Exceptions -- Rulemaking authority.**

994 (1) As used in this section:

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

996 (A) taking possession of tangible personal property;

997 (B) making first use of services; or

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

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

1000 (II) making first use of services.

1001 (ii) "Receive" and "receipt" do not include possession by a shipping company on behalf
1002 of a purchaser.

1003 (b) "Transportation equipment" means:

1004 (i) a locomotive or railcar that is utilized for the carriage of persons or property in
1005 interstate commerce;

1006 (ii) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more
1007 that is:

1008 (A) registered under Section 41-1a-301; and

1009 (B) operated under the authority of a carrier authorized and certificated:

1010 (I) by the United States Department of Transportation or another federal authority; and

1011 (II) to engage in the carriage of persons or property in interstate commerce;

1012 (iii) a trailer, semitrailer, or passenger bus that is:

1013 (A) registered under Section 41-1a-301; and

1014 (B) operated under the authority of a carrier authorized and certificated:

1015 (I) by the United States Department of Transportation or another federal authority; and

1016 (II) to engage in the carriage of persons or property in interstate commerce;

1017 (iv) an aircraft that is operated by an air carrier authorized and certificated:

1018 (A) by the United States Department of Transportation or another federal or foreign
1019 authority; and

1020 (B) to engage in the carriage of persons or property in interstate commerce; or

1021 (v) a container designed for use on, or a component part attached or secured on an item
1022 listed in Subsections (1)(b)(i) through (iv).

1023 (2) Except as provided in Subsections (8) and (14), if tangible personal property or a
1024 service that is subject to taxation under this chapter is received by a purchaser at a business
1025 location of a seller, the location of the transaction is the business location of the seller.

1026 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1027 and (14), if tangible personal property or a service that is subject to taxation under this chapter
1028 is not received by a purchaser at a business location of a seller, the location of the transaction is
1029 the location where the purchaser takes receipt of the tangible personal property or services.

1030 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1031 and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location
1032 indicated by an address for or other information on the purchaser if:

1033 (a) the address or other information is available from the seller's business records; and

1034 (b) use of the address or other information from the seller's records does not constitute
1035 bad faith.

1036 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
1037 (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
1038 location indicated by an address for the purchaser if:

1039 (i) the address was obtained during the consummation of the transaction; and

1040 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

1041 (b) An address used under Subsection (5)(a) may include the address of a purchaser's
1042 payment instrument if no other address is available.

1043 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1044 and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
1045 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the
1046 location indicated by the address from which:

1047 (a) except as provided in Subsection (6)(b), for tangible personal property that is
1048 subject to taxation under this chapter, the tangible personal property was shipped;

1049 (b) notwithstanding Subsection (6)(a), for computer software delivered electronically
1050 or a digital good that is subject to taxation under this chapter, the computer software delivered
1051 electronically or digital good was first available for transmission by the seller; or

1052 (c) for a service that is subject to taxation under this chapter, the service was provided.

1053 (7) (a) As used in this Subsection (7), "shared ZIP Code" means:

1054 (i) a nine-digit ZIP Code that is located within two or more local taxing jurisdictions;

1055 or

1056 (ii) a five-digit ZIP Code that is located within two or more local taxing jurisdictions if:

1057 (A) a nine-digit ZIP Code is not available for a location; or

1058 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code
1059 for a location.

1060 (b) Notwithstanding Subsections (3) through (6) and except as provided in Subsection
1061 (7)(d)(ii), if the location of a transaction determined under Subsections (3) through (6) is in a
1062 shared ZIP Code, the location of the transaction is:

1063 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
1064 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
1065 agreement combined tax rate; or

1066 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
1067 rate for the shared ZIP Code, the local taxing jurisdiction that:

1068 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

1069 (B) has located within the local taxing jurisdiction the largest number of street
1070 addresses within the shared ZIP Code.

1071 (c) A seller shall collect a tax imposed under this chapter at the lowest agreement
1072 combined tax rate imposed within the local taxing jurisdiction in which the transaction is
1073 located under Subsection (7)(b) notwithstanding the following:

1074 (i) Section 59-12-204;

1075 (ii) Section 59-12-401;

1076 (iii) Section 59-12-402;

1077 (iv) Section 59-12-501;

1078 (v) Section 59-12-501.5;

1079 [~~(v)~~] (vi) Section 59-12-502;

1080 (vii) Section 59-12-502.5;
1081 [~~(vi)~~] (viii) Section 59-12-703;
1082 [~~(vii)~~] (ix) Section 59-12-802;
1083 [~~(viii)~~] (x) Section 59-12-804;
1084 [~~(ix)~~] (xi) Section 59-12-1001;
1085 [~~(x)~~] (xii) Section 59-12-1102;
1086 [~~(xi)~~] (xiii) Section 59-12-1302;
1087 [~~(xii)~~] (xiv) Section 59-12-1402; and
1088 [~~(xiii)~~] (xv) Section 59-12-1503.

1089 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1090 commission may make rules:

1091 (i) providing for the circumstances under which a seller has exercised due diligence in
1092 determining the nine-digit ZIP Code for an address; or

1093 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
1094 within which a transaction is located if a seller is unable to determine the local taxing
1095 jurisdiction within which the transaction is located under Subsection (7)(b).

1096 (8) Notwithstanding Subsections (2) through (6), the location of a transaction made
1097 with a direct payment permit described in Section 59-12-107.1 is:

1098 (a) for a tax imposed under Section 59-12-204, the location determined under Section
1099 59-12-205; or

1100 (b) for a tax imposed under this chapter other than under Section 59-12-204, the
1101 location at which the tangible personal property or service purchased using the direct payment
1102 permit is used.

1103 (9) Notwithstanding Subsections (3) through (5), the location of a purchase of direct
1104 mail is the location described in Subsection (6), if the purchaser of the direct mail:

1105 (a) has not been issued a direct payment permit under Section 59-12-107.1; and

1106 (b) does not provide the seller the form or information described in Subsection
1107 59-12-107.3(1).

1108 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
1109 determined under Subsections (3) through (6), (8), and (9), is the local taxing jurisdiction
1110 within which:

1111 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
1112 through (6), (8), and (9) is located; or

1113 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
1114 through (6), (8), and (9) is located if:

1115 (A) a nine-digit ZIP Code is not available for the location determined under
1116 Subsections (3) through (6), (8), and (9); or

1117 (B) after exercising due diligence, a seller is unable to determine a nine-digit ZIP Code
1118 for the location determined under Subsections (3) through (6), (8), and (9).

1119 (b) Notwithstanding Subsection (10)(a), in accordance with Title 63, Chapter 46a, Utah
1120 Administrative Rulemaking Act, the commission may make rules for determining the local
1121 taxing jurisdiction within which a transaction is located if a seller is unable to determine the
1122 local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1123 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
1124 transaction commenced by a florist that transmits an order:

1125 (i) by:

1126 (A) telegraph;

1127 (B) telephone; or

1128 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

1129 (ii) for delivery to another place:

1130 (A) in this state; or

1131 (B) outside this state.

1132 (b) Notwithstanding Subsections (3) through (6), beginning on July 1, 2004, through
1133 December 31, 2005, the location of a florist delivery transaction is the business location of the
1134 florist that commences the florist delivery transaction.

1135 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1136 commission may by rule:

1137 (i) define the terms:

1138 (A) "business location"; and

1139 (B) "florist";

1140 (ii) define what constitutes a means of communication similar to Subsection
1141 (11)(a)(i)(A) or (B); and

- 1142 (iii) provide procedures for determining when a transaction is commenced.
- 1143 (12) If a purchaser knows at the time that the purchaser purchases a service, prewritten
1144 computer software delivered electronically, or a digital good that the service, prewritten
1145 computer software delivered electronically, or digital good will be concurrently available for
1146 use in more than one location, the purchaser shall:
- 1147 (a) determine the location of the transaction under this section for each location in
1148 which the service, prewritten computer software delivered electronically, or digital good will
1149 be concurrently available for use; and
- 1150 (b) apportion the purchase price of the service, prewritten computer software delivered
1151 electronically, or digital good:
- 1152 (i) among each location determined under Subsection (12)(a); and
1153 (ii) in accordance with Section 59-12-107.2.
- 1154 (13) (a) A tax collected under this chapter shall be reported to the commission on a
1155 form that identifies the location of each transaction that occurred during the return filing
1156 period.
- 1157 (b) The form described in Subsection (13)(a) shall be filed with the commission as
1158 required under this chapter.
- 1159 (14) This section does not apply to:
- 1160 (a) amounts charged by a seller for:
- 1161 (i) telephone service;
1162 (ii) the retail sale or transfer of:
- 1163 (A) a motor vehicle other than a motor vehicle that is transportation equipment;
1164 (B) an aircraft other than an aircraft that is transportation equipment;
1165 (C) a watercraft;
1166 (D) a modular home;
1167 (E) a manufactured home; or
1168 (F) a mobile home; or
- 1169 (iii) except as provided in Section 59-12-207.3, the lease or rental of tangible personal
1170 property other than tangible personal property that is transportation equipment; or
- 1171 (b) a tax paid under this chapter:
- 1172 (i) by a seller; and

1173 (ii) for the seller's purchases.

1174 Section 6. Section **59-12-501** is amended to read:

1175 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

1176 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), in
1177 addition to other sales and use taxes, any county, city, or town within a transit district
1178 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a
1179 sales and use tax of ~~up to~~ .25% on the transactions described in Subsection 59-12-103(1)
1180 located within the county, city, or town, to fund a public transportation system.

1181 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1182 under this section on the sales and uses described in Section 59-12-104 to the extent the sales
1183 and uses are exempt from taxation under Section 59-12-104.

1184 (b) For purposes of this Subsection (1), the location of a transaction shall be
1185 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1186 (c) (i) A county, city, or town may impose a tax under this section only if the governing
1187 body of the county, city, or town, by resolution, submits the proposal to all the qualified voters
1188 within the county, city, or town for approval at a general or special election conducted in the
1189 manner provided by statute.

1190 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an
1191 area to a public transit district or local district and approving for that annexed area the sales and
1192 use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for
1193 the area to be annexed to the public transit district or local district.

1194 (2) (a) If only a portion of a county is included within a public transit district, the
1195 proposal may be submitted only to the qualified voters residing within the boundaries of the
1196 proposed or existing public transit district.

1197 (b) Notice of any such election shall be given by the county, city, or town governing
1198 body 15 days in advance in the manner prescribed by statute.

1199 (c) If a majority of the voters voting in such election approve the proposal, it shall
1200 become effective on the date provided by the county, city, or town governing body.

1201 (3) This section may not be construed to require an election in jurisdictions where
1202 voters have previously approved a public transit sales or use tax.

1203 Section 7. Section **59-12-501.5** is enacted to read:

1204 **59-12-501.5. Countywide public transit tax -- Base -- Rate -- Voter Approval.**

1205 (1) As used in this section, "public transit district" means a public transit district
1206 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, that has more
1207 than 200,000 people residing within the district boundaries.

1208 (2) (a) Subject to the other provisions of this part, if a single public transit district has
1209 60% or more of the population of a county residing within the public transit district boundaries,
1210 beginning on or after July 1, 2005, the county legislative body may impose a sales and use tax
1211 of .25%:

1212 (i) except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), on the transactions:

1213 (A) described in Subsection 59-12-103(1);

1214 (B) within the county, including the cities and towns within the county;

1215 (ii) for the purpose of funding public transportation system operations, costs, and
1216 improvements.

1217 (b) Notwithstanding Subsection (2)(a)(i), a county legislative body may not impose a
1218 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
1219 sales and uses are exempt from taxation under Section 59-12-104.

1220 (c) For purposes of this Subsection (2), the location of a transaction shall be
1221 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1222 (d) (i) Population figures for purposes of this section shall be based on the most recent
1223 official census or census estimate of the United States Census Bureau.

1224 (ii) If a needed population estimate is not available from the United States Census
1225 Bureau, population figures shall be derived from the estimate from the Utah Population
1226 Estimates Committee created by executive order of the governor.

1227 (3) (a) Before imposing a tax under this section, a county legislative body shall:

1228 (i) adopt a resolution to impose a tax under this section; and

1229 (ii) submit an opinion question to the county's registered voters voting on the
1230 imposition of the tax so that each registered voter has the opportunity to express the registered
1231 voter's opinion on whether a tax should be imposed under this section.

1232 (b) The election required by this Subsection (3) shall be held:

1233 (i) (A) at a regular general election; and

1234 (B) in accordance with the procedures and requirements of Title 20A, Election Code.

1235 governing regular general elections; or
1236 (ii) (A) at a special election called by the county legislative body;
1237 (B) only on the date of a municipal general election provided in Subsection
1238 20A-1-202(1); and
1239 (C) in accordance with the procedures and requirements of Title 20A, Election Code,
1240 for holding municipal general elections.
1241 (c) The ballot question for the opinion question submitted under Subsection (3)(a) shall
1242 read:
1243 "Shall the county be a part of a public transit district?
1244 If a majority of the county's registered voters voting in the election approve becoming a
1245 part of a public transit district, the county shall be annexed into the public transit district and a
1246 sales and use tax of .25% shall be imposed countywide to fund public transportation
1247 operations, costs, and improvements of the transit district. The .25% sales and use tax shall
1248 supersede the existing sales and use taxes imposed by the county or a city or town within the
1249 county that are used to fund public transportation."
1250 (4) If the majority of the county's registered voters voting in the election on the
1251 proposal under Subsection (3), vote in favor of the proposal described in Subsection (3):
1252 (a) the county shall be annexed into the public transit district;
1253 (b) the county legislative body shall provide notice to the commission of the imposition
1254 of a tax under this section within 30 days after the canvass of the election described in
1255 Subsection (3);
1256 (c) the tax under this section shall take effect on the first day of the calendar quarter
1257 after the 90-day period described in Subsection 59-12-504(2);
1258 (d) subject to Subsections (4)(e) and (f), if a city or town located within the county
1259 imposes a tax under Section 59-12-501 or the county imposes a tax under Section 59-12-501
1260 the tax shall be repealed:
1261 (i) on the day on which a tax under this section takes effect in accordance with
1262 Subsection (4)(c); and
1263 (ii) in accordance with Section 59-12-504;
1264 (e) (i) if, on the day on which a tax under this section takes effect as provided in
1265 Subsection (4)(c), any revenues generated by a tax imposed by a city or town under Section

1266 59-12-501 are used as a source of repayment for debt service on any bonded indebtedness or
1267 other obligations:

1268 (A) the county legislative body shall distribute to the city or town an amount of
1269 revenues generated by a tax under this section equal to the amount necessary to pay the debt
1270 service on the bonded indebtedness or other obligations; and

1271 (B) the city or town shall expend the amount described in Subsection (4)(e)(i)(A) to
1272 repay the bonded indebtedness;

1273 (ii) the city or town may through an interlocal agreement, authorize the distribution
1274 directly to the public transit district or other entity to pay the debt or other obligation;

1275 (f) if, on the day on which a tax under this section takes effect as provided in
1276 Subsection (4)(c), any revenues generated by a tax imposed by a county under Section
1277 59-12-501 are used as a source of repayment for debt service on any bonded indebtedness or
1278 other obligations, the county legislative body shall use the revenues generated by a tax under
1279 this section to repay the bonded indebtedness; and

1280 (g) if a county has adopted a resolution under Subsection (3)(a), a transit district may
1281 not incur any new debt or obligation using revenue under Section 59-12-501 for a county that
1282 has expressed its intent to hold an election under this section until after the election results
1283 have been certified.

1284 (5) If a county legislative body imposes a tax under this section and a majority of the
1285 county's registered voters voting in an election under Subsection (3) vote in favor of the
1286 imposition of a tax under this section, beginning on the date the tax under this section is
1287 imposed:

1288 (a) the county legislative body may not impose a sales and use tax under Section
1289 59-12-501; and

1290 (b) a city or town within the county may not impose a sales and use tax under Section
1291 59-12-501 or 59-12-502.

1292 Section 8. Section **59-12-502** is amended to read:

1293 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
1294 **and interstate improvements -- Base -- Rate -- Voter approval.**

1295 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and in
1296 addition to other sales and use taxes, including the public transit district tax authorized by

1297 Section 59-12-501, a county, city, or town within a transit district organized under Title 17A,
1298 Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of .25% on
1299 the transactions described in Subsection 59-12-103(1) located within the county, city, or town,
1300 to fund a fixed guideway and expanded public transportation system.

1301 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
1302 under this section on the sales and uses described in Section 59-12-104 to the extent the sales
1303 and uses are exempt from taxation under Section 59-12-104.

1304 (b) For purposes of this Subsection (1), the location of a transaction shall be
1305 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1306 (c) (i) A county, city, or town may impose the tax under this section only if the
1307 governing body of the county, city, or town submits, by resolution, the proposal to all the
1308 qualified voters within the county, city, or town for approval at a general or special election
1309 conducted in the manner provided by statute.

1310 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
1311 or town governing body 15 days in advance in the manner prescribed by statute.

1312 (2) If the majority of the voters voting in this election approve the proposal, it shall
1313 become effective on the date provided by the county, city, or town governing body.

1314 (3) (a) This section may not be construed to require an election in jurisdictions where
1315 voters have previously approved a public transit sales or use tax.

1316 (b) This section shall be construed to require an election to impose the sales and use
1317 tax authorized by this section, including jurisdictions where the voters have previously
1318 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
1319 construed to affect the sales and use tax authorized by Section 59-12-501.

1320 (4) No public funds shall be spent to promote the required election.

1321 (5) Notwithstanding the designated use of revenues in Subsection (1), of the revenues
1322 generated by the tax imposed under this section by any county of the first class:

1323 (a) 75% shall be allocated to fund a fixed guideway and expanded public transportation
1324 system; and

1325 (b) 25% shall be allocated to fund new construction, major renovations, and
1326 improvements to Interstate 15 and state highways within the county and to pay any debt service
1327 and bond issuance costs related to those projects.

1328 (6) (a) Notwithstanding the designated use of revenues in Subsection (1), a county not
1329 covered under Subsection (5) may reallocate 25% of the revenues generated by the tax imposed
1330 under this section to fund new construction, major renovations, and improvements to Interstate
1331 15 and state highways within the county and to pay any debt service and bond issuance costs
1332 related to those projects.

1333 (b) Before reallocating 25% of the tax revenues under Subsection (6)(a), a county
1334 legislative body shall:

1335 (i) adopt a resolution to reallocate 25% of the revenues generated by the tax imposed
1336 under this section; and

1337 (ii) submit an opinion question to the county's registered voters voting on the
1338 reallocation of the tax revenues so that each registered voter has the opportunity to express the
1339 registered voter's opinion on whether a portion of the taxes should be reallocated under this
1340 Subsection (6).

1341 (c) The election required under this Subsection (6) shall be held:

1342 (i) (A) at a regular general election; and

1343 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
1344 governing regular general elections; or

1345 (ii) (A) at a special election called by the county legislative body;

1346 (B) only on the date of a municipal general election provided in Subsection
1347 20A-1-202(1); and

1348 (C) in accordance with the procedures and requirements of Title 20A, Election Code,
1349 for holding municipal general elections.

1350 (d) If the majority of the county's registered voters voting in the election on the
1351 proposal under this Subsection (6), vote in favor of the proposal described in this Subsection
1352 (6):

1353 (i) the county legislative body shall provide notice to the commission of the
1354 reallocation of the tax revenues generated by the tax under this section within 30 days after the
1355 canvass of the election described in Subsection (6)(b)(ii);

1356 (ii) subject to Subsection (6)(d)(iii), the reallocation of the taxes under this Subsection
1357 (6) shall take effect on the first day of the calendar quarter after the 90-day period described in
1358 Subsection 59-12-504(2); and

1359 (iii) if, on the day on which a portion of the revenues generated by a tax under this
1360 section are reallocated as provided in Subsection (6)(d)(ii), that portion of the revenues
1361 generated by a tax under this section are used as a source of repayment for debt service on any
1362 bonded indebtedness or other obligations, the county legislative body shall use the reallocated
1363 portion of the revenues under this Subsection (6) to repay the bonded indebtedness.

1364 ~~[(6)]~~ (7) A county ~~[of the first class]~~ that allocates revenues under Subsections (5)(b)
1365 and (6) may, through an interlocal agreement, authorize the deposit or transfer of the portion of
1366 the revenues described in ~~[Subsection]~~ Subsections (5)(b) and (6) to the Public Transportation
1367 System Tax Highway Fund created in Section 72-2-121.

1368 Section 9. Section **59-12-502.5** is enacted to read:

1369 **59-12-502.5. Countywide public transit tax for public transportation costs and**
1370 **improvements - Base -- Equalized rate -- Voter approval.**

1371 (1) As used in this section, "public transit district" means a public transit district
1372 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, that has more
1373 than 200,000 people residing within the district boundaries.

1374 (2) (a) Subject to the other provisions of this part, if a single public transit district has
1375 60% or more of the population of a county residing within the public transit district boundaries,
1376 beginning on or after July 1, 2005, the county legislative body may impose a sales and use tax
1377 of .50%:

1378 (i) except as provided in Subsections (2)(b) and 59-12-207.1(7)(c), on the transactions:

1379 (A) described in Subsection 59-12-103(1); and

1380 (B) within the county, including the cities and towns within the county; and

1381 (ii) for the purpose of funding public transportation system operations, costs, and
1382 improvements.

1383 (b) Notwithstanding Subsection (2)(a)(i), a county legislative body may not impose a
1384 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
1385 sales and uses are exempt from taxation under Section 59-12-104.

1386 (c) For purposes of this Subsection (2), the location of a transaction shall be
1387 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1388 (d) (i) Population figures for purposes of this section shall be based on the most recent
1389 official census or census estimate of the United States Census Bureau.

1390 (ii) If a needed population estimate is not available from the United States Census
1391 Bureau, population figures shall be derived from the estimate from the Utah Population
1392 Estimates Committee created by executive order of the governor.

1393 (3) (a) Before imposing a tax under this section, a county legislative body shall:

1394 (i) adopt a resolution to impose a tax under this section; and

1395 (ii) submit an opinion question to the county's registered voters voting on the
1396 imposition of the tax so that each registered voter has the opportunity to express the registered
1397 voter's opinion on whether a tax should be imposed under this section.

1398 (b) The election required by this Subsection (3) shall be held:

1399 (i) (A) at a regular general election; and

1400 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
1401 governing regular general elections; or

1402 (ii) (A) at a special election called by the county legislative body;

1403 (B) only on the date of a municipal general election provided in Subsection
1404 20A-1-202(1); and

1405 (C) in accordance with the procedures and requirements of Title 20A, Election Code,
1406 for holding municipal general elections.

1407 (c) The ballot question for the proposal submitted under Subsection (3)(a) shall read:

1408 "Shall the county be a part of the public transit district?

1409 If a majority of the county's registered voters voting in the election approve becoming a
1410 part of that public transit district, the county shall be annexed into the public transit district and
1411 a sales and use tax of .50% shall be imposed countywide to fund public transportation
1412 operations, costs, and improvements of the transit district. The .50% sales and use tax shall
1413 supersede the existing sales and use taxes imposed by the county or a city or town within the
1414 county that are used to fund public transportation."

1415 (4) If a majority of the county's registered voters voting in the election on the proposal
1416 under Subsection (3), vote in favor of the proposal described in Subsection (3):

1417 (a) the county shall be annexed into the public transit district;

1418 (b) the county legislative body shall provide notice to the commission of the imposition
1419 of a tax under this section within 30 days after the canvass of the election described in
1420 Subsection (3);

1421 (c) the tax under this section shall take effect on the first day of the first calendar
1422 quarter after the 90-day period described in Subsection 59-12-504(2);

1423 (d) subject to Subsections (4)(e) and (f), if a city or town located within the county
1424 imposes a tax under Section 59-12-501 or 59-12-502 or the county imposes a tax under Section
1425 59-12-501, 59-12-501.5, or 59-12-502 the tax shall be repealed:

1426 (i) on the day on which a tax under this section takes effect in accordance with
1427 Subsection (4)(c); and

1428 (ii) in accordance with Section 59-12-504;

1429 (e) (i) if, on the day on which a tax under this section takes effect as provided in
1430 Subsection (4)(c), any revenues generated by a tax imposed by a city or town under Section
1431 59-12-501 or 59-12-502 are used as a source of repayment for debt service on any bonded
1432 indebtedness or other obligations:

1433 (A) the county legislative body shall distribute to the city or town an amount of
1434 revenues generated by a tax under this section equal to the amount necessary to pay the debt
1435 service on the bonded indebtedness or other obligations; and

1436 (B) the city or town shall expend the amount described in Subsection (4)(e)(i)(A) to
1437 repay the bonded indebtedness;

1438 (ii) the city or town may through an interlocal agreement, authorize the distribution
1439 directly to the public transit district or other entity to pay the debt or other obligation;

1440 (f) if, on the day on which a tax under this section takes effect as provided in
1441 Subsection (4)(c), any revenues generated by a tax imposed by a county under Section
1442 59-12-501, 59-12-501.5, or 59-12-502 are used as a source of repayment for debt service on
1443 any bonded indebtedness or other obligations, the county legislative body shall use the
1444 revenues generated by a tax under this section to repay the bonded indebtedness; and

1445 (g) if a county has adopted a resolution under Subsection (3)(a), a transit district may
1446 not incur any new debt or obligation using revenue under Section 59-12-501, 59-12-501.5, or
1447 59-12-502 for a county that has expressed its intent to hold an election under this section until
1448 after the election results have been certified.

1449 (5) If a county legislative body imposes a tax under this section and a majority of the
1450 county's registered voters voting in an election under Subsection (3) vote in favor of the
1451 imposition of a tax under this section, beginning on the date the tax under this section is

1452 imposed:

1453 (a) the county legislative body may not impose a sales and use tax under Sections
1454 59-12-501, 59-12-501.5, and 59-12-502; and

1455 (b) a city or town within the county may not impose a sales and use tax under Section
1456 59-12-501 or 59-12-502.

1457 (6) (a) Notwithstanding the designated use of revenues under Subsection (1)(a)(ii), a
1458 county legislative body may allocate 1/16% to fund new construction, major renovations, and
1459 improvements to Interstate 15 and state highways within the county and to pay any debt service
1460 and bond issuance costs related to those projects.

1461 (b) Before allocating 1/16% of the tax revenues under Subsection (6)(a), a county
1462 legislative body shall:

1463 (i) in a resolution adopted Subsection (3)(a)(i), specify that 1/16% of the revenues
1464 generated by the tax imposed under this section shall be used to fund new construction, major
1465 renovations, and improvements to Interstate 15 and state highways within the county and to pay
1466 any debt service and bond issuance costs related to those projects; and

1467 (ii) submit, as part of an opinion question under Subsection (3)(a)(ii), the proposal to
1468 allocate 1/16% of the tax revenues to be used for the purposes described in Subsection (6)(a) so
1469 that each registered voter has the opportunity to express the registered voter's opinion on
1470 whether a portion of the taxes should be allocated to be used for the purposes under Subsection
1471 (6)(a).

1472 (c) A county that allocates revenues under this Subsection (6) may, through an
1473 interlocal agreement, authorize the deposit or transfer of the portion of the revenues described
1474 in Subsections (6)(a) to the Public Transportation System Tax Highway Fund created in
1475 Section 72-2-121.

1476 Section 10. Section **59-12-503** is amended to read:

1477 **59-12-503. Public transit taxes -- Local option direct transfer.**

1478 A county or municipality may elect, in writing, to have the portion of the monthly funds
1479 transfer that is collected as a public transit sales and use tax under Sections 59-12-501 [~~and~~],
1480 59-12-501.5, 59-12-502, and 59-12-502.5 to be transferred directly to a designated public
1481 transit district, subject to the same charge as described under Section 59-12-206.

1482 Section 11. Section **59-12-504** is amended to read:

1483 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
1484 **Administration, collection, and enforcement of tax.**

1485 (1) For purposes of this section:

1486 (a) "Annexation" means an annexation to:

1487 (i) a county under Title 17, Chapter 2, Annexation to County; or

1488 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

1489 (b) "Annexing area" means an area that is annexed into a county, city, or town.

1490 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
1491 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
1492 effect:

1493 (i) on the first day of a calendar quarter; and

1494 (ii) after a 90-day period beginning on the date the commission receives notice meeting
1495 the requirements of Subsection (2)(b) from the county, city, or town.

1496 (b) The notice described in Subsection (2)(a)(ii) shall state:

1497 (i) that the county, city, or town will enact or repeal a tax under this part;

1498 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

1499 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

1500 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
1501 of the tax.

1502 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
1503 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

1504 (A) that begins after the effective date of the enactment of the tax; and

1505 (B) if the billing period for the transaction begins before the effective date of the
1506 enactment of the tax under:

1507 (I) Section 59-12-501; [~~or~~]

1508 (II) Section 59-12-501.5;

1509 [~~(III)~~] (III) Section 59-12-502[-]; or

1510 (IV) Section 59-12-502.5.

1511 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
1512 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

1513 (A) that began before the effective date of the repeal of the tax; and

1514 (B) if the billing period for the transaction begins before the effective date of the repeal
1515 of the tax imposed under:

1516 (I) Section 59-12-501; [~~or~~]

1517 (II) Section 59-12-501.5;

1518 [~~(III)~~] (III) Section 59-12-502[-]; or

1519 (IV) Section 59-12-502.5.

1520 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

1521 (A) Subsection 59-12-103(1)(b);

1522 (B) Subsection 59-12-103(1)(c);

1523 (C) Subsection 59-12-103(1)(d);

1524 (D) Subsection 59-12-103(1)(e);

1525 (E) Subsection 59-12-103(1)(f);

1526 (F) Subsection 59-12-103(1)(g);

1527 (G) Subsection 59-12-103(1)(h);

1528 (H) Subsection 59-12-103(1)(i);

1529 (I) Subsection 59-12-103(1)(j); or

1530 (J) Subsection 59-12-103(1)(k).

1531 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
1532 sale is computed on the basis of sales and use tax rates published in the catalogue, an
1533 enactment or repeal of a tax described in Subsection (2)(a) takes effect:

1534 (A) on the first day of a calendar quarter; and

1535 (B) beginning 60 days after the effective date of the enactment or repeal under
1536 Subsection (2)(a).

1537 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1538 the commission may by rule define the term "catalogue sale."

1539 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
1540 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
1541 part for an annexing area, the enactment or repeal shall take effect:

1542 (i) on the first day of a calendar quarter; and

1543 (ii) after a 90-day period beginning on the date the commission receives notice meeting
1544 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing

- 1545 area.
- 1546 (b) The notice described in Subsection (3)(a)(ii) shall state:
- 1547 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
- 1548 repeal of a tax under this part for the annexing area;
- 1549 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
- 1550 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
- 1551 (iv) the rate of the tax described in Subsection (3)(b)(i).
- 1552 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 1553 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1554 (A) that begins after the effective date of the enactment of the tax; and
- 1555 (B) if the billing period for the transaction begins before the effective date of the
- 1556 enactment of the tax under:
- 1557 (I) Section 59-12-501; [~~or~~]
- 1558 (II) Section 59-12-501.5;
- 1559 [~~(III)~~] (III) Section 59-12-502[-]; or
- 1560 (IV) Section 59-12-502.5.
- 1561 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
- 1562 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1563 (A) that began before the effective date of the repeal of the tax; and
- 1564 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1565 of the tax imposed under:
- 1566 (I) Section 59-12-501; [~~or~~]
- 1567 (II) Section 59-12-501.5;
- 1568 [~~(III)~~] (III) Section 59-12-502[-]; or
- 1569 (IV) Section 59-12-502.5.
- 1570 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1571 (A) Subsection 59-12-103(1)(b);
- 1572 (B) Subsection 59-12-103(1)(c);
- 1573 (C) Subsection 59-12-103(1)(d);
- 1574 (D) Subsection 59-12-103(1)(e);
- 1575 (E) Subsection 59-12-103(1)(f);

- 1576 (F) Subsection 59-12-103(1)(g);
- 1577 (G) Subsection 59-12-103(1)(h);
- 1578 (H) Subsection 59-12-103(1)(i);
- 1579 (I) Subsection 59-12-103(1)(j); or
- 1580 (J) Subsection 59-12-103(1)(k).

1581 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
1582 sale is computed on the basis of sales and use tax rates published in the catalogue, an
1583 enactment or repeal of a tax described in Subsection (3)(a) takes effect:

- 1584 (A) on the first day of a calendar quarter; and
- 1585 (B) beginning 60 days after the effective date of the enactment or repeal under
1586 Subsection (3)(a).

1587 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1588 the commission may by rule define the term "catalogue sale."

1589 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
1590 administered, collected, and enforced in accordance with:

- 1591 (i) the same procedures used to administer, collect, and enforce the tax under:
 - 1592 (A) Part 1, Tax Collection; or
 - 1593 (B) Part 2, Local Sales and Use Tax Act; and
- 1594 (ii) Chapter 1, General Taxation Policies.

1595 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
1596 Subsections 59-12-205(2) through (9).

1597 (c) (i) The commission may retain an amount of tax collected under this part of not to
1598 exceed the lesser of:

- 1599 (A) 1.5%; or
- 1600 (B) an amount equal to the cost to the commission of administering this part.
- 1601 (ii) Any amount the commission retains under Subsection (4)(c)(i) shall be:
 - 1602 (A) placed in the Sales and Use Tax Administrative Fees Account; and
 - 1603 (B) used as provided in Subsection 59-12-206(2).

1604 Section 12. Section **59-12-1001** is amended to read:

1605 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
1606 **transit -- Ordinance requirements -- Voter approval requirements -- Election**

1607 **requirements -- Notice of election requirements -- Exceptions to voter approval**
1608 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

1609 (1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), a city or town
1610 in which the transactions described in Subsection 59-12-103(1) are not subject to a sales and
1611 use tax under Section 59-12-501, 59-12-501.5, or 59-12-502.5 may as provided in this part
1612 impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1)
1613 located within the city or town.

1614 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
1615 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
1616 exempt from taxation under Section 59-12-104.

1617 (c) For purposes of this Subsection (1), the location of a transaction shall be
1618 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

1619 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
1620 the tax:

1621 (i) for the construction and maintenance of highways under the jurisdiction of the city
1622 or town imposing the tax;

1623 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

1624 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

1625 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
1626 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

1627 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
1628 guideway system.

1629 (3) To impose a tax under this part, the governing body of the city or town shall:

1630 (a) pass an ordinance approving the tax; and

1631 (b) except as provided in Subsection (7), obtain voter approval for the tax as provided
1632 in Subsection (4).

1633 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

1634 (a) hold an election during:

1635 (i) a regular general election; or

1636 (ii) a municipal general election; and

1637 (b) publish notice of the election:

- 1638 (i) 15 days or more before the day on which the election is held; and
- 1639 (ii) in a newspaper of general circulation in the city or town.
- 1640 (5) An ordinance approving a tax under this part shall provide an effective date for the
- 1641 tax as provided in Subsection (6).
- 1642 (6) (a) For purposes of this Subsection (6):
- 1643 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
- 1644 4, Annexation.
- 1645 (ii) "Annexing area" means an area that is annexed into a city or town.
- 1646 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a city
- 1647 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 1648 (A) on the first day of a calendar quarter; and
- 1649 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 1650 the requirements of Subsection (6)(b)(ii) from the city or town.
- 1651 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
- 1652 (A) that the city or town will enact or repeal a tax under this part;
- 1653 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
- 1654 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
- 1655 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
- 1656 the tax.
- 1657 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 1658 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 1659 (A) that begins after the effective date of the enactment of the tax; and
- 1660 (B) if the billing period for the transaction begins before the effective date of the
- 1661 enactment of the tax under Subsection (1).
- 1662 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
- 1663 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1664 (A) that began before the effective date of the repeal of the tax; and
- 1665 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1666 of the tax imposed under Subsection (1).
- 1667 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
- 1668 (A) Subsection 59-12-103(1)(b);

1669 (B) Subsection 59-12-103(1)(c);

1670 (C) Subsection 59-12-103(1)(d);

1671 (D) Subsection 59-12-103(1)(e);

1672 (E) Subsection 59-12-103(1)(f);

1673 (F) Subsection 59-12-103(1)(g);

1674 (G) Subsection 59-12-103(1)(h);

1675 (H) Subsection 59-12-103(1)(i);

1676 (I) Subsection 59-12-103(1)(j); or

1677 (J) Subsection 59-12-103(1)(k).

1678 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
1679 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
1680 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

1681 (A) on the first day of a calendar quarter; and

1682 (B) beginning 60 days after the effective date of the enactment or repeal under
1683 Subsection (6)(b)(i).

1684 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1685 the commission may by rule define the term "catalogue sale."

1686 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
1687 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
1688 part for an annexing area, the enactment or repeal shall take effect:

1689 (A) on the first day of a calendar quarter; and

1690 (B) after a 90-day period beginning on the date the commission receives notice meeting
1691 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

1692 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

1693 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
1694 repeal of a tax under this part for the annexing area;

1695 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

1696 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

1697 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

1698 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
1699 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

- 1700 (A) that begins after the effective date of the enactment of the tax; and
- 1701 (B) if the billing period for the transaction begins before the effective date of the
- 1702 enactment of the tax under Subsection (1).
- 1703 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
- 1704 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 1705 (A) that began before the effective date of the repeal of the tax; and
- 1706 (B) if the billing period for the transaction begins before the effective date of the repeal
- 1707 of the tax imposed under Subsection (1).
- 1708 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
- 1709 (A) Subsection 59-12-103(1)(b);
- 1710 (B) Subsection 59-12-103(1)(c);
- 1711 (C) Subsection 59-12-103(1)(d);
- 1712 (D) Subsection 59-12-103(1)(e);
- 1713 (E) Subsection 59-12-103(1)(f);
- 1714 (F) Subsection 59-12-103(1)(g);
- 1715 (G) Subsection 59-12-103(1)(h);
- 1716 (H) Subsection 59-12-103(1)(i);
- 1717 (I) Subsection 59-12-103(1)(j); or
- 1718 (J) Subsection 59-12-103(1)(k).
- 1719 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
- 1720 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
- 1721 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
- 1722 (A) on the first day of a calendar quarter; and
- 1723 (B) beginning 60 days after the effective date of the enactment or repeal under
- 1724 Subsection (6)(e)(i).
- 1725 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1726 the commission may by rule define the term "catalogue sale."
- 1727 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
- 1728 voter approval requirements of Subsection (3)(b) if:
- 1729 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
- 1730 businesses based on gross receipts pursuant to Section 10-1-203; or

- 1731 (ii) the city or town:
- 1732 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
- 1733 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
- 1734 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
- 1735 purpose described in Subsection (2)(a).
- 1736 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
- 1737 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
- 1738 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
- 1739 pursuant to Section 10-1-203.

1740 Section 13. Section **59-12-1502** is amended to read:

1741 **59-12-1502. Definitions.**

1742 As used in this part:

- 1743 (1) "Annexation" means an annexation to a county under Title 17, Chapter 2,
- 1744 Annexation to County.
- 1745 (2) "Annexing area" means an area that is annexed into a county.
- 1746 (3) "Qualifying county" means a county in which:
- 1747 (a) a sales and use tax authorized by Section 59-12-502 is not imposed by:
- 1748 ~~[(a)]~~ (i) the county;
- 1749 ~~[(b)]~~ (ii) a city within the county; or
- 1750 ~~[(c)]~~ (iii) a town within the county~~[-];~~ or
- 1751 (b) a sales and use tax authorized by Section 59-12-502.5 is not imposed by the county.
- 1752 (4) "State highway" means a highway designated as a state highway under Title 72,
- 1753 Chapter 4, Designation of State Highways Act.
- 1754 (5) (a) Except as provided in Subsection (5)(b), "public transit" is as defined in Section
- 1755 17A-2-1004.
- 1756 (b) Notwithstanding Subsection (5)(a), "public transit" does not include a fixed
- 1757 guideway system.

1758 Section 14. Section **72-2-121** is amended to read:

1759 **72-2-121. Public Transportation System Tax Highway Fund.**

- 1760 (1) There is created a special revenue fund entitled the Public Transportation System
- 1761 Tax Highway Fund.

1762 (2) The fund consists of monies generated from the following revenue sources:

1763 (a) any voluntary contributions received for new construction, major renovations, and
1764 improvements to Interstate 15 and state highways within a county of the first class; and

1765 (b) the portion of the sales and use tax described in [~~Subsection~~] Subsections
1766 59-12-502(5)(b) and (6) and 59-12-502.5(6) deposited in or transferred to the fund through an
1767 interlocal agreement.

1768 (3) (a) The fund shall earn interest.

1769 (b) All interest earned on fund monies shall be deposited into the fund.

1770 (4) The executive director may use fund monies, as prioritized by the Transportation
1771 Commission, only for new construction, major renovations, and improvements to Interstate 15
1772 and state highways within [~~a~~] the county [of the first class] that has designated that portion of
1773 the sales and use tax under Subsection 59-12-502(5)(b) or (6) or 59-12-502.5(6) and to pay any
1774 debt service and bond issuance costs related to those projects.

1775 Section 15. **Effective date.**

1776 This bill takes effect on July 1, 2005.